



City of Westfield, Massachusetts

LICENSE COMMISSION

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WESTFIELD LICENSE COMMISSION (WLC) LIQUOR LICENSE **RULES AND REGULATIONS**

SECTION ONE: GENERAL LICENSING RULES FOR LIQUOR LICENSEES

1:00 Applicability of Rules and Regulations

This section shall apply to all City liquor licensees, unless specifically provided otherwise. For definition purposes **Section 12 licensees** are Inn holders/Hotels, Restaurants, and Clubs, **Section 15 licensees**- are Package Stores.

1:00.1 Common Conditions of Liquor License

A liquor license in the City of Westfield is granted to an establishment with the expectation that the business will be providing for the common good of travelers and the residents of the City of Westfield. Fulfilling this obligation is the responsibility of the licensee where the expectation is that the conduct of the business and its patrons does not place a disproportionate burden on the City's public safety officers and its systems. Created at the May 11, 2015, meeting.

1:01 Availability of Rules and Regulations

a. All liquor licensees of the Westfield License Commission (WLC) shall ensure that a copy of the Rules and Regulations are kept in the office of the liquor license manager or at the main cash register.

b. The licensee is responsible for ensuring that all employees who work in the public areas of the premises read the Rules and Regulation of the WLC and comply with all rules and laws.

1:02 Posting and Signs

a. Licenses issued by the WLC shall be posted in a conspicuous place easily seen by the public where they can read without difficulty and without the assistance of employees at the premises.

b. All other licenses, permits, and certificates affecting the licensed premises shall be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the license issued by the WLC.

c. All liquor establishments that receive a suspension of their liquor license shall post on their establishment's door a WLC issued sign of such suspension.

1.03 Admissions to the Premises - cover charge; refused admission; occupancy limit; patrons kept orderly while awaiting entrance.

a. No licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge. Such cover charge shall not be collected in advance of gaining entrance to the licensed premises and can only be charged upon a written or printed receipt, permanently recorded and numbered seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period not less than two years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales. (ABCC's - 204 CMR-2.16)

b. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed upon any customer of a MGL, Chapter 138, Section 12 licensee. — (Chapter 140 Section 183D)

c. Licensee shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.

d. Licensee shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Department. The WLC highly recommends the use of an occupancy counter to prevent overload. (See Section 1.12 for purchasing information.)

1.04 Hours of Operation — closing policy

a. The hours of operation shall be restricted to those set by the WLC and stated on the face of the license.

b. No patrons shall be on the premises before the official opening hours nor after the official closing hour of 2:00 AM.

c. Last call for an alcoholic sale shall be completed by 1:45 AM.

d. Licensees and/or managers, employees, contractors, subcontractors shall not be prohibited from being upon the premises at any time for the purpose of cleaning, making renovations, making emergency repairs to or providing security for such premises or preparing food for the day's business or opening or closing the business in an orderly manner. MGL Chapter 138 Section 12.

1.05 Physical Premises

- a. The licensed premises shall conform to the floor plan approved by the WLC with regard to the structures and the walls at the premises. Any changes in the floor plan or any renovations of any kind shall not be made without notification to the WLC and the approval of the WLC.
- b. All premises covered by the license shall be kept in a clean and sanitary condition.
- c. No outside area shall be used as a gathering place for patrons unless approved by the WLC.
- d. The capacity set for the premises by the Building Inspector shall be the maximum potential capacity for the premises.
- e. **Certificate of Inspection, governed by Chapter 304 of the Acts of 2004.** Section 74, states that the WLC shall require all applicants for Section 12 alcoholic beverages licenses to submit a valid **certificate of inspection**, as provided in the state building code, issued by a local inspector, as defined in Chapter 143, and signed by the head of the fire department, as defined in Chapter 148, for the city, town or district in which the applicant intends to sell alcoholic beverages to be consumed on the premises. The law also states that the WLC commission shall require every Section 12 license holder submit, **annually**, a valid certificate of inspection, as provided in the state building code, issued by a local inspector and signed by the head of the fire department for the city, town or district in which the premises is located and from which alcoholic beverages intended to be consumed on the premises are to be sold. The issuance of such certificate shall be a precondition for the issuance or renewal of such a license and **the commission may summarily revoke any license upon notice of noncompliance or expiration of such certificate, by operation of law and without a hearing.**
- f. The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted signs. "Exit" as same may be mandated by the Building Inspector and/or by the Fire Chief.

