TOWN OF WELLESLEY
COMMONWEALTH OF MASSACHUSETTS

RULES AND REGULATIONS GOVERNING ALCOHOLIC BEVERAGES

Revised April 30, 2012

It is understood that the Rules and Regulations contained herein are in compliance with and subject to the Rules and Regulations of the Commonwealth of Massachusetts Alcoholic Beverages Control Commission. These regulations, promulgated on June 14, 2006, and amended to include Special Licenses on June 16, 2008, shall supersede all previous regulations issued by the Town of Wellesley.

Local Licensing Authority: Wellesley Board of Selectmen

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TOWN OF WELLESLEY, MASSACHUSETTS
BOARD OF SELECTMEN

RULES AND REGULATIONS GOVERNING THE OPERATION OF ESTABLISHMENTS LICENSED TO SELL ALL ALCOHOLIC BEVERAGES OR WINE AND MALT BEVERAGES ONLY

POLICY STATEMENT

The issuance of an All Alcoholic Beverages Restaurant License or a Wine and Malt Beverages Only License is an accommodating and incidental part of a Common Victualler's primary business endeavor of serving food to the public in a restaurant.

It is the intention of the Board of Selectmen that each 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, and exchange ideas. It is the further intention of the Board to enhance the dining experience of individuals patronizing Wellesley restaurants. It is not the Board's intention to license restaurants where fast food is a significant aspect of the business, or restaurants that have drive-through service.

The Board also recognizes that the service of alcoholic beverages by non-profit clubs to their members supports the social objectives of the clubs, while limiting the service of alcoholic beverage to club members and their guests. Likewise, the service of wine and malt beverages to those college students who are of legal drinking age, by educational institutions in their dining halls, can benefit colleges and their students by providing a social and hospitable environment in which college students can gather.

The Board of Selectmen will consider when deciding upon a license application 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 places where children gather, proximity to other licensed establishments, traffic, parking, noise factors, night lighting factors, appropriateness of

menu, and other aesthetic considerations, including the physical layout of the interior of the establishment.

HISTORY

Licenses for Restaurants and Inns

Massachusetts General Law Chapter 138, originally passed in 1933 just after the end of prohibition, governs the sale and licensing of alcoholic beverages in the Commonwealth. Section 11 of the statute provides in pertinent part that the secretary shall cause to be placed on the official ballot used in the cities and towns at each biennial state election the following subdivided question:

D. Shall licenses be granted in this city (or town) for the sale of all alcoholic beverages by hotels having a dining room capacity of not less than fifty rooms?

Every two years from 1934 through 1966, the voters of Wellesley voted "No" on the above question. In 1968, Wellesley voted "Yes" on Question D by a vote of 6,298 to 6,259. As required by the statute, the question was placed on the state election ballot in 1970 and 1972. It passed in 1970 by a vote of 6,131 to 3,467 and in 1972 by a vote of 8,676 to 5,662 thus authorizing the issuance of alcoholic beverage licenses to inns.

Additionally, in 1972 the following question from MGL Chapter 138, § 11 was placed on the ballot:

E. Shall licenses be granted in this city (or town) for the sale therein of alcoholic beverages by restaurants and function rooms having a seating capacity of not less than one hundred persons?

This question passed by a vote of 8,709 to 3,273. It passed again in 1974 by a vote of 6,399 to 4,272 and in 1976 by a vote of 8,749 to 3,205 thus authorizing the issuance of alcoholic beverages licenses to restaurants and function rooms having a seating capacity of not less than one hundred persons.

