



License Fee: \$100.00

Processing Fee: \$10.00

\$110.00

Optional Extended Hours \$10.00

Optional Entertainment License \$100.00

Optional Outdoor Dining \$100.00

Total Paid: \$_____

**THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF BELMONT**

ORIGINAL APPLICATION FOR COMMON VICTUALLER LICENSE

Legal Business Name (Corp, LLC, etc.) _____

Doing Business As (if different) _____

Business Address _____

The Establishment shall operate as: _____ Sole Ownership _____ Partnership _____ Corporation

Note: (A) If a corporation, state full names and addresses of principal officers making this application

(B) If a co-partnership, information must be provided on each partner

Applicant (1) Name _____

Home Address _____

Phones (Business) _____ (Cell) _____ (Home) _____

Email address: _____

Applicant (2) Name _____

Home Address _____

Phones (Business) _____ (Cell) _____ (Home) _____

Email address: _____

DESCRIPTION OF APPLICANT (1)

DESCRIPTION OF APPLICANT (2)

Name_____

Name_____

Born in the U.S. YES NO

Born in the U.S. YES NO

Place of Birth_____

Place of Birth_____

Date of Naturalization_____

Date of Naturalization_____

Male or Female_____Age_____

Male or Female_____Age_____

Date of Birth_____

Date of Birth_____

Social Security No._____

Social Security No._____

Corporate Information

| Name | Home Address | Date of Birth | %Ownership or Number of Shares |
|------|--------------|---------------|-----------------------------------|
|------|--------------|---------------|-----------------------------------|

President_____

Secretary_____

Treasurer_____

Do you own the property? Yes_____ No_____

If No: Name of property owner _____

Owner's Address_____Telephone Number_____

If leasing premises \$_____per month Dates of Lease_____

| | | | | | | |
|----------------------------------|-----------|----|-------|----|--------|----|
| Will your restaurant be serving: | Breakfast | | Lunch | | Dinner | |
| | Yes | No | Yes | No | Yes | No |

Hours of Operation* Day(s) of the week _____ Hours from _____AM to _____PM

Day(s) of the week _____ Hours from _____AM to _____PM

Day(s) of the week _____ Hours from _____AM to _____PM

*Note: Extended Hours Permit is required if open before 6:00am or after 11:00pm.

Floor Space_____Sq.Ft. Parking Capacity _____spaces

Number of Seats* _____ Number of Waiting* _____ Number of Staff* _____

*As specified by the Planning & Building Department

Is there any major remodeling, redecorating or building on the premises in preparation for this business?
Yes _____ No _____ Estimated construction completion date _____

Have you already begun working with the Community Development department? Yes _____ No _____

Have you already begun working with the Health department? Yes _____ No _____

APPLICANT'S RESUME

Food Business Experience of Applicant(s)

Dates From _____ to _____ Company _____
Employee _____ Location _____
Sole Owner _____ Type Food _____
Partnership _____ Number of Employees _____
Corporation _____

Dates From _____ to _____ Company _____
Employee _____ Location _____
Sole Owner _____ Type Food _____
Partnership _____ Number of Employees _____

List any other information that you feel will assist the review of the application

Has any person named in this application had any direct or indirect beneficial or financial interest in any other license granted under M.G.L. Chapters 138 or 140? If yes, state the following for each person/entity:

| Name | Type of License | License Address | Description of Interest |
|------|-----------------|-----------------|-------------------------|
|------|-----------------|-----------------|-------------------------|

Has any person named in this application ever had any license revoked or cancelled? Yes _____ No _____
If yes, state for each license the date and reasons why the license was revoked or cancelled:

Has any person named in this application ever been convicted of violating any state or federal law? (exclude minor traffic violations) Yes _____ No _____

If Yes, provide details. _____

REFERENCES

Personal _____

Address _____ Phone _____

Prior Employer _____

Address _____ Phone _____

Bank _____

Address _____ Phone _____

Name of Attorney, if any, filing application on behalf of licensee:

Name _____ Telephone _____

Office Address _____ Email address _____

I/we hereby agree to conform in all respects to the conditions governing such License as printed in the By-Laws of the Town, and such other rules and regulation as the Board of Selectmen may establish. With the signing of this application, the applicant acknowledges that:

- (A) it is understood that the Board is not required to grant the license.
- (B) that the license is subject to revocation if the holder of the license does not comply with Town By-Laws or the Rules and Regulation of the Board
- (C) no work is to commence at the premises of the proposed location which is the subject matter of this application until the license is approved by the Board of Selectmen, and furthermore, any work done is done at the applicant's risk, and
- (D) in the event of a proposed sale of a business requiring a Common Victualler License, an application for a transfer of said licensee will be deemed to be an application for a new license (subject to the rules and regulation herein contained), and the owner of such business shall be required to file with the Board of Selectmen a thirty (30) day notice of his intention to sell same before such application will be acted upon by the Selectmen.
- (E) any intentional false answer to any of the above questions will be just cause for refusal to grant or for revocation of any license issued as a result of this application.

Signed and subscribed to under Penalty of Perjury this ____ Day of _____, 20____.

Signature Applicant (1) _____

Signature Applicant (2) _____

This application will not be considered unless it is complete and includes two attachments (Workman's Compensation and MA Dept of Revenue REAP).

MASSACHUSETTS DEPARTMENT OF REVENUE

REVENUE ENFORCEMENT AND PROTECTION (REAP) ATTESTATION

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

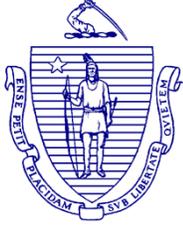
-
- Signature of Individual or Corporate Name (Mandatory)

-
- By: Corporate Officer (Mandatory, If Applicable)

**Social Security # (Voluntary) or
Federal Identification Number

- This license will not be issued unless this certification clause is signed by the applicant.

**Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Licensees who fail to correct their non-filing or delinquency will be subject to license suspension or revocation. This request is made under the authority of Mass. General Law c. 62C s. 49A.



The Commonwealth of Massachusetts
 Department of Industrial Accidents
 1 Congress Street, Suite 100
 Boston, MA 02114-2017
 www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses.
 TO BE FILED WITH THE PERMITTING AUTHORITY.

Applicant Information

Please Print Legibly

Business/Organization Name: _____

Address: _____

City/State/Zip: _____ Phone #: _____

Are you an employer? Check the appropriate box:

- 1. I am a employer with _____ employees (full and/ or part-time).*
- 2. I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required]
- 3. We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]**
- 4. We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.]

Business Type (required):

- 5. Retail
- 6. Restaurant/Bar/Eating Establishment
- 7. Office and/or Sales (incl. real estate, auto, etc.)
- 8. Non-profit
- 9. Entertainment
- 10. Manufacturing
- 11. Health Care
- 12. Other _____

*Any applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information.

**If the corporate officers have exempted themselves, but the corporation has other employees, a workers' compensation policy is required and such an organization should check box #1.

I am an employer that is providing workers' compensation insurance for my employees. Below is the policy information.

Insurance Company Name: _____

Insurer's Address: _____

City/State/Zip: _____

Policy # or Self-ins. Lic. # _____ Expiration Date: _____

Attach a copy of the workers' compensation policy declaration page (showing the policy number and expiration date).

Failure to secure coverage as required under Section 25A of MGL c. 152 can lead to the imposition of criminal penalties of a fine up to \$1,500.00 and/or one-year imprisonment, as well as civil penalties in the form of a STOP WORK ORDER and a fine of up to \$250.00 a day against the violator. Be advised that a copy of this statement may be forwarded to the Office of Investigations of the DIA for insurance coverage verification.