1.06 Alcoholic Beverages Sales and Laws

- a. **The Alcoholic Beverage Control Commission (ABCC) has set regulations known as the "Happy Hour" regulations. To obtain a copy of the "Happy Hour" regulations and all liquor laws and regulations please visit the ABCC's website at www.mass.gov/abcc.**
- b. Licensees shall not permit alcoholic beverages to be brought on the licensed premises by patrons or employees.
- c. Licensees shall be responsible for ensuring that minors are not served alcoholic beverage and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron.
- d. Licensees who conduct 18+ events and are found to have served alcoholic beverages to a minor shall see punitive action taken against their liquor license. Furthermore, licensees who conduct 18+ events and are found to have served alcoholic beverage to minors, or minors are found to have drunk alcoholic beverages on the licensed premises, or minors are found to be in possession of a controlled substance, M.G.L, Chapter 94C, will see action taken

against their entertainment license as prescribed by M.G.L Chapter 140, Section 183A. Such action may result in the restriction, suspension or revocation of such entertainment license.

e. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in M.G.L, Chapter 90, Section 24. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container. Said copies shall be posted conspicuously in said establishments. Said copies are available at the local office and at the Alcoholic Beverage Control Commission.

f. A Restaurant license or a hotel license allows the holder of a restaurant or hotel license to sell and serve liquor solely for consumption on the premises of an establishment. All license holders will comply with M.G.L, Chapter 138, Section 12A.

1:07 Vicinity of Licensed Premises — Public Safety and Order

a. It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee shall be accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.

b. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance.

c. Licensees shall take steps to protect employees, patrons, and members of the public inside and outside the premises from disruptive conduct, from criminal activity, and from health, safety or fire hazard.

d. Licensees shall prevent unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises.

e. Licensees shall prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises.

f. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages.

1.08 Standards of Conduct on the Premises

a. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.

b. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks or genitals of any other person.

c. No alcoholic beverage shall be sold to anyone less than twenty-one (21) years of age. No service of alcoholic, wine/malt beverages shall be made to anyone less than twenty-one (21) years of age.

d. No manager or employee shall consume any alcoholic beverages while on the licensed premises while on duty or after the official closing hours.

1:09 Injuries to Persons at the Premises

Statement of the WLC: In an effort to assure that each licensee is operating in such a manner as to protect the common good, the Commission has created the following safety guideline. This guideline addresses the need to control the occurrence of fights and/or assault & battery incidents inside and outside of the establishments, as governed by M.G.L, Chapter 138, and M.G.L 140, Section 183A.

The WLC understands that a fight and/or assault & battery can break out with very little warning; however, the licensee is burdened with the responsibility to ensure that he operates his business in such a manner as to protect the common good.

a. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows from an unruly patron. In all other circumstances employees and security personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive, and they are unable to convince the patron to leave the premises voluntarily.

b. Licensees shall call the police and an ambulance and take all other reasonable steps to assist patrons or persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee. Failure to follow this procedure may result in punitive action against the licensee's liquor license and/or entertainment license.

c. Licensees shall train employees to recognize the signs of potential outbreaks.

d. Licensees shall provide enough personnel to quickly respond to altercations.

e. In an effort to uphold and improve the safety of licensees' patrons, the WLC and their agent, Westfield Police Dept., have teamed together and created a notice system of police incident reports. Such reports will be sent to pertinent licensees in order to remind them of the need to follow the WLC's patron safety guidelines.

1:10 Illegal Activity on the License Premises

a. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts shall include:

- Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities.
- Paying attention to activities on the premises of known drug users or drug dealers or prostitutes or others who are known to have been convicted of crimes which may be conducted at a licensed premises.
- Monitoring of activities of persons who talk about weapons or who appear to be hiding a weapon.
- Calling for police assistance as necessary to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information; and

- Hiring security personnel to deal with chronic unlawful activity at the premises such as drug use or drug sales, prostitution or gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.
- b. There shall be no disorder, prostitution, illegal gambling, illegal drug use or sales or possession, or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.

1:11 Punitive Action Guidelines — Liquor Law Violations

1. The Westfield License Commission (WLC) has the authority to suspend or revoke the alcohol license of a duly authorized licensee after a full and fair opportunity for a hearing; conducted in accordance with the procedures set forth in M.G.L Chapter 30A, Section 10 & 11.

