

**TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
WEST ORANGE ABC BOARD**

RESOLUTION

WHEREAS, the Township Council of the Township of West Orange serves as the Township of West Orange Board of Alcoholic Beverage Control; and

WHEREAS, an Application has been filed by AMC Entertainment International, Inc., t/a AMC Theaters Essex Green 9, at 495 Prospect Avenue, West Orange, New Jersey, for renewal of its Plenary Retail Consumption License # 0722-33-066-009, for the period **July 1, 2017 through June 30, 2018**, the Application submitted to the Township Clerk and in compliance with New Jersey State Laws regulating the sale, consumption, and distribution of alcoholic beverages; and

WHEREAS, at its regular meeting on June 29, 2010, the Township Council, sitting as the Township ABC Board, approved the person to person and place to place transfer of License No. 0722-33-066-009, from SHO, Inc., to AMC Entertainment International, Inc., t/a AMC Theaters Essex Green 9, at 495 Prospect Avenue, West Orange, New Jersey, subject to the following special conditions:

1. All current security and off-duty police officers shall continue in accordance with past practice and resolutions (i.e., two (2) officers on Friday, Saturday and Sunday nights);
2. The business will not establish a policy whereby people under eighteen (18) years old must be accompanied by a parent or guardian in order to be on the premises unless such condition is affirmatively removed by the Township ABC Board; and
3. To the extent that the Licensee wishes to remove Condition No. 2, they may seek such relief before the Township ABC Board and in the event the Township ABC Board refuses to remove such condition, the Licensee fully preserves all of its rights, remedies and defenses including the right to appeal to the Director of Alcoholic Beverage Control for the State of New Jersey or such other entity or authority as may have jurisdiction; and

WHEREAS, after the aforesaid approval memorialized in ABC Resolution #443-10, the Licensee, AMC Entertainment International, Inc., t/a AMC Theaters Essex Green 9, expressed the strong desire to limit the admission of minors under the age of eighteen (18) years to those accompanied by a parent or guardian, citing the risks inherent in a darkened movie theater environment combined with the presence of alcoholic beverages on the premises, the New Jersey tradition and practice of very strict regulation of ABC Licensees, and expressing the Licensee's firm wish and intent to comply with and foster the strict enforcement of the ABC statutes and regulations both to protect its own considerable investment in the Licensed premises, in its dine-in theater business plan, and to fulfill the underlying rationale for ABC regulations, the protection of the public health and safety; and

WHEREAS, the ABC Board acknowledged and appreciated all of those concerns and considerations, as well as the benefits to the local economy of the Licensee's investment and successful operation, and agreed to remove the earlier imposed special condition no. 2, in ABC Board Resolution 443-10, and because removal of special condition no. 2 made special condition no. 3 superfluous, agreed to remove that condition as well; and

WHEREAS, at a special meeting of the Township Council of the Township of West Orange serving as the West Orange Board of Alcoholic Beverage Control, at the request of and with the consent of the Licensee, did Resolve in ABC Resolution #450, to amend its approval of the person to person and place to place transfer of License No. 0722-33-066-009, from SHO, Inc., to AMC Entertainment International, Inc., t/a AMC Theaters Essex Green 9, at 495 Prospect Avenue, West Orange, New Jersey, removing special condition nos. 2 and 3 as set forth in ABC Board Resolution #443-10, and leaving only the following special condition:

1. All current security and off-duty police officer requirements shall continue in accordance with past practice and resolutions regarding this location (i.e., two (2) officers on Friday, Saturday and Sunday nights); and

WHEREAS, the Township discovered a U.S. Third Circuit Court of Appeals decision holding it to be arbitrary and unreasonable for a municipal land use board to require as a condition of approval of a variance that off-duty police officers be hired to direct traffic and monitor compliance with occupancy limits, it not having been shown that the Licensee's own employees were incapable of performing such tasks (See 256 F.3d 107 (3rd Cir. 2001), and as a matter of policy determined to cease the requirement of using Township Police Officers working side jobs for traffic control and security at or about Alcoholic Beverage Control Licensed premises, and

WHEREAS, the License renewal for the 2011 – 2012, and subsequent License terms incorporated such change in policy, providing for the following Special Condition:

1. All current security and off-duty police officer requirements shall continue in accordance with past practice and resolutions regarding this location, off-duty police officers not being required, but security personnel being permitted in their place and stead (i.e., two (2) security personnel on Friday, Saturday and Sunday nights); and

WHEREAS, by letter dated and sent via certified mail to the Licensee on or about **May 25, 2017**, the Licensee was notified of the Township ABC Board's intention to continue the same Special Condition upon renewal for the 2017-2018 License Term and offering a formal hearing in the event there was objection to same by the Licensee; and

WHEREAS, the underlying reasons for the Special Conditions previously imposed on this License have not changed and the Licensee has offered no objection to their continuation, nor any request for their relaxation, and therefore by its inaction has consented to continuation of the same Special Conditions upon renewal;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE serving as the Township Board of Alcoholic Beverage Control, does hereby approve the renewal of the Plenary Retail Consumption License heretofore issued to the Licensee, AMC Entertainment International, Inc., t/a AMC Theaters Essex Green 9, at 495 Prospect Avenue, West Orange, New Jersey, bearing License No. 0722-33-066-009, for the **2017-2018** License Term, subject to the following Special Condition pursuant to *N.J.S.A. 33:1-32*:

1. All current security and off-duty police officer requirements shall continue in accordance with past practice and resolutions regarding this location, off-duty police officers not being required, but security personnel being permitted in their place and stead (i.e., two (2) security personnel on Friday, Saturday and Sunday nights).

AND BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Director of the Division of Alcoholic Beverage Control of the State of New Jersey and shall be maintained in the Township's permanent Alcoholic Beverage Control records, and that the Director is, and hereby is, respectfully requested to grant his approval to the foregoing Special Condition as required by statute, and to communicate that approval to the Township of West Orange, which approval shall then also be maintained in the Township's permanent ABC records;

The above Resolution was passed by Township Council of the Township of West Orange serving as the West Orange Board of Alcoholic Beverage Control at its regular meeting held on **June 27, 2017**.

Joe Krakoviak, Council President and
ABC Board Chairman

Karen J. Carnevale, R.M.C. Municipal Clerk and
Secretary to the ABC Board

Adopted: June 27, 2017

Approved as to form on the basis of the facts provided:

Karen J. Carnevale, R.M.C., Municipal Clerk