I do hereby certify, under the pains and penalties of perjury that the information provided above is true and correct.

Signature: _____ Date: _____

Phone #: _____

Official use only. Do not write in this area, to be completed by city or town official.

City or Town: _____ Permit/License # _____

Issuing Authority (circle one):

- 1. Board of Health 2. Building Department 3. City/Town Clerk 4. Licensing Board 5. Selectmen's Office
- 6. Other _____

Contact Person: _____ Phone #: _____

Information and Instructions

Massachusetts General Laws chapter 152 requires all employers to provide workers' compensation for their employees. Pursuant to this statute, an *employee* is defined as "...every person in the service of another under any contract of hire, express or implied, oral or written."

An *employer* is defined as "an individual, partnership, association, corporation or other legal entity, or any two or more of the foregoing engaged in a joint enterprise, and including the legal representatives of a deceased employer, or the receiver or trustee of an individual, partnership, association or other legal entity, employing employees. However, the owner of a dwelling house having not more than three apartments and who resides therein, or the occupant of the dwelling house of another who employs persons to do maintenance, construction or repair work on such dwelling house or on the grounds or building appurtenant thereto shall not because of such employment be deemed to be an employer."

MGL chapter 152, §25C(6) also states that "**every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business or to construct buildings in the commonwealth for any applicant who has not produced acceptable evidence of compliance with the insurance coverage required.**"

Additionally, MGL chapter 152, §25C(7) states "Neither the commonwealth nor any of its political subdivisions shall enter into any contract for the performance of public work until acceptable evidence of compliance with the insurance requirements of this chapter have been presented to the contracting authority."

Applicants

Please fill out the workers' compensation affidavit completely, by checking the boxes that apply to your situation and, if necessary, supply your insurance company's name, address and phone number along with a certificate of insurance. Limited Liability Companies (LLC) or Limited Liability Partnerships (LLP) with no employees other than the members or partners, are not required to carry workers' compensation insurance. If an LLC or LLP does have employees, a policy is required. Be advised that this affidavit may be submitted to the Department of Industrial Accidents for confirmation of insurance coverage. **Also be sure to sign and date the affidavit.** The affidavit should be returned to the city or town that the application for the permit or license is being requested, **not** the Department of Industrial Accidents. Should you have any questions regarding the law or if you are required to obtain a workers' compensation policy, please call the Department at the number listed below. Self-insured companies should enter their self-insurance license number on the appropriate line.

City or Town Officials

Please be sure that the affidavit is complete and printed legibly. The Department has provided a space at the bottom of the affidavit for you to fill out in the event the Office of Investigations has to contact you regarding the applicant. Please be sure to fill in the permit/license number which will be used as a reference number. In addition, an applicant that must submit multiple permit/license applications in any given year, need only submit one affidavit indicating current policy information (if necessary). A copy of the affidavit that has been officially stamped or marked by the city or town may be provided to the applicant as proof that a valid affidavit is on file for future permits or licenses. A new affidavit must be filled out each year. Where a home owner or citizen is obtaining a license or permit not related to any business or commercial venture (i.e. a dog license or permit to burn leaves etc.) said person is NOT required to complete this affidavit.

The Department's address, telephone and fax number:

The Commonwealth of Massachusetts
Department of Industrial Accidents
1 Congress Street
Boston, MA 02114-2017
Tel. # 617-727-4900 ext. 7406 or 1-877-MASSAFE
Fax # 617-727-7749
www.mass.gov/dia

License Number: _____

Optional Extended Hours

Additional Fee: \$10.00



**TOWN OF BELMONT
REQUEST FOR EXTENDED HOURS LICENSE
(IF OPEN BEFORE 6:00 A.M. OR AFTER 11:00 P.M.)**

Name of Business _____

Address of Business _____

Requested Regular Hours _____

OR

Special One Day Event (Date/Hours) _____

Applicant Name (Print) _____

Applicant Signature _____

Applicant, please do not write below this line.

This is to certify that the above business is hereby granted a license to operate during extended hours as described above at the above address only, and this license will expire on December 31st, unless sooner suspended or revoked for violation of the laws of the Town of Belmont.

This license is issued in conformity with Belmont Bylaw §60-900 (F). In testimony whereof, the undersigned have hereunto affixed their official signatures.

Approved or Disapproved

(Circle one)

Police Chief, Belmont, Massachusetts

Date: _____

Approved or Disapproved

(Circle one)

by the Board of Selectmen

Date: _____



TOWN OF BELMONT

REQUIREMENTS FOR OUTDOOR DINING ON PUBLIC SIDEWALKS

Applications need to be submitted at least 30 days prior to the commencement of outdoor seating. Outdoor sidewalk seating permitted April 15 – October 15 unless extended by the vote of Board of Selectmen. Licenses must be renewed yearly.

CHECKLIST FOR OUTDOOR DINING APPLICATION

- ☼ Signed and dated application form
- ☼ Proof of Business Ownership
- ☼ Copy of Town of Belmont issued Common Victualler license
- ☼ If premises are leased, copy of lease and written permission by building owner
- ☼ Permit to Operate a Food Service Establishment issued by the Belmont Board of Health
- ☼ Professionally drawn plan and all supporting documents containing the information required in order to make a decision as to the license and shall also include a plan for outdoor lighting if any is proposed
- ☼ If applicant business possesses an Alcohol License
 - TIPS or alcohol server training certificates for all managers and servers
 - Alcohol control plan that specifically details how alcohol will be properly managed
- ☼ Two photos of location where sidewalk seating will be placed in relation to establishment
- ☼ Non-refundable yearly application fee of \$100 (cashiers check) payable to *Town of Belmont*

CHECKLIST AFTER APPROVAL OF APPLICATION

- ☼ Certificate of Insurance naming *Town of Belmont* as additional insured
- ☼ Final Photograph of approved sidewalk seating

1. Business Applicant

Business Name & Address _____

Business Owner _____

Business Manager _____

Contact information (mailing address, phone number, email address)

(Please see reverse side)

2. Property Location own lease

If lease, please provide a letter of approval from the owner

Owner Contact information (name, mailing address, phone number, email address)

3. Do you possess a current Town of Belmont Common Victualler license? YES ___ NO ___
Do you possess a current Town of Belmont Entertainment license? YES ___ NO ___

4. Do you possess a current License for Sale of Alcoholic Beverages? YES ___ NO ___
If yes, you will need to submit a plan/strategy for control of alcohol consumption at sidewalk seating.

5. Have you had a license revoked, suspended or fined by the Town of Belmont or the Commonwealth of Massachusetts within the past 12 months? YES ___ NO ___
If yes, please explain:

6. (a) Current indoor seating capacity _____
(b) Proposed seating capacity for outdoor sidewalk seating: _____

7. Days and Hours of operation:

I attest that I have read and understand the *Town of Belmont Regulations for Outdoor Dining Licenses utilizing Public Sidewalks (April 10, 2017)* and agree to uphold these regulations.