2. In addition to any criminal penalties sought by local law enforcement against the licensee, the WLC, in the exercise of its discretion, may invoke the following administrative sanctions in response to a violation of applicable laws of the Commonwealth, Regulation of the ABCC and/or WLC Liquor License Rules & Regulations:

a. First Offense:

- i. Minimum sanction: written warning with notice that subsequent violations would be treated as a second offense.
- ii. Maximum sanction: up to a six-day suspension of liquor license.

b. Second Offense:

- i. Minimum sanction: three-day suspension of liquor license
- ii. Maximum sanction: six-day suspension of liquor license
- iii. Alternative sanctions: temporary roll-back of operating hours.

c. Third Offense:

- i. Minimum sanction: six-day suspension of liquor license
- ii. Maximum sanction: twelve-day suspension of liquor license
- iii. Alternative sanctions: temporary or permanent roll-back of operating hours.

d. Fourth and Subsequent Offenses:

- i. Minimum sanction: fourteen or more-day suspension of liquor license
- ii. Maximum sanction: revocation of liquor license
- iii. Alternative sanctions: permanent roll-back of operating hours.

3. The term "Offense" is defined as one (1) violation of M.G.L, Chapter 138, and/or one (1) violation of the Commonwealth of Massachusetts Regulations.

4. Only offenses that have occurred within the last 4 years preceding the date of violation, or to the last change of ownership, whichever is most recent, shall be considered for the purpose of calculating the number of offenses for applicability to the sanction guidelines in paragraph 2.

5. Punitive actions of license suspension or roll-back of operating hours cannot begin any earlier than 9 calendar days after the decision to suspend or roll-back hours; allowing 2 days

for administrative action and 5 days for appeal by the licensee. The days on which the punitive actions are carried out by the licensee shall include the same day of the week on which the associated violation occurred. Revocation of a license can begin within 2 days of the decision to revoke.

6. Package Store Suspensions

- a. During a suspension where there is only one entrance/exit to all activities of the establishment, all business activities are suspended
- b. During a suspension where a separate entrance/exit is available for non-liquor sale activities, other business activities may continue provided all alcohol is inaccessible and out of view from the eyesight of the general public and patrons.

7. In the exercise of its discretion, the WLC may move to invoke sanctions up to and including revocation of the liquor license of an establishment when found in violation of the WLC Common Condition of License; where police recorded incidents on or originating from the premises or establishment that have resulted in WLC or ABCC Informational or Violation hearings, are deemed to be increasing in frequency and/or violence; where the nature and frequency of those incidents places travelers and the residents of the City of Westfield at risk; where the licensed establishment is found to be no longer providing for the common good to travelers and the residents of the City of Westfield.

8. Mitigating or Aggravating Factors

- a. In the exercise of its discretion, the WLC may determine whether facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by this Guidelines and may also consider the following factors in the imposition of sanctions against the license:
 - i. Actions taken by the licensee to prevent future violations of the kind in question.
Past history of the business and reputation of the licensee.
 - iii. Severity and nature of the offense.
 - iv. Deliberateness of the offense.
 - v. Management level of employees involved in the violation
 - vi. Evidence of licensee's commitment to provisioning for the common good of travelers and the residents of the City of Westfield.

9. Appeal of WLC Punitive Action

- a. A licensee who is aggrieved by a WLC's punitive action decision and who elects to appeal such decision to the ABCC and wishes to resume operations at the establishment in question, must petition the Superior Court for an Injunction Order. Such Order will "Stay" (halt) the WLC's decision until the ABCC appeal is heard and judgment rendered. This form of injunction is the only procedure accepted by the WLC. Amended at the May 11, 2015, meeting.

1.11.1 Punitive Action Guidelines — Entertainment Violations

1. The Westfield License Commission (WLC) has the authority to modify, suspend, or revoke the entertainment license of a duly authorized licensee after a full and fair opportunity for a hearing; conducted in accordance with the procedures set forth in M.G.L 140: Section 183A.

2. In addition to any criminal penalties sought by local law enforcement against the licensee, the WLC, in the exercise of its discretion, may invoke administrative sanctions in response to a violation of applicable laws of the Commonwealth, and/or WLC Entertainment License Rules & Regulations provided the license, taken alone or in combination with other licensed activities on the premises adversely affected the public health, safety or order. If any of these conditions apply, the WLC may invoke any of the following administrative sanctions:

- a. First Offense:
 - i. Minimum sanction: written warning with notice that subsequent violations would be treated as a second offense
 - ii. Maximum sanction: up to a six-day suspension of entertainment license.
- b. Second Offense:
 - i. Minimum sanction: three-day roll-back of entertainment hours
 - ii. Maximum sanction: six-day suspension of entertainment license
- c. Third Offense:
 - i. Minimum sanction: six-day roll-back of entertainment hours
 - ii. Maximum sanction: twelve-day suspension of entertainment license
- d. Fourth and Subsequent Offenses:
 - i. Minimum sanction: seven or more-day suspension of entertainment license
 - ii. Maximum sanction: revocation of entertainment license and liquor license
 - iii. Alternative sanctions: permanent roll-back of entertainment hours.

