



## TOWN OF WALPOLE COMMONWEALTH OF MASSACHUSETTS

### Social Host Responsibility

#### **Section 468-1 Purpose:**

To protect the public interest, welfare, health and safety within the Town of Walpole by prohibiting the service to and consumption of alcoholic beverages and drugs by persons under the age of twenty-one (21) at private premises within the Town.

#### **Section 468-2: DEFINITIONS**

For the purpose of this section, the following terms shall be defined as follows:

**Alcoholic beverage:** any liquor, wine, beer, spirits, cider or other liquid or solid patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person.

**Control:** means the authority and ability to regulate.

**Drug:** means any substances recognized as a drug in the official United States Pharmacopeia of the United States or Official National Formulary or any supplement to any of them; or any substances intend for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal; or any substance, other than food, intended to affect the structure or any function of the body of man and animals.

**Open House Party:** means a social gathering at a residence or other private property with minors present.

**Person:** means a human being, and where appropriate, a public or private corporation, an unincorporated association or a partnership.

**Premises:** means a home, yard, apartment, condominium, hotel or motel room, or other dwelling units, or a hall or meeting room, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented or used with or without compensation. The term "Premises" shall also include private functions held at public facilities within the Town of Walpole.

#### **Section 468-3: Prohibited Activity:**

Any person who owns, rents or otherwise controls any premises shall be responsible when an Open House Party (as defined in the by-law) takes place at said Premises where the person knows, or has reason to know that an Alcoholic Beverage or Drug is being unlawfully possessed, served to or consumed by Persons under the age of twenty-one (21) at these gatherings at said Premises.

#### **Section 468-4: Exemptions:** The provision of this section shall not apply to:

- 1) The possession or consumption of a drug of which the individual has a current, valid prescription or as otherwise permitted by any other applicable law.
- 2) The consumption of Alcoholic Beverages which occurs exclusively by a Person under the age of twenty-one (21) in the immediate presence of and so directed or authorized by his/her parent/grandparent or legal guardian.

- 3) The practice of legally recognized religious observances.

**Section 468-5: Penalties & Enforcement:**

Failure to comply with subsection 468-3 herein shall constitute a violation of this by-law punishable by a fine or warning as outlined below. Fines may be assessed at the discretion of the enforcing officer by criminal complaint or by noncriminal disposition in accordance with Chapter 295 of the Town Code.

- 1) Penalties:
  - a) A first violation of this by-law shall be punishable by a warning which shall be issued by the Walpole Police Department.
  - b) A second violation of this by-law at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of \$150.
  - c) A third violation of this by-law at the same premises or by the same person within a twelve (12) month period shall be punishable by a fine of \$300.
- 2) Enforcement:
  - a) The enforcement of this by-law shall be delegated to the Chief of Police and/or his designee(s), which for the purposes of this section shall mean any sworn police officer of the Walpole Police Department.

**Section 468-6: Calculation of Time for Penalties:**

The fine schedule prescribed at subsection (c) is based upon a "rolling schedule" meaning that in calculating the fine payable, the Town of Walpole shall count backward starting from the date of the most recent violation of this law to determine how many previous violations of said by-law have taken place at the Premises or been committed by the same person during the statutory twelve (12) month period. A warning given pursuant to this by law shall remain in effect for the Premises until a full twelve(12) month period has elapsed during which there has been no response to the premises.

**Section 468-7 Appeals:**

Any Person upon whom is imposed a fine/penalty pursuant to this by-law shall have the right to appeal the imposition of such fine/penalty in a non-criminal proceeding by making a written request within 21 days to the Clerk Magistrate in Wrentham district Court. Assessments of recoupment cost, if any, shall be by criminal complaint in the Wrentham District Court.

**Section 468-8 Severability/Consistency with Other Laws:**

If any part or provision of this section shall be deemed to be inconsistent with any federal or state statute, law, rule, or regulation, then such statute, rule or regulation shall prevail.

If any part or provision of this section or the applicability thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

October 21, 2013