Applicant

Date

Submit application with \$100 to: Town Clerk
455 Concord Avenue
Belmont, MA 02478



**TOWN OF BELMONT
ENTERTAINMENT LICENSE APPLICATION**

| | |
|--------------------|----------|
| Application Fees : | |
| Single event: | \$25.00 |
| Yearly Renewal*: | \$100.00 |

Current Business License Information

Have you been issued a Business License for the current year? ____ Yes ____ No

Type of Business License: _____

Name of Licensed Business: _____

Business Address: _____

Name of Licensed Business Owner: _____ Email: _____

Home Address of Business Owner: _____ Phone: _____

Entertainment License Information

Applicant's Name: _____ Email: _____

Applicant's Address: _____ Phone: _____

Is applicant for the Entertainment License the owner of premises? ____ Yes ____ No* If applicant is not the owner of the premises, please attach a notarized letter from property owner giving permission for such entertainment to take place.

Name of responsible person overseeing entertainment: _____

Phone number to call, if needed, during the event: _____

Address of proposed entertainment: _____

Description of the premises to be used (ie, 1st floor, patio, etc.): _____

Will the entertainment include display of any body part(s) as defined in MGL Ch. 140 § 183A, ¶13; a copy of which is attached? ____ Yes ____ No

If Yes, explain in what manner such person will be presented: _____

Date(s) of proposed entertainment: _____ Number of attendees expected: _____

What are the proposed hours of operation of the entertainment? Start _____ End _____

Description of the proposed entertainment per MGL Ch. 140 § 183A: _____

What actions will you take to prevent danger to the public safety, health and order? _____

What type of entertainment will be provided? (see MGL Ch. 140 § 183A.) Please check all that apply, and attach a description for each type of applicable entertainment

- Dancing by Patrons
- Recorded or live music
- Floor show of any description
- Light show of any description, including pyrotechnics or use of open flames
- Other dynamic audio/visual show, whether live or recorded, please
- Dancing by entertainers/performers
- Use of sound amplification system of any type
- Theatrical exhibition, play or moving picture show

Will food be served? _____

What is planned to provide restroom facilities, please explain? _____

What is planned for trash collection and disposal? _____

Will any temporary electrical wiring planned to support the event? If yes, please specify:

This application is for (check one):

Single Event Entertainment License _____
(\$25.00 per event)

*Annual Entertainment License _____
(\$100.00 per year)

* Annual Entertainment License is available only for multiple-occasion events of the same description, hours, type, # attendees and requirements as have been included in this application.

I do hereby depose and say that I am the person named above and that all of the statements as set forth in the above notice whereof I could have knowledge are true and made under the penalties of perjury. I have been provided with a copy of MGL Ch. 140 § 183A and the Town of Belmont General Bylaws for Noise, Tobacco, Alcohol and Animals and I am aware of and shall comply with the statutes that prohibit gambling and gaming in the Commonwealth of Massachusetts.

Applicant's Signature: _____ Date: _____

| | | |
|--|-------|------------------|
| Receipt of Application by Town Clerk's Office: | _____ | Date of Receipt: |
| Application Fee: | _____ | |
| Workers' Compensation Insurance Affidavit: | _____ | |
| Workers' Compensation Policy Declaration Page | _____ | |
| Massachusetts Department of Revenue Revenue Enforcement and Protection (REAP) Attestation | _____ | |

**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE XX** PUBLIC SAFETY AND GOOD ORDER**CHAPTER 140** LICENSES

Section 183A Concerts, dances, exhibitions, public shows, etc.; license; application; suspension or revocation; rules and regulations

Section 183A. No inn holder, common victualler, keeper of a tavern, or person owning, managing, or controlling any club, restaurant or other establishment required to be licensed under section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance, exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefor has been issued by the licensing authorities.

The application for such license shall be in writing and shall state the type of concert, dance, exhibition, cabaret or public show sought to be licensed and shall state whether such public show will include: (a) dancing by patrons, (b) dancing by entertainers or performers, (c) recorded or live music, (d) the use of an amplification system, (e) a theatrical exhibition, play, or moving picture show, (f) a floor show of any description, (g) a light show of any description, or (h) any other dynamic audio or visual show, whether live or recorded.

The application shall also state whether as part of the concert, dance exhibition, cabaret or public show any person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or whether any female person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

Upon request of the licensing authorities, the applicant shall furnish further additional information concerning the type of concert, dance exhibition, cabaret, or public show sought to be licensed, the conditions of the premises, and the actions to be taken in order to prevent danger to the public safety, health or order. Once a license has been granted to an applicant, the licensee shall continue to provide such information to the licensing authorities upon their request with regard to any particular concert, dance, exhibition, cabaret, or public show or with regard to the conduct of the premises in general.

Within forty-five days following receipt of an application for a license under this section, the licensing authorities may (a) grant a license or, (b) shall provide the opportunity for a hearing on the application by written notice to the applicant given seven days prior to the hearing date.

Within thirty days next following the final date of such opportunity for a hearing the licensing authorities shall, (a) grant the license or, (b) deliver to the applicant a written notice denying the license and stating in writing the reasons for such denial. No application having been denied as aforesaid and no similar application thereto may be filed within one year of said denial except in the discretion of the licensing authorities.

The licensing authorities shall grant a license under this section unless they find that the license, taken alone or in combination with other licensed activities on the premises, would adversely affect the public health, safety or order, in that the concert, dance, exhibition, cabaret, or public show cannot be conducted in a manner so as to: (a) protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, or from health, safety or fire hazards; (b) 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 (c) 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.

The licensing authorities may modify, suspend or revoke a license granted pursuant to the provisions of this section after providing an opportunity for a hearing preceded by a written notice to the licensee ten days prior to the hearing date. The licensing authorities may not modify, suspend or revoke such license unless they find that the license, taken alone or in combination with other licensed activities on the premises, has adversely affected the public health, safety or order as stated in the preceding paragraph. In any case in which the licensing authorities modify, suspend or revoke a license, they shall notify the licensee in writing of such action and said written notice shall be accompanied by a statement of reasons.

In order to preserve and protect the public health, safety, and order as aforesaid, the licensing authorities may place conditions upon the license and promulgate rules and regulations for such licenses. The licensing authorities may modify, suspend or revoke a license pursuant to this section for any violation of their rules and regulations or for any violation of law and may petition the superior court department of the trial court to enjoin any violation of this section.

The licensing authorities of any city or town may adopt a rule requiring licensees under this section to prohibit minors from attending any concert, dance, exhibition, cabaret or public

show of any description in which or at which any person appears in a manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or in which or at which any female person appears in a manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

A license issued under this section, unless sooner revoked, shall expire on December thirty-first of each year. The fee for any such license or for any renewal thereof shall not exceed one hundred dollars.

The provisions of this section shall be applicable seven days per week; provided, however, that no license under this section shall be granted to permit such activities, except an athletic game or sport, on Sundays or before 1 o'clock in the afternoon, without the written approval of the commissioner of public safety, made in accordance with the provisions of this section, upon written application to said commissioner accompanied by a fee of not more than \$5, or in the case of an annual license by a fee of not more than \$100.

Town of Belmont, MA
Tuesday, June 23, 2015

Chapter 60. PUBLIC HEALTH, SAFETY, WELFARE AND ENVIRONMENTAL PROTECTION

Article 1. Alcohol, Tobacco and Firearms

§ 60-100. Alcoholic beverages.

- A. No person shall drink or have in his or her possession an opened container of any alcoholic beverage as defined in MGL c. 138, § 1, while upon any public way or upon any way to which the public has a right of access as invitees or licensees or any park or playground or private land or place without consent of the owner or person in control thereof.
- B. All alcoholic beverages being used in violation of Subsection A shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to original possession.

§ 60-105. Tobacco products.