3. The term "Offense" is defined where:

- a. employees, patrons and members of the public inside or outside the premises are at risk due to disruptive conduct, criminal activity or from health, safety or fire hazards.
- b. failure to prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises; or

4. Only offenses that have occurred within the last 4 years preceding the date of violation, or to the last change of ownership, whichever is most recent, shall be considered for the purpose of calculating the number of offenses for applicability to the sanction guidelines in paragraph 2.

5. Punitive actions may commence immediately after the decision has been made and licensee is notified.

6. Mitigating or Aggravating Factors

a. In the exercise of its discretion, the WLC may determine whether facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by

this Guidelines and may also consider the following factors in the imposition of sanctions against the license:

- i. Actions taken by the licensee to prevent future violations of the kind in question.
- ii. Past history of the business and reputation of the licensee.
- iii. Severity and nature of the offense.
- iv. Deliberateness of the offense.
- v. Management level of employees involved in the violation
- vi. Evidence of licensee's commitment to provisioning for the common good of travelers and the residents of the City of Westfield.

7. Appeal of WLC Punitive Action

a. A licensee who is aggrieved by a WLC's punitive action decision and who elects to appeal such decision to the ABCC and wishes to resume operations at the establishment in question, must petition the Superior Court for an Injunction Order. Such Order will "Stay" (halt) the WLC's decision until the ABCC appeal is heard and judgment rendered. This form of injunction is the only procedure accepted by the WLC. Created at the May 11, 2015, meeting.

1.12 Alcohol Service Training

a. All doormen/bouncers, employees directly involved in the sale and delivery of alcohol, individual licensees, partnership licensees, managers of corporations and LLC's must receive and keep current an alcohol awareness training certificate, which shall be filed with the WLC.

b. New hires that fall under a category named in item (a) shall file with the WLC within ninety (90) days of their hire date a copy of the alcohol awareness training certificate.

1.13 Crowd control - use of occupancy counters

a. The Commission highly recommends that liquor establishments use an occupancy counter during busy events to prevent exceeding their maximum total occupancy. The counters are called Hand Model Tally I Tally Counters and are available at Staples, item# 508915 Model BAT9841000 with an approximate cost of \$11.99.

1.14 Certificate of Inspection

a. The licensee shall keep on file with the WLC a current Certificate of Inspection, signed by the Building Inspector and the Fire Chief/Deputy. Amendment to a Certificate of Inspection requires a new Certificate to be filed with the WLC.

1.15 Alcohol Compliance Check Guidelines

a. These guidelines are intended to provide the basic framework which will be used when conducting "Alcohol Compliance Check" against retail licensees (both pouring licenses

and package stores) to address the problem of sales to persons under the legal age of twenty-one years old.

1. Notification that an alcohol compliance check will be taking place will be made in local media prior to the start date.

2. The underage person taking part in the alcohol compliance check should reasonably look their age. Efforts to make them appear older should be avoided.

3. A photo of the underage person should be taken and attached to the information requested in #6.

4. The underage person will only carry their own identification when taking part in the alcohol compliance check.

5. The underage person should not carry any money with them other than that given by the law enforcement personnel supervising them.

6. The underage person shall sign a release form prior to starting participation in this program. The underage person and police officer should also sign and date a copy of these guidelines.

7. The underage person shall be given a BAC test at the conclusion of the investigation. They should be informed of this prior to beginning the investigation.

8. The underage person shall enter the licensed premises under observation by law enforcement personnel.

9. The underage person may be accompanied by a Westfield Police Intern.

10. The underage person shall attempt to purchase an alcoholic beverage. They should attempt to purchase the same thing at each location to avoid confusion.

11. The Westfield Police Intern will not order an alcohol beverage.

12. At no time shall the underage person attempt to misrepresent their age.

13. If asked for identification, the underage person will show their own identification.

14. If served, the underage person shall remain on the licensed premises for a period of time as instructed by the law enforcement. They should then exit the licensed premises leaving the alcoholic beverage.

15. At no time, under any circumstance, shall the underage person consume any alcoholic beverages.

16. The safety and welfare of all underage participants will be of utmost importance to the law enforcement personnel. Underage persons shall not be exposed to any unusual, unnecessary or unreasonable risk.

17. The underage person will not wear, exhibit or carry any law enforcement identification or falsely represent themselves as employees of any law enforcement unit while participating in this program. They shall not under any circumstances carry a weapon.