Licenses for Clubs and College Dining Halls, and Special Licenses

In 1983, upon the request of the Town of Wellesley, the Massachusetts Legislature approved Chapter 635 of the Acts of 1982, An Act Authorizing the Issuance of Certain Licenses in the Town of Wellesley for the Sale of Alcoholic Beverages. The Act authorized the Town of Wellesley to issue licenses for all alcoholic beverages to the Italo-American Club of Wellesley, Inc., the Wellesley College Club of Wellesley College and to the Wellesley Country Club, and on the premises of any other clubs, which are not organized for commercial purposes, as defined in section one of Chapter 138 of the General Laws; and special licenses to Babson College and Wellesley College for the dispensing of wines and malt beverages in dining halls maintained by them, and to other incorporated educational institutions authorized to grant degrees for the dispensing of

such beverages in dining halls maintained by such institutions; and to the responsible manager of any nonprofit organization conducting any indoor or outdoor activity or enterprise for the sale of all alcoholic beverages or wine and malt beverages, or any of them.

The Act directed that a question be placed on the ballot, and that authorization for said licenses would take effect upon an affirmative vote at three consecutive elections. The question passed by a vote of 2,693 to 1,738 during the town election of 1983, by a vote of 7,688 to 5,588 during the state election of 1984 and by a vote of 5,245 to 4,515 during the state election of 1986.

Licenses for Restaurants Having Fifty or More Seats

In 2011, the Town of Wellesley undertook an effort to attract small businesses, particularly to commercial areas, as part of its Wellesley Square Initiative. Merchants, residents and government officials believed that smaller restaurants could move into some vacant properties, and might encourage visitors to enjoy a meal while shopping in the Town. In addition, an opportunity would be created for smaller, existing restaurants to offer alcoholic beverages with meals. Area communities such as Needham, Westwood and Lexington had benefited from special acts of the legislature, so-called home rule petitions, that permitted those towns to issue alcoholic beverage licenses to restaurants of fewer than 100 seats.

In 2012, upon a request of the Town of Wellesley and following a favorable vote at the Special Town Meeting of November 14, 2011, the Massachusetts Legislature approved Chapter 25 of the Acts of 2012, An Act Authorizing the Town of Wellesley to Place a Certain Question Relative to the Sale of Alcoholic Beverages on the Town's Election Ballot.

Chapter 25 reads as follows:

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 11 of chapter 138 of the General Laws or any general or special law to the contrary, the licensing authority in the town of Wellesley may grant to restaurants and function rooms with seating capacities of 50 or more licenses for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138, subject to the maximum number of such licenses as authorized by section 17 of said chapter 138.

SECTION 2. In addition to those licenses authorized pursuant to section 1, notwithstanding section 11 of chapter 138 of the General Laws or any general or special law to the contrary, the licensing authority in the town of Wellesley may grant to restaurants and function rooms with seating capacities of 50 or more not more than 6 licenses for the sale of wines and malt beverages to be drunk on the premises.

SECTION 3. The authority to grant licenses authorized by sections 1 and 2 shall be in addition to those licenses authorized in chapter 635 of the acts of 1982.

SECTION 4. Notwithstanding section 11 of chapter 138 of the General Laws as to the time and manner of voting on the question, this act shall be submitted for its acceptance to the voters of the town of Wellesley at an annual or special town election in the form of the following question:-
"Shall an act passed by the general court in the year 2012, entitled `An Act authorizing the town of Wellesley to place a certain question relative to the sale of alcoholic beverages on the town's election ballot', be accepted?"
If a majority of the votes cast in answer to the question is in the affirmative, the town of Wellesley shall be taken to have authorized the granting of licenses for the sale of all alcoholic beverages and wines and malt beverages to be drunk on the premises.

SECTION 5. This act shall take effect upon its passage.

The question passed by a vote of 2,749 to 457 at the town election of March 13, 2012.

DEFINITIONS

Abutter: Owner of the property located within a 300-foot radius of the nearest point of the licensed property.

Alcoholic Beverage: As used in these regulations, the term alcoholic beverage shall include wine and malt beverages unless otherwise indicated.

Assistant Manager: Any person charged by the licensee to operate, manage and control the licensed premises in the absence of the manager.

Bar: A counter, window, or area other than a table, booth or sushi bar, where patrons sit to be served. Bars shall have stools where patrons may be served a meal, or where they may be served alcoholic beverages while waiting to be seated.

Club: An organization which is duly chartered and in good standing with the Commonwealth of Massachusetts and the Town of Wellesley.