[Amended 11-8-2010 ATM, approved 2-10-2011; 5-29-2013 STM, approved 10-8-2013]

No person shall smoke or otherwise use a tobacco product on any public school playground or athletic field nor any Recreation Department playground or athletic field. For purposes of this section the following definitions shall apply:

SMOKING

Inhaling, exhaling, or burning any tobacco product.

TOBACCO PRODUCT

Cigarettes, cigars, pipe tobacco or tobacco in any of its forms.

§ 60-115. Violations and penalties.

[Amended 11-8-2010 ATM, approved 2-10-2011]

In addition to the provisions for enforcement described above, the provisions of §§ 60-100A and 60-105 of this article and any regulations promulgated thereunder may also be enforced by noncriminal disposition as provided in MGL c. 40, § 21D ("§ 21D"). The penalty for such violation shall be \$300 for each offense. Each day or part thereof shall constitute a separate offense.

- A. "Enforcing person" as used in this section shall mean any police officer of the Town, the Director of Public Works and any other Town employee designated by the Board of Selectmen as an enforcing person.
- B.

An enforcing person taking cognizance of a violation of § **60-100A** or **60-105** or any rule or regulation adopted thereunder shall give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provisions of § 21D. The provisions of § 21D are incorporated herein by this reference.

Town of Belmont, MA
Tuesday, June 23, 2015

Chapter 60. PUBLIC HEALTH, SAFETY, WELFARE AND ENVIRONMENTAL PROTECTION

Article 6. Noise

§ 60-600. Declaration of policy.

In order to control unnecessary, excessive and annoying noise in the Town of Belmont, it is hereby declared to be the policy of the Town to prohibit such noise generated from or by all sources as specified in this bylaw.

§ 60-605. Definitions.

[Amended 5-29-2013 STM, approved 10-8-2013]

Except as may be specified herein, acoustical terminology used throughout this bylaw is that approved as American National Standard Acoustical Terminology (ANSI S1.1-1994) by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this bylaw shall have the meanings as indicated below:

BACKGROUND SOUND LEVEL

The sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

CONSTRUCTION

Those activities requiring a building permit, and shall also include any site preparation, cemetery burial and caretaking operations, seismic surveys, grading, assembly, erection, substantial repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

dba

The A-weighted sound-pressure level expressed in decibels and referenced to 20 micropascals.

EMERGENCY VEHICLE

Any vehicle operated in an effort to protect, provide or restore public safety, including but not limited to ambulances, police vehicles and fire vehicles.

EMERGENCY WORK

Any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service.

ENFORCING PERSON

Any police officer of the Town or any other Town employee designated by the Selectmen for this purpose. For complaints under § 60-620, "enforcing person" shall also include any authorized employee of the Office of Community Development.

IMPACT DEVICE

A construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as a part of the device, as in the case of a moil on a paving breaker or the drill steel of a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver. Examples of impact devices are pile drivers, paving breakers, power impact hammers, impact wrenches, riveters and stud drivers.

INTRUDING NOISE

The total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

L_{eq} EQUIVALENT SOUND LEVEL

The level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period, as measured with a sound-level meter measuring L_{eq}.

PERSON

A person, firm, association, copartnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

RESIDENTIAL PROPERTY

A parcel of real property which under the Belmont Zoning Bylaw is in whole or in part in a Single Residence A, Single Residence B, Single Residence C, Single Residence D, General Residence or Apartment House District or Senior Living or Residential Subdistrict.

SOUND LEVEL

The instantaneous A-weighted sound-pressure level, in decibels, as measured with a sound-level meter set to the "A" weighting scale, slow response.

SOUND-LEVEL METER

An instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound-level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

§ 60-610. Designated noise zones.

The properties hereinafter described are hereby assigned to the following noise zones:

- A. Noise Zone I: All residential properties and the grounds of any school, hospital or similar health care institution, house of worship or library while the same is in use, and any Cemetery or Open Space Subdistrict.
- B. Noise Zone II: All other properties.

§ 60-615. Exterior noise standards.

- A.

It shall be unlawful for any person at any location within the area of the Town to create any loud noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on any other property to exceed the greater of:

- (1) The maximum allowable exterior sound level outlined in Table I; or
- (2) Five dB over the background sound level.

Table I, Maximum Allowable Exterior Sound Level

| Noise Zone | Daytime Level 7:00 a.m. to | Nighttime Level 10:00 p.m. to |
|------------|----------------------------|-------------------------------|
| | 10:00 p.m. | 7:00 a.m. |
| I | 55 dBA | 45 dBA |
| II | 65 dBA | 60 dBA |

- B. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.

§ 60-620. Construction noise standards.

- A. Noise associated with construction is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays provided the sound level from:
 - (1) Non-impact devices does not exceed 70 dBA as measured over a time interval of 10 minutes with a sound-level meter set to L_{eq} located on any other property, but at least 50 feet from the construction activity; and
 - (2) Impact devices does not exceed 90 dBA as measured with a sound-level meter set to slow response located on any other property, but at least 50 feet from the construction activity.
- B. Between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturday, and at any time on Sunday or a legal holiday, noise associated with construction shall be limited by the standards of § 60-615.

§ 60-625. Maintenance noise standards.

- A. Noise associated with maintenance is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays and between the hours of 9:00 a.m. and 8:00 p.m. on Sunday, provided the sound level does not exceed 80 dBA as measured with a sound-level meter set to slow response on any other property, but at least 50 feet from the maintenance activity.
- B. If it is not possible to make an accurate sound-level measurement at the specified distance of 50 feet, measurements made at an alternate distance can be used, if the level is recalculated for an equivalent expected sound level at 50 feet. Calculations shall be made in accordance with established engineering practices for noise measurement and assessment, including those established or recommended by the United States Environmental Protection Agency (USEPA).
- C. Between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturday, and between the hours of 8:00 p.m. and 9:00 a.m. on Sunday or a legal holiday, noise associated with maintenance shall be limited by the standards of § 60-615.

§ 60-630. Exemptions.

Noise associated with the following activities shall be exempted from the provisions of this bylaw:

- A. Emergency work or emergency vehicles;
- B. The operation of any vehicular alarm, provided it terminates within 15 minutes of the initially recorded complaint;
- C. Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction, including but not limited to school athletic and school entertainment events;
- D. Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;
- E. Snow removal performed by snowblowers, snow throwers or snowplows when appropriately outfitted with a muffler; and
- F. Any activity to the extent regulation thereof has been preempted by state or federal law.

§ 60-635. Prima facie violation.

Any measured noise exceeding the sound-level standards as specified in §§ 60-615, 60-620 and 60-625 shall be deemed to be prima facie evidence of a violation of the provisions of this bylaw.

§ 60-640. Violations and penalties.

- A. Violations under this article, in the discretion of the enforcing person, may be enforced by noncriminal disposition as provided in MGL c. 40, § 21D ("§ 21D").
- B. The penalty for a violation under § 60-615 or 60-625 shall be \$25 for a first offense next after the first warning, \$100 for a second offense, \$200 for a third offense, and \$300 per offense, without limit, for each succeeding offense. Each day or part thereof shall constitute a separate offense.
- C. The penalty for a violation under § 60-620 shall be \$50 for a first offense next after the first warning, \$100 for a second offense, and \$300 for a third offense and each succeeding offense. Each day or part thereof shall constitute a separate offense. Additionally under § 60-620, at the discretion of the enforcing person, all construction activities may be suspended following initial warning until the violation is cleared to the reasonable satisfaction of the enforcing person.
- D. An enforcing person taking cognizance of a violation of this article or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provision of § 21D. The provisions of § 21D are incorporated by this reference.