18. Law enforcement personnel should only enter the premises to observe on an as needed basis when circumstances warrant.

19. Law enforcement personnel should not enter the licensed premises after the underage patron has exited. Notification of the results of the alcohol compliance check will be mailed to the licensee.

Created and adopted by the Westfield License Commission at the public hearing held on 10-3-05. Amended at the May 11, 2015, meeting.

1.16 Management

- a. Each corporate and LLC licensee must appoint a manager by a properly authorized and executed delegation, which thereafter is approved by the WLC and the ABCC.
- b. The responsibilities of every license holder and any manager shall be as follows:
 - To obey all statutes of the Commonwealth, rules of the Alcoholic Beverages Control Commission, Rules and Regulations of the WLC.
 - To promptly notify the police of any disturbances or illegal activity on the licensed premises of which he becomes aware.
 - To cooperate with authorized agents of the WLC, including but not necessarily limited to any police officer in their investigation or inspection of the licensed premises.
- c. Any such notice sent to the manager as named in the records of the WLC or the owner at the address of the licensed premises shall constitute valid legal notice to the licensee.
- d. The licensee shall not change managers, change corporate officers, sell or transfer corporate stock, pledge corporate stock or liquor license as security, or accept a loan or credit from another licensee, without first obtaining the approval of the WLC. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the WLC.

1.17 Automatic Amusement Devices

- a. The City of Westfield has passed an ordinance prohibiting the licensing of automatic amusement devices which may reasonably be considered to present a risk of misuse as a gaming device.
- b. No licensee may have upon the premises or in operation, any automatic amusement machine unless same has been approved and separately licensed by the WLC. The licensee must make application, not the distributor/vendor.
- c. The Westfield Police Department will inspect each automatic amusement machine. Approved amusement devices will be issued device stickers.
- d. Unauthorized automatic amusement devices found on a licensed premise shall be found to be in violation and may result in the suspension, or revocation of the licensee's entertainment and liquor license.
- e. The Westfield Police Department will conduct two unannounced inspections per year.

1.18 Entertainment License

- a. Licensees shall make application for all forms of entertainment offered on the premises.
- b. Only the types of entertainment approved by the WLC shall be allowed on the license premises.
- c. Any changes or additions to an existing entertainment license must receive approval from the WLC before such entertainment can be offered.

d. Unauthorized entertainment on a licensed premise shall be found to be in violation and may result in the suspension, or revocation of the licensee's entertainment and liquor license.

1.19 Texas Hold'em

a. Per Attorney General, Tom Reilly, M.G.L Chapter 271, Section 7A states only certain qualifying organization can hold special events such as Texas Hold'em. A qualified organization is defined as a non-profit organization that holds a raffle & bazaar permit. Therefore, only non-profit liquor license clubs can hold Texas Hold'em events.

b. Profit liquor licensees may host a Texas Hold'em event for a non-profit organization, but the following regulations must be follows:

1. The non-profit organization must run the event, not the liquor licensee or a promotional company.

2. The liquor licensee can only profit from food and beverage sales, no proceeds from the Texas Hold'em event.

3. Employees of the liquor licensee cannot be part of the Texas Hold'em event, i.e., no sales of poker chips, no part of awarding prizes.

4. Liquor licensee should know the AG's Texas Hold'em regulations and make sure that the non-profit organization runs the event legally.

1.20 Police Incident Reports

a. The WLC has teamed with the Westfield Police Department in an effort to uphold and improve the safety and order in the City's liquor establishments. The police department files weekly with the WLC incident reports that have occurred at liquor establishments. The reports are recorded, charted and reviewed at monthly Commission meetings in an effort to spot problems. The reports are available to each licensee by contacting the WLC or the Westfield Police Department, Community Police Division.

1.21 ABCC Golf Course Liquor Licensing guidelines

The following GUIDELINES were established by the ABCC in the decision issued in *In Re: New England Golf Partners, Inc. dba Georgetown Club*, Georgetown

(ABCC Decision dated April 2, 2009). The Guidelines that the ABCC set to approve an application for the service of alcoholic beverages on the holes of a golf course are as follows:

1. Alcoholic beverages cannot be sold or delivered outdoors on the grounds of a golf course unless and until approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission as part of a Section 12 licensed establishment.

Once approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission as part of a Section 12 licensed establishment only those alcoholic beverages sold or delivered by the approved licensee may be consumed and possessed

by the patrons outdoors on the grounds of a golf course that is included as part of a Section 12 licensed establishment.