Common Victualler License: A license, granted an applicant, 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. (MGL c.140, § 6)

Exterior Premise: Any outdoor location under the control of the licensee, such as a patio, deck, porch, or other area outside of and contiguous to the main building and open to the elements.

License: Unless otherwise indicated, the term "license" shall refer to an All Alcoholic Beverages Restaurant License or a Wine and Malt Beverages Only License.

Licensed Premises: The specific area in which the licensee is licensed to sell alcoholic beverages. Sale, service and consumption of alcoholic beverages outside of the licensed premises are not permitted.

Licensee: The holder of a license issued by the licensing authority under MGL c.138, § 12, or Chapter 635 of the Acts of 1982 to sell All Alcoholic Beverages or Wine and Malt Beverages Only.

Licensing Authority: The Board of Selectmen of the Town of Wellesley.

Manager: The person charged by the licensee to operate, manage and control the licensed premises. The name of the manager shall appear on the license.

Premises: The property owned or controlled by the licensee in which the licensed premises are a part.

Restaurant: A business that sells food to the public, intended to be consumed inside the premises, holding a Common Victualler License under the provisions of MGL c.140, § 6.

Service Bar: A counter or window where waiters and waitresses receive alcoholic beverages to be served to patrons. Patrons shall not be permitted to receive alcoholic beverages at a service bar.

Special License – a temporary license issued pursuant to Chapter 635 of the Acts of 1982 to the responsible manager of any nonprofit organization conducting any indoor or outdoor activity or enterprise for the sale of all alcoholic beverages or wine and malt beverages, or any of them.

Sushi Bar: A food bar or counter where seating for patrons is provided and where sushi or other raw style foods including but not limited to sushi, sashimi, ceviche, or raw shellfish is prepared by a chef at the bar or counter and served to and consumed by patrons.

Transfer: A change in ownership and/or location of a licensed premises.

War Veterans' Organization: A war veterans' organization that is incorporated by the Congress of the United States and in good standing with the Town of Wellesley.

I. TYPES OF LICENSES

The Town of Wellesley issues the types of alcoholic beverages licenses listed below. All licensees shall comply with Chapter 138 of the Massachusetts General Laws, Chapter 204 of the Code of Massachusetts Regulations, and Chapter 635 of the Acts of 1982 as they relate to the specific type of license.

Common Victuallers-All Alcoholic Beverages and Wine and Malt Beverages Only

No license will be issued or transferred to any restaurant unless the applicant is the licensee named in a Common Victualler License issued by the Town of Wellesley for the premises to be licensed.

No license shall be issued to any restaurant unless the restaurant has a seating capacity of not less than fifty. Seating on exterior premises shall not be counted in determining seating capacity, and no more than ten bar stools or bar seats shall be counted.

Alcoholic beverages may be sold and/or served at sushi bars, and seats at a sushi bar shall be used in computing whether or not the facility complies with the minimum seating capacity as set forth in Chapter 25 of the Acts of 2012. However, notwithstanding any other provision of these regulations, alcohol may be served and/or consumed at a sushi bar only in conjunction with and incidental to the consumption of sushi, which has been prepared and served at the sushi bar.

Innholders - All Alcoholic Beverages

No license will be issued or transferred to any inn unless the applicant is the licensee named in an Innholder License issued by the Town of Wellesley for the premises to be licensed.

Clubs - All Alcoholic Beverages

Clubs and War Veterans' Organizations that are duly chartered and are in good standing with the Commonwealth of Massachusetts and the Town of Wellesley may apply for a license pursuant to Chapter 635 of the Acts of 1982 for service to members and guests.

Clubs and War Veterans' Organizations shall be subject to the Rules and Regulations of the Town of Wellesley, except III., sections 1, 2, 3 and 4, V., and IX., sections 2 and 6.

Clubs and War Veterans' Organizations shall comply with the following rules and regulations concerning guests:

> a) No guest, other than one attending a function, may be on the premises unless introduced by a member immediately upon arrival at the licensed premises, and

no guest shall be on the premises unless the member who introduced him/her is also on the premises:

b) All functions must be sponsored by a member, and no person shall attend any function except upon the invitation of the member.