§ 60-645. Manner of enforcement.

- A. Violations of this article shall be prosecuted in the same manner as other violations of the Belmont General Bylaws; provided, however, that in the event of an initial violation of the provision of this article, a written notice shall be given the alleged violator which specifies the time by which the

condition shall be corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed or fully corrected within the time period specified in the written notice.

- B. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation shall commence at the date of the day following the mailing of such notice. Subsequent violations shall result in the immediate filing of a complaint.

[Amended 5-29-2013 STM, approved 10-8-2013]

§ 60-650. Severability.

- A. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.
- B. Nothing in the bylaw shall preclude the Board of Selectmen and Planning Board from establishing a construction plan for a particular large-scale development that is more stringent than the existing bylaw.

Town of Belmont, MA
Tuesday, June 23, 2015

Chapter 60. PUBLIC HEALTH, SAFETY, WELFARE AND ENVIRONMENTAL PROTECTION

Article 2. Animals

§ 60-200. Pets and other animals.

- A. Licensing of dogs and cats. No person shall own or keep a dog or cat, six months of age or older, within the Town unless a license for such dog or cat is obtained from the Town Clerk. The license period shall be from January 1 through December 31; provided, however, that all applications for license renewals shall be submitted by March 15 of each year, or the licensee may be subject to late fees. Nonrefundable license and late fees shall be established from time to time by the Town Clerk, unless Town Meeting approval is required pursuant to MGL c. 140, § 139, or other applicable law. License fees for dogs and cats owned or kept by residents who are age 60 or older shall be at a discounted rate of at least 25% less than the established fee. All license fees shall be waived for dogs and cats that serve as service animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder. Not more than three dogs over three months of age shall be kept in any household without complying with the kennel licensing provisions set forth in § 60-205. All dogs and cats are required to wear their license tags at all times.
- (1) No dog or cat six months of age or older shall be licensed unless a valid rabies vaccination certificate is presented to the Town Clerk at the time of licensing.
 - (2) No dog or cat six months of age or older shall be licensed unless there is presented to the Town Clerk at the time of licensing either:
 - (a) Proof that the dog or cat has been spayed or neutered;
 - (b) A statement signed by a veterinarian stating why spaying or neutering has been delayed;
or
 - (c) A statement signed by the owner or keeper of the dog or cat that a decision has been made not to spay or neuter the dog or cat.
 - (3) A special breeder's license shall be obtained for any dog or cat with respect to which a statement is presented that a decision has been made not to spay or neuter pursuant to § 60-200A(2)(c).
- B. The owner of any dog or cat that is sold or given away, or whose custody is otherwise transferred, to any other resident of the Town shall obtain from the Town Clerk and furnish to such other resident a copy of this section of the General Bylaws or a summary thereof.
- C. No person who owns, keeps or controls a dog shall allow the dog to run free when not restricted to the premises of said person, except as permitted by the Board of Health. Except as otherwise provided in this section, such dogs shall be leashed and curbed when off such premises.

- D. Removal of feces.
- (1) Each person who owns, keeps or controls a dog within the Town shall remove and dispose of any feces left by such dog on any sidewalk, street, park or other public area or on any private property that is not owned or lawfully occupied by such person.
 - (2) No person who owns, keeps or controls a dog within the Town shall permit such dog to be on any sidewalk, street, park or other public area unless such dog is accompanied by a person carrying a device that is suitable for picking up and containing feces, unexposed to such person and to the general public.
 - (3) For purposes of this subsection, feces may be disposed of only at a place suitable and regularly reserved for the disposal of human feces or otherwise designated as appropriate by the Board of Health.
 - (4) Subsection **D(1)**, **(2)** and **(3)** shall not apply to a dog accompanying any person who, by reason of a handicap, is physically unable to comply with its requirements.
- E. No person within the Town shall possess, maintain, propagate, cultivate or deal in wild or exotic animals within the meaning of MGL c. 131, § 23, unless notice thereof has been filed with the Board of Health and all permits required by said § 23 or otherwise have been obtained.
- F. No person within the Town shall feed any wild animals, including, without limitation, ducks, geese and raccoons, or any homeless dogs or cats, except birds through freestanding bird feeders or bird feeders attached to a private residence. Persons feeding their own domestic animals shall do so only in a sheltered space inaccessible to wild or roaming animals. This subsection shall not apply to the feeding of homeless dogs or cats if done in a sheltered place inaccessible to wild or roaming animals with the express purpose of befriending the dog or cat in order later to have it vaccinated, spayed or neutered, and ultimately adopted.
- G. Nuisance or dangerous dogs or other animals.
- (1) No person shall permit any dog, cat or other household pet that by biting, barking, howling, scratching or crying, or in any other manner, disturbs the peace and quiet of any neighborhood, destroys private property, endangers the safety of any person, or otherwise acts as a nuisance or dangerous dog as defined by MGL c. 140, § 136A.
 - (2) The Animal Control Officer, or any other Town officer tasked with the enforcement of this section, shall respond to complaints and reports of a violation of Subsection **G(1)**.
 - (3) All bites by dogs, cats, other domestic animals or wild or exotic animals shall be reported to the Board of Health and the Animal Control Officer by the person bitten or by the owner or keeper of the animal, as soon as possible after the incident.
 - (4) Any person, including the Animal Control Officer, may make a complaint to the Board of Health, the Town's Hearing Authority pursuant to MGL c. 140, concerning a nuisance or a dangerous dog as defined by MGL c. 140, § 136A. Upon the receipt of such a complaint, the Board of Health shall conduct a public hearing to gather evidence and testimony with respect to the allegation made in the complaint. At the close of the public hearing and after deliberation, the Board of Health may dismiss the complaint, or deem the dog a nuisance or dangerous dog. If the Board of Health deems the dog a nuisance or a dangerous dog, it may order any of the remedies available to it under MGL c. 140, § 157.
- H. The operator of a motor vehicle that strikes and injures or kills a dog or cat within the Town shall report such incident to the owner or keeper of such dog or cat or to a police officer of the Town.
- I.

Except as the Board of Health may otherwise permit, no dogs, except those dogs that serve as service animals as defined by regulations issued pursuant to the American with Disabilities, 28 CFR 35.104, will be allowed in the following areas of the Town: all cemetery land, all public school playgrounds and athletic fields and all Recreation Department playgrounds and athletic fields. Nor may any dog be allowed inside food establishments, retail businesses or public buildings.

- J. Violations of this section shall be disposed of, in the discretion of the Board of Health, either in the manner provided in § **40-220E** or, if applicable, pursuant to the provisions of MGL c. 140, § 173A. For all violations of this section other than violations of the licensing subsections, a noncriminal citation will be issued on the following schedule: first offense, written warning; second offense, \$25; third offense and each succeeding offense occurring within a twelve-month period, \$50. Any violation of the licensing subsections shall result in a fine of \$50 per such violation and, for violations continuing 30 days past licensing deadlines, an additional fine of \$100 per such violation. The fines specified in this subsection shall be in lieu of the schedule of fines specified in MGL c. 140, § 173A.