2. An application to extend the premises must describe the area in detail. The applicant must provide the description of the area in detail that includes the location and size of any areas of service and storage of alcoholic beverages, including whether alcoholic beverages will be sold or delivered in or from a cart. For example:

"The 18 holes of the golf course as shown on the scorecard on the golf course dated January 27, 2009, attached hereto and marked as Exhibit 1 to be sold from 3 beverage carts".

"The area containing the 18 holes of the golf course shown on the plan attached hereto dated January 27, 2009, attached hereto and marked as Exhibit 1 to be sold at the stands indicated and from a beverage cart".

"The area containing holes 1-7, 9-12- and 16-18 on the north side of Main Street as shown on the plan attached hereto dated January 27, 2009, attached hereto and marked as Exhibit 1 to be sold at the stands indicated and from a beverage cart and stored in the shack indicated."

3. The applicant for the license to be used on the grounds of a golf course must provide documented proof that the applicant has a legal right to occupy the grounds of the golf course on which permission is sought to sell and deliver alcoholic beverages. For example, the applicant may provide a copy of a lease, an occupancy agreement, a letter agreement or a contract.

4. (a) The grounds of the golf course must be contiguous and appurtenant to the existing licensed premises.

(b) Public ways may intersect, interrupt or divide the grounds of the golf course for which approval is sought. The Commission will approve a single license to cover that portion of the grounds of a golf course that lies across a public way provided the licensee applies for and receives from the Commission a transportation permit under M.G.L. Chapter 138, Section 22 for each beverage cart used in the transportation and delivery of alcoholic beverages.

(c) No licensee shall permit any patron to possess or carry alcoholic beverages in or on a public way.

(d) At each crossing of a public way, each licensee shall post signs stating "no alcoholic beverages permitted beyond this point" at appropriate locations in a conspicuous place where these signs can easily be read.

(e) Parking lots of a golf course will be treated the same as a public way. The Commission will not approve any parking lot to be included in the description of licensed premises on the grounds of a golf course.

5. The licensing authorities should consider the type of neighborhood and the potential for noise in the environs.

6. No more than two drinks shall be sold, delivered or in the possession of any one patron at any one time while on the grounds of a golf course approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission.

7. The applicant must post signs stating "no alcoholic beverages permitted beyond this point" at appropriate locations bordering the course in a conspicuous place where these signs can easily be read. The local licensing authorities may specify the location of any such signs.

8. No Section 12 licensee shall permit any patron to possess alcoholic beverages on the grounds of a golf course approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission other than those alcoholic beverages purchased from that licensee.

9. No Section 12 licensee shall permit any patron to carry or transport any alcoholic beverages off the grounds of a golf course approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission.

10. A Section 12 licensee is reminded that the Section 12 licensee must ensure that each person employed for the direct handling or selling of alcoholic beverages is 18 years of age or older.

Licensees should be vigilant during the golfing season to avoid violations of M.G.L. Chapter 138, Section 69 and ensure that no alcoholic beverage is sold or delivered on any licensed premises to an intoxicated person. Care should also be taken to avoid violations of M.G.L. Chapter 138, Section 34 by ensuring not only that no one makes "a sale or delivery of any alcoholic beverage or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any other person" but also that no one furnishes, and knowingly or intentionally supplies, gives, or provides to or allows a person under 21 years of age to possess alcoholic beverages on premises or property owned or controlled by a license holder.

With grateful appreciation and many thanks for your attention, assistance and cooperation in these efforts, the ABCC is confident that each of you work daily to ensure that all operations are structured, advertised and actually operated in compliance with all laws of the Commonwealth. Through our efforts together, we can be sure that each license serves the public need and is operated only in such a manner so as to protect the common good. With this mutual success, our spring and summer seasons will be safe.

Dated at ABCC, Boston, Massachusetts this 3rd day of April 2009.

1.22 Liquor License Definitions:

M.G.L., Chapter 138: Section 1. Definitions

Section 1. The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings: —

"Alcohol", all alcohol other than denatured alcohol or alcohol described in section three hundred and three A of chapter ninety-four.

"Alcoholic beverages", any liquid intended for human consumption as a beverage and containing one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit.

"Club", a corporation chartered for any purpose described in section two of chapter one hundred and eighty, whether under federal or state law, including anybody or association lawfully operating under a charter granted by a parent body so chartered, and including also any organization or unit mentioned in clause twelfth of section five of chapter forty, owning, hiring, or leasing a building, or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members; provided, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting, and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the disposition or sale of alcoholic beverages beyond the amount of such salary as may be fixed and voted annually within two months after January first in each year by the members or by its directors or other governing body and as shall in the judgment of the local licensing authorities and the commission be reasonable and proper compensation for the services of such member, officer, agent or employee. Such club shall file with the local licensing authorities and the commission annually within three months after January first in each year a list of the names and residences of its officers, together with the amount of salary or compensation received by each employee engaged in the handling or selling of alcoholic beverages.