Dining Halls Of Incorporated Educational Institutions

Chapter 635 of the Acts of 1982 authorizes the Town of Wellesley to grant special licenses to Babson College and Wellesley College, and to other incorporated educational institutions, for the dispensing of wines and malt beverages in dining halls maintained by them.

Dining halls of incorporated educational institutions shall be subject to the Rules and Regulations of the Town of Wellesley, except III., sections 1, 2, 3 and 4, V., and IX., sections 2 and 6.

Special Licenses

Special licenses may be issued to managers of any nonprofit organization conducting an indoor or outdoor activity. No special license shall permit sales on more than 30 days, nor may any person be granted special licenses permitting sales on an aggregate of more than 30 days in any calendar year. The holder of a special license shall be subject to the Rules and Regulations of the Town of Wellesley, except III., sections 1-6, V., VIII., XVI., XVII., and XVIII.

II. MANAGEMENT AND CONTROL

1. No application from a corporation shall be approved unless the corporation, by certified vote of its Board of Directors, has appointed a manager who is a United States citizen and who has been vested with full authority, management and control of the licensed premises.

2. Upon receipt of an application for an original license or a renewal of a license, or in the case of a new manager or assistant manager, upon being advised of the new manager's or assistant manager's identity, the licensing authority will conduct a background check of any proposed licensee, manager or assistant manager, such check to include a review of any existing criminal record. The licensing authority may reject any application where the proposed licensee's, manager's or assistant manager's criminal record or reputation indicates theft, unlawful drug use or distribution, association with known felons or individuals involved in organized crime, a propensity for violence, or other behavior that, in the opinion of the licensing authority, might put the public at risk.

3. The manager shall have complete responsibility for the proper operation, management and control of the licensed premises. Every licensee shall submit to the licensing authority the full name, residential address, and business and home telephone numbers of the manager prior to his/her appointment to that position. Any change in manager must

be approved by the licensing authority prior to the appointment of the new manager by the licensee. The manager shall be on the licensed premises at least fifty percent of the time the licensed premises are open for business.

4. 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 town officials including, but not limited to, representatives of the licensing authority, the police and fire departments and the Board of Health, in ensuring public safety and convenience both within the licensed premises and the premises as a whole.

5. No licensed establishment shall be open for business unless a manager or assistant manager is on duty and on the premises. The license shall be posted in public view, and a plaque bearing the name of the on duty manager or assistant manager and his/her title, in letters no smaller than one inch, shall be posted within one foot of the license at all times when the licensed premises is open for business. In the case of a special license, the nonprofit organization's responsible manager, as named on the application, or an assistant named on the application, must be present whenever alcoholic beverages are being served.

6. The premises must be kept clean, neat and sanitary at all times.

7. No manager, assistant manager or employee of the licensee shall consume any alcoholic beverages or illegal drugs, or be under the influence of alcohol or illegal drugs, while on duty, or during the eight hour period preceding the beginning of his or her shift. Nothing in this section shall prohibit a manager or assistant manager, or an employee twenty-one years of age or older and acting with a manager or assistant manager's permission, from tasting wine intended to be served to patrons.

8. The manager, and each and every assistant manager, shall successfully complete an alcoholic beverage server-training program satisfactory to the Town prior to their appointment. Such training shall be required for all bartenders at all establishments with a bar. All other employees who serve alcoholic beverages, and all persons who serve alcoholic beverages pursuant to a special license, shall receive, at a minimum, in-house training similar to that completed by the manager and assistant manager. No manager, assistant manager or employee is authorized to sell or serve any alcoholic beverage to any patron within the licensed premises until the licensee has delivered to the licensing authority a statement as to each such manager, assistant manager or employee, certifying the successful completion of his or her training as herein required.