TOWN OF BELMONT ENTERTAINMENT LICENSE APPLICATION

| | |
|--------------------|----------|
| Application Fees : | |
| Single event: | \$25.00 |
| Yearly Renewal*: | \$100.00 |

Current Business License Information

Have you been issued a Business License for the current year? ____ Yes ____ No

Type of Business License: _____

Name of Licensed Business: _____

Business Address: _____

Name of Licensed Business Owner: _____ Email: _____

Home Address of Business Owner: _____ Phone: _____

Entertainment License Information

Applicant's Name: _____ Email: _____

Applicant's Address: _____ Phone: _____

Is applicant for the Entertainment License the owner of premises? ____ Yes ____ No* If applicant is not the owner of the premises, please attach a notarized letter from property owner giving permission for such entertainment to take place.

Name of responsible person overseeing entertainment: _____

Phone number to call, if needed, during the event: _____

Address of proposed entertainment: _____

Description of the premises to be used (ie, 1st floor, patio, etc.): _____

Will the entertainment include display of any body part(s) as defined in MGL Ch. 140 § 183A, ¶13; a copy of which is attached? ____ Yes ____ No

If Yes, explain in what manner such person will be presented: _____

Date(s) of proposed entertainment: _____ Number of attendees expected: _____

What are the proposed hours of operation of the entertainment? Start _____ End _____

Description of the proposed entertainment per MGL Ch. 140 § 183A: _____

What actions will you take to prevent danger to the public safety, health and order? _____

What type of entertainment will be provided? (see MGL Ch. 140 § 183A.) **Please check all that apply, and attach a description for each type of applicable entertainment**

- | | |
|--|---|
| <input type="checkbox"/> Dancing by Patrons | <input type="checkbox"/> Dancing by entertainers/performers |
| <input type="checkbox"/> Recorded or live music | <input type="checkbox"/> Use of sound amplification system of any type |
| <input type="checkbox"/> Floor show of any description | <input type="checkbox"/> Theatrical exhibition, play or moving picture show |
| <input type="checkbox"/> Light show of any description, including pyrotechnics or use of open flames | |
| <input type="checkbox"/> Other dynamic audio/visual show, whether live or recorded, please | |

Will food be served? _____

What is planned to provide restroom facilities, please explain? _____

What is planned for trash collection and disposal? _____

Will any temporary electrical wiring planned to support the event? If yes, please specify:

This application is for (*check one*):

Single Event Entertainment License _____
(\$25.00 per event)

*Annual Entertainment License _____
(\$100.00 per year)

* Annual Entertainment License is available only for multiple-occasion events of the same description, hours, type, # attendees and requirements as have been included in this application.

I do hereby depose and say that I am the person named above and that all of the statements as set forth in the above notice whereof I could have knowledge are true and made under the penalties of perjury. I have been provided with a copy of MGL Ch. 140 § 183A and the Town of Belmont General Bylaws for Noise, Tobacco, Alcohol and Animals and I am aware of and shall comply with the statutes that prohibit gambling and gaming in the Commonwealth of Massachusetts.

Applicant's Signature: _____ Date: _____

Receipt of Application by Town Clerk's Office: _____

Date of Receipt: _____

Application Fee: _____

Workers' Compensation Insurance Affidavit: _____

Workers' Compensation Policy Declaration Page _____

Massachusetts Department of Revenue
Revenue Enforcement and Protection (REAP) Attestation _____

**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE XX** PUBLIC SAFETY AND GOOD ORDER**CHAPTER 140** LICENSES

Section 183A Concerts, dances, exhibitions, public shows, etc.; license; application; suspension or revocation; rules and regulations

Section 183A. No inn holder, common victualler, keeper of a tavern, or person owning, managing, or controlling any club, restaurant or other establishment required to be licensed under section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance, exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefor has been issued by the licensing authorities.

The application for such license shall be in writing and shall state the type of concert, dance, exhibition, cabaret or public show sought to be licensed and shall state whether such public show will include: (a) dancing by patrons, (b) dancing by entertainers or performers, (c) recorded or live music, (d) the use of an amplification system, (e) a theatrical exhibition, play, or moving picture show, (f) a floor show of any description, (g) a light show of any description, or (h) any other dynamic audio or visual show, whether live or recorded.

The application shall also state whether as part of the concert, dance exhibition, cabaret or public show any person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or whether any female person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

Upon request of the licensing authorities, the applicant shall furnish further additional information concerning the type of concert, dance exhibition, cabaret, or public show sought to be licensed, the conditions of the premises, and the actions to be taken in order to prevent danger to the public safety, health or order. Once a license has been granted to an applicant, the licensee shall continue to provide such information to the licensing authorities upon their request with regard to any particular concert, dance, exhibition, cabaret, or public show or with regard to the conduct of the premises in general.

Within forty-five days following receipt of an application for a license under this section, the licensing authorities may (a) grant a license or, (b) shall provide the opportunity for a hearing on the application by written notice to the applicant given seven days prior to the hearing date.

Within thirty days next following the final date of such opportunity for a hearing the licensing authorities shall, (a) grant the license or, (b) deliver to the applicant a written notice denying the license and stating in writing the reasons for such denial. No application having been denied as aforesaid and no similar application thereto may be filed within one year of said denial except in the discretion of the licensing authorities.

The licensing authorities shall grant a license under this section unless they find that the license, taken alone or in combination with other licensed activities on the premises, would adversely affect the public health, safety or order, in that the concert, dance, exhibition, cabaret, or public show cannot be conducted in a manner so as to: (a) protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, or from health, safety or fire hazards; (b) 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 (c) 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.

The licensing authorities may modify, suspend or revoke a license granted pursuant to the provisions of this section after providing an opportunity for a hearing preceded by a written notice to the licensee ten days prior to the hearing date. The licensing authorities may not modify, suspend or revoke such license unless they find that the license, taken alone or in combination with other licensed activities on the premises, has adversely affected the public health, safety or order as stated in the preceding paragraph. In any case in which the licensing authorities modify, suspend or revoke a license, they shall notify the licensee in writing of such action and said written notice shall be accompanied by a statement of reasons.

In order to preserve and protect the public health, safety, and order as aforesaid, the licensing authorities may place conditions upon the license and promulgate rules and regulations for such licenses. The licensing authorities may modify, suspend or revoke a license pursuant to this section for any violation of their rules and regulations or for any violation of law and may petition the superior court department of the trial court to enjoin any violation of this section.

The licensing authorities of any city or town may adopt a rule requiring licensees under this section to prohibit minors from attending any concert, dance, exhibition, cabaret or public

show of any description in which or at which any person appears in a manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or in which or at which any female person appears in a manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

A license issued under this section, unless sooner revoked, shall expire on December thirty-first of each year. The fee for any such license or for any renewal thereof shall not exceed one hundred dollars.

The provisions of this section shall be applicable seven days per week; provided, however, that no license under this section shall be granted to permit such activities, except an athletic game or sport, on Sundays or before 1 o'clock in the afternoon, without the written approval of the commissioner of public safety, made in accordance with the provisions of this section, upon written application to said commissioner accompanied by a fee of not more than \$5, or in the case of an annual license by a fee of not more than \$100.

Town of Belmont, MA
Tuesday, June 23, 2015

Chapter 60. PUBLIC HEALTH, SAFETY, WELFARE AND ENVIRONMENTAL PROTECTION

Article 1. Alcohol, Tobacco and Firearms

§ 60-100. Alcoholic beverages.

- A. No person shall drink or have in his or her possession an opened container of any alcoholic beverage as defined in MGL c. 138, § 1, while upon any public way or upon any way to which the public has a right of access as invitees or licensees or any park or playground or private land or place without consent of the owner or person in control thereof.
- B. All alcoholic beverages being used in violation of Subsection A shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to original possession.

