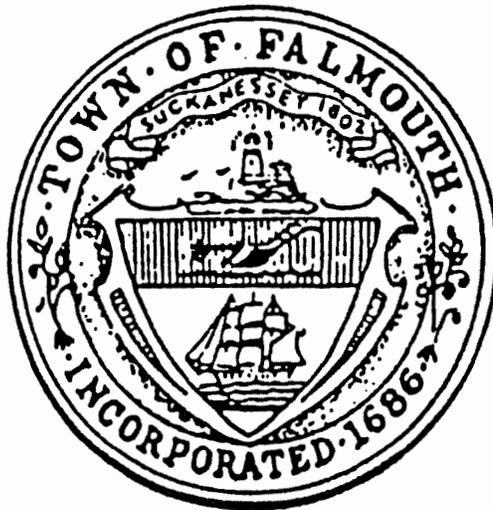


TOWN OF FALMOUTH

ALCOHOLIC BEVERAGES REGULATIONS

VOTED JUNE 6, 1994



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PREAMBLE

The Falmouth Board of Selectmen, as the licensing authority for the Town of Falmouth, will provide a reasonable number of restaurant, club and package goods store licenses for the sale and/or service of all alcoholic beverages and/or wine/malt beverages to the public.

The number of licenses issued for off-premises consumption is regulated by quotas as established by the General Laws of the Commonwealth. The number of licenses for on-premises consumption is not governed by quotas. There is no compelling reason for the Board of Selectmen to issue licenses if in the opinion of the Board, the public need and the public good will not be served.

The Falmouth Board of Selectmen will wish to be assured that those holding a financial interest as well as a beneficial interest in a licensed business are not only of sound character, but are qualified to hold a license. They, as well as the manager, must be able to demonstrate to the Board that they will operate a closely supervised business and that the manager or his designee of record will be on the licensed premises at least forty (40) percent of the time the licensed premises are open. Holders of restaurant and club licenses must serve quality food in sufficient quantity so the sale of alcoholic or wine/malt beverages will represent only a minor portion of the business. Failure to have adequate service of food available could be cause to have the license revoked, suspended or cancelled.

The Falmouth Board of Selectmen will strongly regulate the closing hours of premises. The rights of residents will be given every consideration by the Board in the setting of closing hours. If any form of entertainment is to be provided, weekdays or Sundays, appropriate entertainment licenses must be obtained.

The Board of Selectmen or its designated agent may inspect the licensed premises to ensure that the conduct of the business conforms to all existing laws and regulations. The manager of record is responsible for the conduct of the business, whether present or not.

Please read and understand the following rules and regulations which have been promulgated with the sole objective of having quality restaurants, clubs and packaged goods stores within the Town of Falmouth. New rules and regulations may be added from time to time to ensure that these objectives are met.

SECTION A - APPLIES TO ALL LICENSES

1. LICENSING AUTHORITY

These regulations are adopted, and may be amended from time to time, by the Falmouth Board of Selectmen, pursuant to the provisions of Massachusetts General Laws, Chapter 138 and Chapter 140. Any and all alcoholic beverages and common victualler licenses issued by the Board shall be governed by these regulations, M.G.L. Chapter 138 and Chapter 140, and by the rules and regulations of the Alcohol Beverage Control Commission of the Commonwealth of Massachusetts.

2. FILING OF APPLICATIONS

All license applications must be completed before being submitted to the Board of Selectmen for action following a public hearing. The office of the Selectmen has provided an instruction form for the filing of applications which lists the required information as well as the specific forms required.

3. FILING FEES

Filing fees must be paid at the time an application is filed at the office of the ABCC Commission. Fees will vary depending upon the type of application submitted. Town of Falmouth filing fees, if paid for by check, must have check made payable to: Town of Falmouth. Filing fees required by the Alcoholic Beverage Control Commission must be made payable to : Commonwealth of Massachusetts and must be a certified check or bank treasurer's check. Filing fees are not returnable once an application has been accepted by the office of the ABCC Commission.

4. ANNUAL LICENSE FEES

Annual license fees must be paid prior to the issuance of the license. License fees may not be prorated and are not refundable.

5. COMPLIANCE WITH ALL LAWS AND REGULATIONS

All licensees shall maintain their premises and operations in full compliance with all applicable state and local building codes, all health and sanitary codes, laws and regulations. All taxes and charges owed to the Town of Falmouth must be paid on a current basis. Failure to comply with any of these laws and regulations shall be sufficient cause for revocation, suspension or modification of the license.

6. CORPORATE AND TRADE NAMES

No licensee shall assume obligations for a licensed premises under any corporate or trade name other than that under which he/she is licensed. Any change in corporate name or any change in trade name (DBA) shall require the prior approval of the Falmouth Board of Selectmen.

7. CESSATION OF OPERATIONS

Any licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the Board of Selectmen in writing before such closing stating the reason and length of such closing. Failure to provide such notice may result in the revocation of the license.

8. BANKRUPTCY AND COURT PROCEEDINGS

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

9. CORPORATE TRANSACTIONS AND CHANGE OF MANAGERS

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 Board of Selectmen. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Selectmen.