III. SERVICE TO PATRONS

1. Licensees may serve alcoholic beverages only to customers who intend to dine on the licensed premises, and menus shall reflect the requirement that wine and malt beverages and all alcoholic beverages may only be ordered in conjunction with the consumption of a full meal ordered from the menu of the licensed premises. The licensing authority

reserves the right to determine and further define what constitutes a full meal consistent with its policies.

2. Food service shall be available at all seats within the licensed premises, except in the case of private functions or in those designated areas where patrons assemble to await being seated.

3. In those designated areas where patrons assemble to await being seated, alcoholic beverages may be served and sold, provided that not more than two standard size drinks shall be served to any patron within a waiting area. As it is the intention of these regulations that the sale, service and consumption of alcoholic beverages shall be made to those patrons intending on dining, the manager shall take reasonable measures to ensure that patrons who are served intend to dine.

4. Licensees may, upon the approval of the licensing authority, provide a bar with stools or seats where patrons may be served a meal or be served alcoholic beverages while waiting to be seated. Managers shall take reasonable measures to ensure that patrons who are seated at a bar intend to dine, and that no patron is provided more than two standard size drinks while waiting to dine. Bar seats or stools shall be limited to a maximum of ten percent of total seating, but not more than ten bar seats or stools. Alcoholic beverages may be served at a counter built prior to April 1, 2006 that has more than ten stools affixed to the floor provided that no more than ten patrons are served alcohol at one time.

5. Licensees may, upon the approval of the licensing authority, provide a service bar for use by the wait staff. Service bars shall not have stools. Only staff, in the course of serving patrons either eating a full meal, or waiting to be seated, may receive alcoholic beverages from a service bar.

6. The location of bars and service bars shall not be changed unless an amended plan showing the proposed change is submitted to and approved by the licensing authority.

7. No patron shall be permitted to bring alcoholic beverages on to the licensed premises for the purpose of being consumed there.

8. All alcoholic beverages held for sale shall be consumed on the licensed premises. No alcoholic beverages, including wine and malt beverages, shall be served outside the licensed premises.

IV. INSURANCE

In addition to all other requirements established by law, each licensee shall have liquor liability insurance coverage in at least the amounts of $1,000,000/$2,000,000. A certificate of insurance that at least these amounts are in place shall be filed with the licensing authority. The licensee shall notify the town no less than ten days prior to the cancellation or material change of said coverage.

V. EXERCISE OF LICENSE

The closing of the licensed premises for any reason for a period of seven consecutive days or more, or for any ten days during the calendar year, without prior approval of the licensing authority, shall be deemed to be an abandonment of the license and sufficient grounds for revocation.

VI. HOURS OF OPERATION

1. The hours during which sales of alcoholic beverages may be made by any licensee shall be from 11:00 a.m. to midnight Monday through Saturday and 12:00 noon to 11:00 p.m. on Sundays. Licensees shall be able 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) from 12:00 noon to 11:00 PM. The licensing authority may extend the hours of operation for a specific day upon a written application by the licensee, but in no event shall the hour of closing be extended beyond 2:00 a.m.

2. No patron shall be served alcoholic beverages within the licensed premises before or after the hours stated in the license. The hours within which alcoholic beverages may be sold may be adjusted by the licensing authority if, after a public hearing, it shall be determined by the licensing authority that the circumstances warrant further alteration.

3. The hours during which sales of alcoholic beverages may be made in a dining room are further limited to the times when the dining room is open and food service available.

4. No alcoholic beverages shall be sold within the licensed premises during the 15 minutes preceding the hours stated on the license at which service of alcoholic beverages must cease.

5. Employees of the licensee must vacate the licensed premises no later than 60 minutes after the discontinuance of food service operation, provided that this regulation shall not be applicable to the owner or manager, or to persons who are within the licensed premises for the exclusive purpose of cleaning, making emergency repairs, providing security, preparing food for the next day's business, or opening or closing the business in an orderly manner.

VII. INSPECTIONS

1. The licensed premises shall be available at all times for inspection by members of the licensing authority, the Chief of Police, the Fire Chief, the Board of Health, and members of their departments, or any other department or official of the Town of Wellesley so directed by the licensing authority.