"Commission", the alcoholic beverages control commission established under Section 70 of Chapter 10.

"Farmer-brewer", any person who grows cereal grains or hops for the purpose of producing malt beverages and who is licensed to operate a farmer-brewery under section 19C.

"Farmer-brewery", any plant or premise where malt beverages are produced from the fermentation of malt with or without cereal grains or fermentable sugars, or of hops, provided that said hops or cereal grains are grown by the farmer-brewer.

"Farmer-distiller", a person who grows fruits, flowers, herbs, vegetables, cereal grains or hops for the purpose of producing alcoholic beverages and who is licensed to operate a farmer-distillery under section 19E.

"Farmer-distillery", a plant or premise where distilled spirits are produced, manufactured or distilled.

"Farmer-winery", any plant or premise where wine is produced, rectified, blended or fortified from fruits, flowers, herbs or vegetables.

"Hotel", a building or part of a building owned or leased and operated by a person holding a duly issued and valid license as an inn holder, under the provisions of chapter one hundred and forty and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for its guests, including travelers and strangers and its other patrons and customers, and in addition meeting and complying with all the requirements imposed upon inn holders under said Chapter 140.

"Licensing authorities", the commission or the local licensing authorities, or both, as the case may be.

"Liqueur or cordial", all alcoholic beverages manufactured or produced by mixing or redistilling neutral spirits, brandy, gin, or other distilled spirits with or over fruits, flowers, plants or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolations, or maceration of such materials and containing no less than two and one-half percent sugar by weight.

"Local licensing authorities", the licensing boards and commissions established in any city or town under special statute or city charter or under section four or corresponding provisions of earlier laws, or, in a city having no such board or commission or having a board rendered inactive under section eight, the aldermen, or, in a town having no such board or commission, the selectmen.

"Malt beverages", all alcoholic beverages manufactured or produced by the process of brewing or fermentation of malt, with or without cereal grains or fermentable sugars, or of hops, and containing not more than twelve per cent of alcohol by weight.

"Pub brewer", a person who is licensed to operate a pub brewery under section 19D.

"Pub brewery", a plant or premise licensed under Sections 12 and 19D where malt beverages are authorized to be produced and sold and where alcoholic beverages or wine or malt beverages only are authorized to be sold for consumption on the premises according to commission regulations.

"Restaurant", space, in a suitable building, leased or rented or owned by a person holding a duly issued and valid license as a common victualler under the provisions of said chapter one hundred and forty, and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons and customers, and in addition meeting and complying with all the requirements imposed upon common victuallers under said Chapter 140. No advertising matter, screen, curtain or other obstruction which, in the opinion of the licensing authorities, prevents a clear view of the interior of a restaurant shall be maintained in or on any window or door thereof after the said authorities have ordered the removal of such obstruction and have afforded the licensee thereof a reasonable opportunity to remove the same. ***With the additional language of, "The WLC shall require all restaurants to have a Class I Food Service Permit from the City of Westfield Health Department." LLC vote of 2-2-09.***

"Ship chandler", one whose primary business is providing supplies and equipment to ships.

"Tavern", an establishment where alcoholic beverages may be sold, as authorized by this chapter, with or without food, to be served to and drunk by patrons in plain view of other patrons, all entrances to which shall open directly from a public way. The business conducted therein shall be open to public view from the sidewalk level and the establishment shall be properly lighted. No window facing a public way shall be obstructed by any screen or other object extending more than five feet above the level of the sidewalk on which the establishment abuts, but in no event shall any screen or obstruction prevent a clear view of the interior of said tavern.

"Winegrower" any person licensed to operate a farmer's winery under section 19B.

"Winery", a plant or premise where wine is produced, rectified, blended or fortified from fruits, flowers, herbs or vegetables, or where wine is bottled or packaged.

"Wines", all fermented alcoholic beverages made from fruits, flowers, herbs or vegetables and containing not more than twenty-four per cent of alcohol by volume at sixty degrees Fahrenheit, except cider containing not more than three per cent, or containing more than six per cent, of alcohol by weight at sixty degrees Fahrenheit.