§ 60-105. Tobacco products.

[Amended 11-8-2010 ATM, approved 2-10-2011; 5-29-2013 STM, approved 10-8-2013]

No person shall smoke or otherwise use a tobacco product on any public school playground or athletic field nor any Recreation Department playground or athletic field. For purposes of this section the following definitions shall apply:

SMOKING

Inhaling, exhaling, or burning any tobacco product.

TOBACCO PRODUCT

Cigarettes, cigars, pipe tobacco or tobacco in any of its forms.

§ 60-115. Violations and penalties.

[Amended 11-8-2010 ATM, approved 2-10-2011]

In addition to the provisions for enforcement described above, the provisions of §§ 60-100A and 60-105 of this article and any regulations promulgated thereunder may also be enforced by noncriminal disposition as provided in MGL c. 40, § 21D ("§ 21D"). The penalty for such violation shall be \$300 for each offense. Each day or part thereof shall constitute a separate offense.

- A. "Enforcing person" as used in this section shall mean any police officer of the Town, the Director of Public Works and any other Town employee designated by the Board of Selectmen as an enforcing person.
- B.

An enforcing person taking cognizance of a violation of § **60-100A** or **60-105** or any rule or regulation adopted thereunder shall give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provisions of § 21D. The provisions of § 21D are incorporated herein by this reference.

Town of Belmont, MA
Tuesday, June 23, 2015

Chapter 60. PUBLIC HEALTH, SAFETY, WELFARE AND ENVIRONMENTAL PROTECTION

Article 6. Noise

§ 60-600. Declaration of policy.

In order to control unnecessary, excessive and annoying noise in the Town of Belmont, it is hereby declared to be the policy of the Town to prohibit such noise generated from or by all sources as specified in this bylaw.

§ 60-605. Definitions.

[Amended 5-29-2013 STM, approved 10-8-2013]

Except as may be specified herein, acoustical terminology used throughout this bylaw is that approved as American National Standard Acoustical Terminology (ANSI S1.1-1994) by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this bylaw shall have the meanings as indicated below:

BACKGROUND SOUND LEVEL

The sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

CONSTRUCTION

Those activities requiring a building permit, and shall also include any site preparation, cemetery burial and caretaking operations, seismic surveys, grading, assembly, erection, substantial repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

dba

The A-weighted sound-pressure level expressed in decibels and referenced to 20 micropascals.

EMERGENCY VEHICLE

Any vehicle operated in an effort to protect, provide or restore public safety, including but not limited to ambulances, police vehicles and fire vehicles.

EMERGENCY WORK

Any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service.

ENFORCING PERSON

Any police officer of the Town or any other Town employee designated by the Selectmen for this purpose. For complaints under § 60-620, "enforcing person" shall also include any authorized employee of the Office of Community Development.

IMPACT DEVICE

A construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as a part of the device, as in the case of a moil on a paving breaker or the drill steel of a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver. Examples of impact devices are pile drivers, paving breakers, power impact hammers, impact wrenches, riveters and stud drivers.

INTRUDING NOISE

The total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

L_{eq} EQUIVALENT SOUND LEVEL

The level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period, as measured with a sound-level meter measuring L_{eq}.

PERSON

A person, firm, association, copartnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

RESIDENTIAL PROPERTY

A parcel of real property which under the Belmont Zoning Bylaw is in whole or in part in a Single Residence A, Single Residence B, Single Residence C, Single Residence D, General Residence or Apartment House District or Senior Living or Residential Subdistrict.

SOUND LEVEL

The instantaneous A-weighted sound-pressure level, in decibels, as measured with a sound-level meter set to the "A" weighting scale, slow response.

SOUND-LEVEL METER

An instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound-level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

§ 60-610. Designated noise zones.

The properties hereinafter described are hereby assigned to the following noise zones:

- A. Noise Zone I: All residential properties and the grounds of any school, hospital or similar health care institution, house of worship or library while the same is in use, and any Cemetery or Open Space Subdistrict.
- B. Noise Zone II: All other properties.

§ 60-615. Exterior noise standards.

- A.

It shall be unlawful for any person at any location within the area of the Town to create any loud noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on any other property to exceed the greater of:

- (1) The maximum allowable exterior sound level outlined in Table I; or
- (2) Five dB over the background sound level.

Table I, Maximum Allowable Exterior Sound Level

| Noise Zone | Daytime Level 7:00 a.m. to | Nighttime Level 10:00 p.m. to |
|------------|----------------------------|-------------------------------|
| | 10:00 p.m. | 7:00 a.m. |
| I | 55 dBA | 45 dBA |
| II | 65 dBA | 60 dBA |

- B. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.

§ 60-620. Construction noise standards.

- A. Noise associated with construction is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays provided the sound level from:
 - (1) Non-impact devices does not exceed 70 dBA as measured over a time interval of 10 minutes with a sound-level meter set to L_{eq} located on any other property, but at least 50 feet from the construction activity; and
 - (2) Impact devices does not exceed 90 dBA as measured with a sound-level meter set to slow response located on any other property, but at least 50 feet from the construction activity.
- B. Between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturday, and at any time on Sunday or a legal holiday, noise associated with construction shall be limited by the standards of § 60-615.

§ 60-625. Maintenance noise standards.

- A. Noise associated with maintenance is permitted between 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays and between the hours of 9:00 a.m. and 8:00 p.m. on Sunday, provided the sound level does not exceed 80 dBA as measured with a sound-level meter set to slow response on any other property, but at least 50 feet from the maintenance activity.
- B. If it is not possible to make an accurate sound-level measurement at the specified distance of 50 feet, measurements made at an alternate distance can be used, if the level is recalculated for an equivalent expected sound level at 50 feet. Calculations shall be made in accordance with established engineering practices for noise measurement and assessment, including those established or recommended by the United States Environmental Protection Agency (USEPA).
- C. Between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturday, and between the hours of 8:00 p.m. and 9:00 a.m. on Sunday or a legal holiday, noise associated with maintenance shall be limited by the standards of § 60-615.

§ 60-630. Exemptions.

Noise associated with the following activities shall be exempted from the provisions of this bylaw:

- A. Emergency work or emergency vehicles;
- B. The operation of any vehicular alarm, provided it terminates within 15 minutes of the initially recorded complaint;
- C. Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction, including but not limited to school athletic and school entertainment events;
- D. Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;
- E. Snow removal performed by snowblowers, snow throwers or snowplows when appropriately outfitted with a muffler; and
- F. Any activity to the extent regulation thereof has been preempted by state or federal law.

§ 60-635. Prima facie violation.

Any measured noise exceeding the sound-level standards as specified in §§ 60-615, 60-620 and 60-625 shall be deemed to be prima facie evidence of a violation of the provisions of this bylaw.

§ 60-640. Violations and penalties.

- A. Violations under this article, in the discretion of the enforcing person, may be enforced by noncriminal disposition as provided in MGL c. 40, § 21D ("§ 21D").
- B. The penalty for a violation under § 60-615 or 60-625 shall be \$25 for a first offense next after the first warning, \$100 for a second offense, \$200 for a third offense, and \$300 per offense, without limit, for each succeeding offense. Each day or part thereof shall constitute a separate offense.
- C. The penalty for a violation under § 60-620 shall be \$50 for a first offense next after the first warning, \$100 for a second offense, and \$300 for a third offense and each succeeding offense. Each day or part thereof shall constitute a separate offense. Additionally under § 60-620, at the discretion of the enforcing person, all construction activities may be suspended following initial warning until the violation is cleared to the reasonable satisfaction of the enforcing person.
- D. An enforcing person taking cognizance of a violation of this article or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provision of § 21D. The provisions of § 21D are incorporated by this reference.