10. FORECLOSURE ON LOANS

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

11. MANAGER

No corporation shall be approved for a license unless the corporation, by vote of its Board of Directors, has appointed a Manager who is a United States citizen and who has been vested with full authority and control of the premises and the business to be licensed. The Manager, as registered with the Board of Selectmen must be on the premises at least forty (40) percent of the time the premises are open. The Manager shall have total responsibility for the proper operation of the licensed premises, whether present or not. No appointment of a Manager shall be effective unless and until approved by the Board of Selectmen.

12. MANAGER'S RESPONSIBILITIES

The Manager shall at all times maintain order and decorum on the premises and in the immediately surrounding area. The manager shall cooperate with town officials in every way so as to provide safe and orderly facilities. There shall be no disorder, indecency, prostitution, lewdness or illegal gambling on the licensed premises. The Falmouth Board of Selectmen reserve the right to condition any licenses to ensure same.

13. SERVICE PROHIBITED TO CERTAIN INDIVIDUALS

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

14. IDENTIFICATION CARDS

In accordance with M.G.L. Chapter 138, section 34B, any licensee who reasonably relies on a liquor purchase identification card or motor vehicle license issued by the Massachusetts Registry of Motor Vehicles for proof of a person's identity and age shall be presumed to have exercised due care in making a delivery of sale of alcohol or alcoholic beverages to a person under twenty-one years of age and shall not suffer any

modification, suspension, revocation or cancellation of such license. A licensee is at his/her own risk if licensee or employee accepts any other type of I. D.

15. DISCRIMINATION PROHIBITED

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.

16. SUSPENSION, REVOCATION, OR MODIFICATION OF LICENSE

All licenses are subject to suspension, revocation or modification for breach of any conditions, regulations or laws of the Town or State. The Board of Selectmen reserves the right to change or add to any license conditions or any regulations after notice to the licensee.

17. DISPLAY OF LICENSES AND PERMITS

All licenses and permits issued by the Town shall be displayed on the premises in a conspicuous place where the public has access and may read.

18. HOURS OF OPERATION - (SEE HOURS OF OPERATION UPON YOUR LICENSE)

The hours of operation shall be restricted to those set by the Board of Selectmen. No patrons shall be on the premises before the official opening hours nor fifteen minutes after the official closing hour of the licensed premises has been reached. No drink consumption time is allowed.

19. FOOD SERVICE REQUIRED

Licenses issued under M.G.L. Chapter 138, Section 12, which are restaurant licenses, may be issued only to those who have been granted a common victualler license under M.G.L. Chapter 140. These two sections also apply to holders of Innholder licenses. Common victuallers must have adequate and sanitary kitchens and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons as required by M.G.L. Chapter 130, Sections 5 and 6.

20. CONSUMPTION ON PREMISES

All alcoholic beverages shall be served in open containers and no such beverage shall be allowed to be removed from the premises with the exception of a farmer's brewers license. No patron or customer shall be allowed to bring alcoholic or wine/malt beverages on the premises for the purpose of consumption on the premises.

21. CHARGE FOR ALCOHOLIC BEVERAGES

No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the licensee. An admission charge shall not be credited toward the purchase price of any alcoholic beverage. The price charged for alcoholic beverages shall not be discounted for any particular hour(s) of the day or day(s) of the week. No minimum charge shall be made for alcoholic beverages.

22. SERVER TRAINING - FOR MANAGERS AND OTHERS

Prior to being appointed as manager, the person shall have successfully completed an alcoholic beverage server training program such as the

Intervention Procedures by Servers of Alcohol Programs (TIPS), or its equivalent. Such programs shall be sponsored by the Town of Falmouth. Such training shall be required for all bartenders at all establishments with a bar. All other employees who serve alcoholic beverages shall receive, at a minimum, in-house training similar to that received under the TIPS program.

23. VERIFICATION OF SERVER TRAINING

Verification for "Server Training" shall be maintained for each employee and shall be available for inspection on the premises at all times.

24. COIN-OPERATED AUTOMATIC AMUSEMENT MACHINES.

No licensee may have upon the premises any automatic amusement machines unless same has been approved and licensed by the Town of Falmouth. Licenses for all types of machines and their location on the premises must be approved by the Board of Selectmen. The licensee, not the distributor, must make application under M.G.L. Chapter 140, Section 177A.

25. POLICE REPORTS - DISTURBANCES

Copies of all police reports indicating a pattern of fights/disturbances/problems in the vicinity of a licensed establishment shall be forwarded to the Board of Selectmen upon request.

26. REVOKING THE LICENSE - CRIMINAL CONVICTION

Whenever a license holder is convicted of a crime involving the use, possession, sale or distribution of a controlled substance as defined in Chapter 94C of the Massachusetts General Laws or a felony involving injury to a person or property of another, it shall be considered grounds to revoke the license.

Whenever a manager named on a license is convicted of a crime involving the use, possession, sale or distribution of a controlled substance as defined in Chapter 94C of the Massachusetts General Laws or a felony involving injury to a person or property of another, it may be considered grounds to remove the manager and to suspend or revoke the license as the Selectmen shall determine.