"General on Premises (GOP)" M.G.L, Chapter 138: Section 12 Paragraph 15 Issuance of (GOP) General on Premises license

In any city or town wherein the granting of licenses under this section to sell alcoholic beverages or wines and malt beverages is authorized, a person may be granted a general on-premise license by the local licensing authorities, subject to the prior approval of the commission, authorizing him to sell alcoholic beverages without food to patrons and customers subject to all other relevant provisions of this chapter, provided that such beverages shall be sold and drunk in such rooms as the licensing authorities may approve in writing. The annual license fee for such general on-premise license shall be determined by the local licensing authority. For the purposes of section eleven an affirmative vote on subdivision A or B shall be considered an authorization for the granting of general on-premise licenses in a city or town. **Adopted by the WLC on 2-2-09.**

1.23 M.G.L, Annual Restaurant inspections:

Chapter 138: Section 12A. Renewal of licenses to conduct restaurant; investigations
Section 12A. No license issued under section twelve to conduct a restaurant shall be renewed unless and until the holder thereof shall satisfy the licensing authority that he is in good faith operating a restaurant and that such restaurant is provided with proper equipment for the service of food to travelers and strangers. The licensing authority may at any time make investigation on its own initiative as to the compliance with license requirements. **The WLC on 2-2-09 voted to adopt Section 12A and begin annual inspections, such inspections to begin with the 2010 liquor restaurant renewal period.**

1.24 Common Victualler and Inn holder license required:

M.G.L, Chapter 140: Section 6. Conditions precedent; proposed plans; cost estimates; license as victualler or inn holder

Section 6. A common victualler's or inn holder's license may be issued to an applicant therefor if at the time of his application he has upon his premises the necessary implements and facilities for cooking, preparing and serving food for strangers and travelers, and, in the case of an applicant for an inn holder's license, also has the rooms, beds and bedding required by law. An applicant for a license as a common victualler or as an inn holder, proposed to be exercised upon premises which have not been equipped with fixtures or supplied with necessary implements and facilities for cooking, preparing and serving food and upon which, in the case of an applicant for an inn holder's license, there are not also provided suitable rooms, beds and bedding for the lodging of his guests, shall file with the licensing authorities a plan showing the location of counters, tables, ranges, toilets and in general the proposed set-up of the premises, which shall include, in the case of an applicant for an inn holder's license, a plan of the proposed suitable rooms for the lodging of his guests and a list of the beds and bedding, which he proposes to have upon said premises if and when the license may issue, together with an itemized estimate of the cost of said proposed set-up and of such fixtures, and of the implements and facilities necessary for cooking, preparing and serving food and of such beds and bedding; and thereupon the licensing authorities may grant a common victualler's or an inn holder's license, as the case may be, upon the condition that such license shall issue upon the completion of the premises according to the plans and estimate submitted, and the decision of the licensing authorities as to whether or not said premises are so completed shall be final. For the purposes of Section 12 of Chapter 138, a person to whom a license has been granted under this section shall be deemed to be a common victualler duly licensed under this chapter to conduct a restaurant or an inn holder duly licensed thereunder to conduct a hotel, at the case may be. WLC adopted on 2-2-09 as a requirement to obtain/retain a Restaurant and Hotel liquor licenses.

1.25 Tools to Prevent Underage Sales

Acceptable Forms of Identification

To have a defense to the charge of delivering or selling alcoholic beverages to an underage person, a licensee must reasonably rely on one of five types of identification:

1. Massachusetts Driver's License
2. Massachusetts Liquor Identification Card
3. Massachusetts Identification Card
4. Passport issued by the United States or a government that is officially recognized by the United States
5. Passport Card for a Passport issued by the United States; and
6. Military Identification card.

Identification must be checked on the day of service, even if the licensee has checked an individual's identification on previous occasions (ABCC website notice)

1.26 Liquor Liability Insurance requirement:

The legislature amended M.G.L, Chapter 138, Section 12 to take affective August 26, 2010. The amendment states: no license under M.G.L, Chapter 138, Section 12 shall be issued or renewed until the applicant or licensee provides proof of mandatory insurance coverage by filing a certificate of insurance in a form acceptable to the local licensing authority (LLA). Applicants and licensees for Section 12 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 I person, and \$500,000 on account of any I accident resulting in injury to or death of more than 1 person. (ABCC Advisory dated 7-27-10)

1.27 Certificate of Good Stating requirement:

The LLA on 2-8-2010 voted to require all Corporate and LLC liquor licensees to file a Certificate of Good Standing from the Secretary of State for each renewal period beginning with the 2011 renewal.

USEFUL WEBSITES

- o <https://www.mass.gov/orgs/alcoholic-beverages-control-commission>
- o <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter140>
- o <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter138>