



TOWN OF BELMONT
OFFICE OF THE BOARD OF SELECTMEN
455 CONCORD AVENUE
BELMONT, MASSACHUSETTS 02478

ALCOHOLIC BEVERAGES POLICIES, RULES AND REGULATIONS:

Adopted by vote of the Board of Selectmen on June 14, 2004 for restaurants
Adopted by vote of the Board of Selectmen in 2007 for retail establishments
Ch. 388 of MGL added December 16, 2010

1. POLICY STATEMENT, Restaurants

The issuance and use of an All Alcohol License or Wine and Malt Beverage Only License (collectively, "Alcohol License" or "Alcohol Licenses") in the case of being issued to a restaurant, is an accommodating and incidental part of a Common Victualer's primary and principal business endeavor of serving food to the public in a restaurant. It is intended that the license allow for the economic viability of a quality restaurant to succeed in creating an attractive environment for patrons to gather together in a socially responsible and hospitable setting to eat, converse, exchange ideas, and otherwise promote individual welfare and town unity, pride, and spirit. This policy is further defined as the intention to both enhance the dining experience of individuals patronizing Belmont restaurants and to foster economic development of appropriate business areas in the Town by encouraging and promoting foot traffic and the support and development of collateral businesses in those areas where restaurants are located. The Board of Selectmen will consider when deciding upon a license application the foregoing factors and any other matters thought appropriate including, by way of description but not limitation: proximity to residential neighborhoods, proximity to schools, playgrounds and other locales where children gather, proximity to other licensed establishments, traffic, parking, noise factors, night lighting factors, appropriateness of menu, and other aesthetic considerations, including the physical layout of the interior of the establishment. Licenses will not be granted to establishments whose principal business activity is fast food take out or have any drive-in aspect.

2. GENERAL RULES AND REGULATIONS

Subject to further limitations fixed, modified, or amended by the Board of Selectmen acting as the duly constituted licensing Board of the Town of Belmont with respect to alcohol beverage licenses, the General Laws of Massachusetts and the Regulations of the Alcoholic Beverage Control Commission, the following rules and regulations will be in full force and effect for Alcohol Licenses:

Any Alcohol License issued by the Belmont Board of Selectmen under the above authority shall be processed in accord with the procedures and shall be subject to the rules and regulations for such licenses listed herein. The Board of Selectmen may adopt further rules and regulations and all such changes shall apply to existing license holders from the date of the adoption. The Board of Selectmen may attach such additional conditions and restrictions to each such license as it deems to be in the public interest.

All such licenses shall also be issued contingent upon the continued compliance by the licensee with all appropriate State and Municipal laws, regulations, licenses and permits which may pertain to the operation

of premises including but not limited to the State Building Code, the Act to further enhance fire and life safety, and Common Victualer License requirements.

Property occupied by the licensee, whether owned or leased by the licensee, shall conform with all Town bylaws and codes. No licensee shall be allowed to discriminate service to patrons on the basis of race, color, creed, disability, place of national origin, or sex.

The Board of Selectmen are authorized to issue up to eight Wine and Malt Restaurant Beverage Only Licenses in the Town of Belmont for the sale of alcoholic beverages by restaurants having a seating capacity of 39 to 125 persons. (Authority, Town of Belmont election; Chapter 128 - Acts of 1997).

The Board of Selectmen are also authorized to issue up to three All Alcohol Licenses in the Town of Belmont for sale of alcoholic beverages by restaurants having a seating capacity of 130 to 250 persons. (Authority, Town of Belmont referendum of April 5, 2004; Chapter 14 - Acts of 2004).

The Board of Selectmen of the town of Belmont may, in its discretion, grant licenses for the sale of all alcoholic beverages to be drunk on the premises of restaurants having a seating capacity of not less than 60 and no more than 250 seats, provided, however, that no more than 10 such licenses shall be in effect, including those licenses issued pursuant to chapter 14 of the acts of 2004. The licenses shall be subject to chapter 138 of the General Laws. (Ch. 388, MGL).

The Board of Selectmen are also authorized to issue two All Alcohol Retail License in the Town of Belmont.

The Board of Selectmen are also authorized to issue four Wine and Malt Retail Licenses in the Town of Belmont.

Any license issued for the sale in any manner of any alcoholic beverages shall be issued on the condition that there shall be strict compliance with all of the rules and regulations of the Board of Selectmen as described herein. The failure to comply with these rules and regulations and town bylaws and codes shall be a sufficient cause or grounds for refusing to grant the license or permit, or for suspending, canceling, or revoking a license or permit already granted.