2. The full-time police officers of the Wellesley Police Department are hereby designated as agents of the licensing authority and they shall have the authority to investigate violations of these rules and regulations and of state law on or about any licensed premises on behalf of the licensing authority, and to conduct other such enforcement and inspections as the Chief of Police deems appropriate, including the use of plainclothes police officers, and/or investigators of the Massachusetts Alcohol Beverages Control Commission, for the purpose of ensuring compliance with state law and all aspects of these rules and regulations.

VIII. PRIVATE FUNCTIONS

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

IX. DESIGN OF THE LICENSED PREMISES

1. Each applicant, except an applicant for a special license, shall submit to the licensing authority, along with an application for a license, a plan drawn to scale on which shall be shown the following information:

a. The net interior floor area, exclusive of stairways and hallways, and dimensions of the existing room or rooms requested to be licensed including dining rooms, function rooms, and rooms in which alcoholic beverages are to be stored.

b. The location of any proposed bars or service bars.

c. The area in which seats or benches are to be securely fastened to the floor forming booths.

d. The area in which there is to be movable or unsecured seats and tables.

e. All entrances and exits.

f. All rooms not being requested to be licensed. If said rooms are on the same floor as those rooms to be licensed, they shall be labeled as to their function, such as kitchens, coat rooms, lobby, etc.

2. A person applying for a special license need only submit a floor plan or diagram (8 ½ x 11 sketch) showing the exact location within the event area where alcoholic beverages will be dispensed.

3. The licensing authority shall deny any application for a license if the restaurant or function hall requested to be licensed requires additional construction in order to comply

with the minimum seating capacity requirements as set forth in Chapter 25 of the Acts of 2012.

4. In instances where expansion of a premise is contemplated but not necessary to meet the necessary seating capacity, the licensing authority may license that portion of the facility as it exists and qualifies, and when construction is completed, the licensed area may be extended to include the additional area.

5. Each license shall be issued based on a specific design for the licensed premises. Once a license has issued, no substantial physical changes to the licensed premises shall be made without the prior approval of the licensing authority. For the purpose of this regulation a substantial physical change is a change sufficient to require a building permit.

6. The interior of the licensed premises shall be well lighted at all times, such lighting to be not less than one foot candle, measured 30" from the floor, except those portions of the room under furniture.

7. Cocktail lounges, that is, areas for seating of patrons to consume alcoholic beverages at places other than at dining tables or bars, are only permitted where the licensee holds an innholder license and where a cocktail lounge is specifically authorized under the terms of the license.

8. No premises may be licensed unless toilet facilities are available to patrons. At least one toilet at each licensed premises shall be handicapped accessible.

X. LICENSING OF EXTERIOR PREMISES

1. No license shall be issued by the licensing authority for the sale of alcoholic beverages in an exterior premises except upon the following conditions:

a. The exterior premises must be enclosed by a physical barrier, which defines the licensed area and controls access and egress of the public through identifiable entries.

b. The exterior premises must be staffed at all times during all hours of operation.

c. The regulations applicable to interior premises shall apply to exterior premises unless the context makes such regulations inappropriate or inapplicable on their face.

d. The exterior premises shall not be licensed for the consumption of alcohol beyond 9:00 PM, provided, upon application by the licensee, the licensing authority may extend the hours of operation for an exterior premises if it determines that public necessity and convenience are served by the extended

hours. Licensees shall ensure that patrons do not possess or consume alcoholic beverages on exterior premises beyond the time allowed by the licensing authority.

e. The exterior premises shall only be adjunct to interior licensed premises, and shall be contiguous to the interior licensed premises. The exterior premises shall be visible from within the interior licensed premises.

f. The exterior premises shall not be used or counted in the computation of the requisite seating capacity of the licensed interior premises, as required by Chapter 25 of the Acts of 2012.

g. Provision shall be made and maintained for the passing of the public through any contiguous public area.

h. The licensee shall at all times control and maintain the immediate and surrounding areas in a state of cleanliness and upkeep.