27. PROSECUTION - ADULTS PROCURING FOR MINORS

The Chief of Police shall be requested to adopt a departmental policy that will insure that all adults found to be purchasing alcoholic beverages for minors or providing alcoholic beverages to minors shall be prosecuted to the fullest extent of the law.

SECTION B - APPLIES TO RETAIL PACKAGE STORE LICENSES

1. SERVER TRAINING - IN-HOUSE PROGRAM FOR EMPLOYEES

An employee training program on the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated shall be provided by the Town of Falmouth. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be maintained on the premises at all times. A certification signed by each employee, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.

2. HOURS OF SALE

No delivery of alcoholic beverages shall be made except during the legal hours of sale.

3. CONSUMPTION ON PREMISES PROHIBITED

No alcoholic beverages shall be sold to be drunk on the premises except for "wine tasting".

4. PREMISES' DESCRIPTION

No licensee shall keep for sale, store or sell alcoholic beverages in any part of the premises not specified in the license. Any increase in size of the premises must be approved by the Board of Selectmen.

5. DELIVERIES OFF PREMISES - KEGS OF BEER (MALT BEVERAGES)

A written record shall be maintained listing the name and address of every person to whom a delivery of one or more keg(s) or any fraction of a keg of malt beverages is made outside of the premises. Such record shall include the amount of the beverages that were delivered, the date and time of delivery, and the signature of the person receiving the delivery. Such records shall be maintained for a period of not less than a year and must be available for inspection by the Board of Selectmen and its agents at all times.

SECTION C - APPLIES TO CLUB LICENSES

1. LIST OF OFFICERS

The licensees shall annually submit to the Selectmen within three months after January first, a listing of the names and addresses of all the club's directors or officers, and employees, as of January first. Such list shall be maintained current during the year and be available for inspection on the premises at all times.

2. ONLY MEMBERS AND GUESTS TO BE SERVED

Only members and their guests shall be served alcoholic beverages.

3. HOURS OF SALES

The official closing hour, which shall be set by the Board of Selectmen, shall be no later than 1:00 A. M. All members and guests must be off the premises within fifteen minutes after the closing hour. All tables and bars must be cleared of all glasses, bottles, and containers of alcoholic beverages within one-half hour after the closing hour. In regards to opening hours, no alcoholic beverages shall be sold or served prior to 8:00 A. M. on secular days and 12:00 noon on Sundays.

4. SERVICE LIMITED TO APPROVED AREAS

The service and consumption of alcoholic beverages shall be limited to those areas of the premises approved by the Board. No alcoholic beverages shall be served or consumed in any area of the premises which has been excluded from the approved description of the premises.

5. INTERIOR LIGHTING

The interior of the premises shall be sufficiently lighted at all times.

6. CONSUMPTION ON PREMISES

All alcoholic beverages shall be served in open containers and no such beverages shall be allowed to be removed from the premises. No patron shall be allowed to bring alcoholic beverages on the premises for the purpose of consumption on the premises.

7. SERVER TRAINING

The Manager shall have successfully completed an alcoholic beverage server training program such as The Intervention Procedures of Servers of Alcohol (TIPS), or its equivalent, prior to his appointment. Such training shall be required for all bartenders at all clubs with a bar.

8. VERIFICATION OF SERVER TRAINING

Verification of the training referred to in the previous section shall be maintained and be available for inspection on the premises at all times.

SECTION D - APPLIES TO DRUGGIST LICENSES

1. NOT FOR BEVERAGES PURPOSES

No alcohol shall be sold for beverage purposes.

2. RECORDING SALES

All sales of alcohol shall be recorded in the same book and in the same manner required for the sale of alcoholic beverages with the signatures and address of the purchaser, and the hours of sale shall be the same as the hours for the sale of alcoholic beverages not to be consumed on the premises. No sales shall be made on Sundays or legal holidays without a prescription.

3. SALES WITH PRESCRIPTION

Sale on separate prescription and in quantity not exceeding one gallon of wines, one gallon of malt beverages and one quart of other alcoholic beverages. Every such prescription shall be dated and signed by a physician and shall contain the name of the person prescribed for.

Edward Marks, Jr.

Troy B. G. Clarkson

George DeMello

Virginia Valiela

Mary Pat Flynn
BOARD OF SELECTMEN

DATE: JUNE 6, 1994



TOWN OF FALMOUTH
59 TOWN HALL SQUARE
FALMOUTH, MA 02540

ALCOHOLIC BEVERAGES REGULATIONS

ADDENDUM #1

NOVEMBER 28, 1994

At a meeting held on November 28, 1994, the Board of Selectmen voted a policy that any holder of a year-round alcoholic beverages license wishing to close its establishment for a period of time during the year must notify the Board of Selectmen, in writing, at least two weeks prior to the closing.

ALCOHOLIC BEVERAGES REGULATIONS

ADDENDUM #2

DECEMBER 6, 2010

At its meeting held on December 6, 2010 the Board of Selectmen voted a policy that all manager's and/or servers of alcoholic beverages must be TIPS certified and copy of certification submitted to the Board of Selectmen's Office.