§ 60-645. Manner of enforcement.

- A. Violations of this article shall be prosecuted in the same manner as other violations of the Belmont General Bylaws; provided, however, that in the event of an initial violation of the provision of this article, a written notice shall be given the alleged violator which specifies the time by which the

condition shall be corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed or fully corrected within the time period specified in the written notice.

- B. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation shall commence at the date of the day following the mailing of such notice. Subsequent violations shall result in the immediate filing of a complaint.

[Amended 5-29-2013 STM, approved 10-8-2013]

§ 60-650. Severability.

- A. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.
- B. Nothing in the bylaw shall preclude the Board of Selectmen and Planning Board from establishing a construction plan for a particular large-scale development that is more stringent than the existing bylaw.

Town of Belmont, MA
Tuesday, June 23, 2015

Chapter 60. PUBLIC HEALTH, SAFETY, WELFARE AND ENVIRONMENTAL PROTECTION

Article 2. Animals

§ 60-200. Pets and other animals.

- A. Licensing of dogs and cats. No person shall own or keep a dog or cat, six months of age or older, within the Town unless a license for such dog or cat is obtained from the Town Clerk. The license period shall be from January 1 through December 31; provided, however, that all applications for license renewals shall be submitted by March 15 of each year, or the licensee may be subject to late fees. Nonrefundable license and late fees shall be established from time to time by the Town Clerk, unless Town Meeting approval is required pursuant to MGL c. 140, § 139, or other applicable law. License fees for dogs and cats owned or kept by residents who are age 60 or older shall be at a discounted rate of at least 25% less than the established fee. All license fees shall be waived for dogs and cats that serve as service animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder. Not more than three dogs over three months of age shall be kept in any household without complying with the kennel licensing provisions set forth in § 60-205. All dogs and cats are required to wear their license tags at all times.
- (1) No dog or cat six months of age or older shall be licensed unless a valid rabies vaccination certificate is presented to the Town Clerk at the time of licensing.
 - (2) No dog or cat six months of age or older shall be licensed unless there is presented to the Town Clerk at the time of licensing either:
 - (a) Proof that the dog or cat has been spayed or neutered;
 - (b) A statement signed by a veterinarian stating why spaying or neutering has been delayed;
or
 - (c) A statement signed by the owner or keeper of the dog or cat that a decision has been made not to spay or neuter the dog or cat.
 - (3) A special breeder's license shall be obtained for any dog or cat with respect to which a statement is presented that a decision has been made not to spay or neuter pursuant to § 60-200A(2)(c).
- B. The owner of any dog or cat that is sold or given away, or whose custody is otherwise transferred, to any other resident of the Town shall obtain from the Town Clerk and furnish to such other resident a copy of this section of the General Bylaws or a summary thereof.
- C. No person who owns, keeps or controls a dog shall allow the dog to run free when not restricted to the premises of said person, except as permitted by the Board of Health. Except as otherwise provided in this section, such dogs shall be leashed and curbed when off such premises.

- D. Removal of feces.
- (1) Each person who owns, keeps or controls a dog within the Town shall remove and dispose of any feces left by such dog on any sidewalk, street, park or other public area or on any private property that is not owned or lawfully occupied by such person.
 - (2) No person who owns, keeps or controls a dog within the Town shall permit such dog to be on any sidewalk, street, park or other public area unless such dog is accompanied by a person carrying a device that is suitable for picking up and containing feces, unexposed to such person and to the general public.
 - (3) For purposes of this subsection, feces may be disposed of only at a place suitable and regularly reserved for the disposal of human feces or otherwise designated as appropriate by the Board of Health.
 - (4) Subsection **D(1)**, **(2)** and **(3)** shall not apply to a dog accompanying any person who, by reason of a handicap, is physically unable to comply with its requirements.
- E. No person within the Town shall possess, maintain, propagate, cultivate or deal in wild or exotic animals within the meaning of MGL c. 131, § 23, unless notice thereof has been filed with the Board of Health and all permits required by said § 23 or otherwise have been obtained.
- F. No person within the Town shall feed any wild animals, including, without limitation, ducks, geese and raccoons, or any homeless dogs or cats, except birds through freestanding bird feeders or bird feeders attached to a private residence. Persons feeding their own domestic animals shall do so only in a sheltered space inaccessible to wild or roaming animals. This subsection shall not apply to the feeding of homeless dogs or cats if done in a sheltered place inaccessible to wild or roaming animals with the express purpose of befriending the dog or cat in order later to have it vaccinated, spayed or neutered, and ultimately adopted.
- G. Nuisance or dangerous dogs or other animals.
- (1) No person shall permit any dog, cat or other household pet that by biting, barking, howling, scratching or crying, or in any other manner, disturbs the peace and quiet of any neighborhood, destroys private property, endangers the safety of any person, or otherwise acts as a nuisance or dangerous dog as defined by MGL c. 140, § 136A.
 - (2) The Animal Control Officer, or any other Town officer tasked with the enforcement of this section, shall respond to complaints and reports of a violation of Subsection **G(1)**.
 - (3) All bites by dogs, cats, other domestic animals or wild or exotic animals shall be reported to the Board of Health and the Animal Control Officer by the person bitten or by the owner or keeper of the animal, as soon as possible after the incident.
 - (4) Any person, including the Animal Control Officer, may make a complaint to the Board of Health, the Town's Hearing Authority pursuant to MGL c. 140, concerning a nuisance or a dangerous dog as defined by MGL c. 140, § 136A. Upon the receipt of such a complaint, the Board of Health shall conduct a public hearing to gather evidence and testimony with respect to the allegation made in the complaint. At the close of the public hearing and after deliberation, the Board of Health may dismiss the complaint, or deem the dog a nuisance or dangerous dog. If the Board of Health deems the dog a nuisance or a dangerous dog, it may order any of the remedies available to it under MGL c. 140, § 157.
- H. The operator of a motor vehicle that strikes and injures or kills a dog or cat within the Town shall report such incident to the owner or keeper of such dog or cat or to a police officer of the Town.
- I.

Except as the Board of Health may otherwise permit, no dogs, except those dogs that serve as service animals as defined by regulations issued pursuant to the American with Disabilities, 28 CFR 35.104, will be allowed in the following areas of the Town: all cemetery land, all public school playgrounds and athletic fields and all Recreation Department playgrounds and athletic fields. Nor may any dog be allowed inside food establishments, retail businesses or public buildings.

- J. Violations of this section shall be disposed of, in the discretion of the Board of Health, either in the manner provided in § 40-220E or, if applicable, pursuant to the provisions of MGL c. 140, § 173A. For all violations of this section other than violations of the licensing subsections, a noncriminal citation will be issued on the following schedule: first offense, written warning; second offense, \$25; third offense and each succeeding offense occurring within a twelve-month period, \$50. Any violation of the licensing subsections shall result in a fine of \$50 per such violation and, for violations continuing 30 days past licensing deadlines, an additional fine of \$100 per such violation. The fines specified in this subsection shall be in lieu of the schedule of fines specified in MGL c. 140, § 173A.