2. The foregoing notwithstanding, the licensing authority shall not grant a license for an exterior premise without making a finding that the public necessity and convenience shall be served by such a license. In making said determination, the licensing authority shall consider, among other factors, the following:

a. The impact that the proposed exterior premises will have on the area in which it is located.

b. The public necessity and/or convenience to be served by licensing the exterior premises.

c. The degree to which the exterior premises is restricted from view by passers-by.

d. The type and number of businesses in the immediate neighborhood.

e. The anticipated noise level and its affect on abutting and neighboring property.

f. The number of seats to be placed within the exterior premises.

XI. PRICES

1. No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the licensee.

2. If an admission charge to the licensed premises is required, such charge shall not be credited by the licensee toward the purchase price of any alcoholic beverage, and the licensee must provide a written receipt to each patron paying a cover charge.

3. The price charged by the licensee for the sale of alcoholic beverages shall not be discounted by any particular hour(s) of the day or day(s) of the week.

4. No minimum charge shall be made for the sale of alcoholic beverages.

XII. GENERAL OPERATING REQUIREMENTS

1. Entrance doors to the licensed premises must remain closed, but not locked, during all times that the licensed premises are open for business.

2. The licensee shall ensure that the Wellesley Police Department, the Wellesley Fire Department, and authorized agents of the licensing authority, shall have immediate access to the licensed premises at all times and under all circumstances.

3. No alcoholic beverages shall be sold to anyone under the age of 21 years. As proof of age, the licensee shall only accept a valid Massachusetts driver's 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.

4. The licensee shall ensure that business in the licensed premises, and areas under the licensee's control that abut the licensed premises, is conducted in a responsible manner so that no activity shall detract from the quality of life in the town generally, or in the neighborhood in which the licensed premises is located. This shall include, but not be limited to, ensuring that there shall be no disorder, unlawful use or sale of drugs, indecency, prostitution, assaults, lewdness or gambling on or about the premises.

5. No alcoholic beverage shall be sold or delivered to an intoxicated person.

6. Employees of any licensee not holding a club license shall only deliver alcoholic beverages to the table, chair or other location within the premises where patrons receiving the beverages will consume them.

7. Alcoholic beverages may be consumed only from open containers.

8. No licensee may display any advertisement or sign on the outside façade upon which appears any brand name of an alcoholic beverage product. Signs on the inside of the premises are subject to approval by the licensing authority at its discretion.

9. No patron may remove any alcoholic beverage from the licensed premises, unless the patron is taking off the premises of a restaurant or hotel a resealed bottle of partially

consumed wine as regulated by MGL c.138, § 12 and the Rules and Regulations of the Alcoholic Beverages Control Commission.

10. No alcoholic beverages, with the exception of wine, shall be served in any container, the capacity of which is in excess of 16 fluid ounces.

11. No pitchers of malt beverages may be served.

12. No licensee shall provide or allow entertainment unless an entertainment license has been obtained from the Board of Selectmen.

13. No licensee shall make any distinction, discrimination or restriction on account of race, color, creed, sex, sexual orientation or ancestry relative to the admission or treatment of any person.

XIII. VIOLATION OF RULES AND REGULATONS

1. Any license issued under these rules and regulations may be suspended, modified or revoked by the licensing authority if any of the rules or regulations are violated or for other reasonable cause related to the public good and the licensee's fitness to hold a license.

2. The licensing authority shall initiate suspension, modification, or revocation by notifying the licensee of its intention in writing.

3. The licensing authority shall hold a public hearing prior to suspending, modifying or revoking any license unless the licensing authority declares that the suspension of the license is an emergency. Under emergency circumstances, the licensing authority may immediately suspend a license, but must hold a public hearing within five days of the beginning of the emergency suspension.

4. The hearing shall be commenced within two weeks of the notice of intent to suspend, modify, or revoke said license.

5. In the event of the suspension, modification, or revocation of any license, the licensee shall not be entitled to reimbursement for any licensing fee or any portion thereof.

XIV. SCHEDULE OF FEES

Restaurant and function room: $5,000.00
(Common Victuallers-All Alcoholic With Function Room)

Restaurant only: $3,600.00
(Common Victuallers-All Alcoholic Beverages)

Innholder: $5,000.00

(All Alcoholic Beverages)

Dining Halls of Incorporated Educational Institutions: $1,200.00
(Wine and Malt Beverages Only)

Clubs: $1,400.00
(Clubs-All Alcoholic Beverages)

Wine and Malt Beverages: $2,000.00
(Wine and Malt Beverages Only)

Special License: $50

XV. APPLICATIONS

1. All applications for an original license or a renewal of a license must be accompanied by an application fee of $200 in addition to the fee for the license. All applications must also be accompanied by the annual Common Victualler License fee of $100.

2. The application fee for a special license, or the application fee for two or more special licenses applied for on the same date, shall be $25.

3. A person applying for a special license should submit the application at least thirty days prior to the date of the activity.

4. All fees for applications and licenses shall be in the form of a bank check. The application fee is not refundable if the application is denied, but the annual license fee shall be refunded if an original or renewal license is not issued.

5 There will be no pro-ration of fees.

6. The licensing authority reserves the right to adjust the license fee from year to year.

XVI. DURATION AND RENEWAL OF LICENSE

All licenses once issued are valid through December 31 of each year and the application to renew must be completed and signed by November 30. It is the responsibility of the licensee to file for a renewal in a timely manner. Renewal forms may be obtained from the Board of Selectmen. Renewal applications must update all previously filed statements and plans where appropriate. Failure to renew prior to expiration shall result in a loss of license and any subsequent license request must then be treated as a completely new application.

XVII. TRANSFERS

A $500 fee shall accompany each application for ownership or transfer of location. Application for transfer of ownership or location shall be considered an original application and processed as such. Approval of a transfer of majority ownership may be conditioned upon the proof of payment of all outstanding local, state and federal taxes including, without limiting, the following: the remission to the proper taxing authorities of sales taxes, excise taxes and withheld federal and state income taxes. Transfers of ownership 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 will not be deemed to transfer or convey any rights to the license or the renewal or transfer of such license. 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. A public hearing shall be required for any transfers of ownership or location, including, but not limited to transfers to mortgagees.

XVIII. PUBLIC HEARING

A public hearing shall be conducted within thirty (30) days of acceptance of a complete application. The public hearing shall be advertised in The Wellesley Townsman. The applicant will be required to comply with the appropriate provisions of MGL c.138 including, but not limited to, Sections 15A and 16C relative to the notification of abutters, churches, and schools within the distance prescribed by law. Notification shall be the responsibility of the applicant and shall be by certified mail with returned receipts. The applicant or transferee shall be required to notify all abutters, as defined in the Definitions section, and shall be by certified mail with returned receipts. Prior to the public hearing, the applicant shall present to the licensing authority evidence of compliance with this notification requirement by furnishing an attested copy of the newspaper notice and the returned receipt cards. The newspaper in which the notice is published should have a general circulation within the Town of Wellesley such as The Wellesley Townsman.

An application shall be considered complete when it has been filed in accordance with procedural instructions and all forms and monies required have been fully completed and executed under such conditions and rules as determined by the licensing authority. All applications shall be made under 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.

APPLICABILITY of GENERAL LAWS, SPECIAL LAW and AMENDMENTS

These regulations are promulgated by the licensing authority of the Town of Wellesley to be supplementary to, and not in substitution of, all General Laws of the Commonwealth of Massachusetts governing the sale, service and consumption of All Alcoholic Beverages and Wine and Malt Beverages Only, including but not necessarily limited, to

those laws set forth in MGL c.138. 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 the thirtieth day of April, 2012 by the Board of Selectmen of the Town of Wellesley, Licensing Authority pursuant to law.

WELLESLEY BOARD OF SELECTMEN

Barbara D. Searle, Chair

Terri Tsagaris, Vice Chair

Ellen Gibbs, Secretary

Katherine L. Babson, Jr.

Donald McCauley