3. ALCOHOLIC BEVERAGES LICENSING COMMITTEE

AS OF JUNE 30, 2009, THE ALCOHOLIC BEVERAGES LICENSING COMMITTEE CEASED TO EXIST. The Board of Selectmen serves as the Local Licensing Authority (LLA) for the Town of Belmont.

4. FILING OF APPLICATION

All license application forms, including but not limited to: the Alcoholic Beverage Control Commission general application, Form C for Financing, Form A, Criminal Record Release Form, and the Department of Revenue Release Form, must be complete before being processed by the Board of Selectmen. Complete application material must be provided for each individual whose name appears on the application. An application shall be considered "complete" and therefore accepted by the Town when it has been filed in accord with these procedural instructions and all forms required have been fully completed and executed under such conditions and rules as determined by the Board of Selectmen. The application filing fee and annual license fee must be paid by certified or bank check at the time that the application is filed.

5. INITIAL APPLICATION FILING PERIOD

This paragraph shall only apply to the period immediately following the initial adoption of these rules and regulations and only with respect to All Alcohol Licenses. The Board of Selectmen shall provide adequate notice of a grace period running from June 14, 2004 through December 31, 2004 within which application packages for All Alcohol Licenses may be obtained from the Town. During this grace period, no completed application will be accepted, and designated Town officials will be available to assist applicants in the proper completion of the application forms. On a specific date, time, and place noticed by the Board of Selectmen at the onset of the grace period, fully completed applications, accompanied by the application fee as stated herein, may be filed with the office of the Board of Selectmen for consideration. Due to the potential initial filing of applications by multiple applicants, the Board of Selectmen reserves the right to mark the applications as received in such a way so that the applications may be processed in an orderly manner. Upon filing of a completed application, the applicant will be notified of the date that the application shall be received, which date shall start the statutory time period within which the application must be processed, the hearing held, and the Board of Selectmen's decision issued.

6. ORIGINAL APPLICATION FILING FEE

A filing fee of \$500 will be required and must be paid at the time of filing of the original application for an Alcohol License. Filing fees must be paid prior to acceptance of the application by the Town. Filing fees shall be paid for by certified or bank check. Original application filing fees are non-refundable once an application has been accepted by the Board of Selectmen for processing.

7. ANNUAL LICENSE FEE

The annual license fee for a Wine and Malt Beverage Restaurant or Retail License shall be \$2,500, and the annual license fee for an All Alcohol License shall be \$4,000. The payment must be made by certified or bank check at the time the application or renewal is filed. The annual license fee shall be refunded if an original or renewal license is not issued.

8. DURATION OF LICENSE

Alcohol Licenses once issued are valid until December 31 of each year and must be renewed each succeeding year.

9. RENEWALS

It shall be the responsibility of the licensee to file a renewal application for the following year during the 30 day period prior to December 1st of each year. Renewal applications can be obtained from the Office of the Board of Selectmen. A renewal filing fee of \$100 (cashier's or certified checks only) and the applicable annual license fee (cashier's or certified checks only) will be required and must be paid at the time of filing of any renewal application. It is required that renewal applications shall update all previously filed statements and plans where appropriate. Failure to renew prior to November 30 shall result in a loss of license and any subsequent license request must then be treated as a completely new application.

10. TRANSFERS

Each application for approval of transfer of majority ownership or transfer of location shall be accompanied by a \$500 fee. Such application for transfer of location or of ownership shall be considered an original application and processed as such. Approval of a transfer of majority ownership may be conditioned upon the proof of payment of all outstanding local, state and federal taxes including, without limiting the foregoing the remission to the proper taxing authorities of sales taxes, excise taxes and withheld federal and state income taxes. Transfers of ownership to trustees in bankruptcy, court appointed receivers or assignees for the benefit of creditors and those taking title or possession of the licensed premises by, through or under them will not be deemed to transfer or convey any rights to the license or the renewal or transfer of such license. Bona fide mortgagees in possession who are listed in the application as holding such interest shall be treated in the same manner as the original majority ownership licensee. A public hearing shall be required for any transfers of ownership or location, including but not limited to transfers to mortgagees.

11. NOTIFICATION OF ABUTTERS AND HEARING

Upon acceptance of any application for approval or transfer of an Alcohol License and a preliminary determination having been made that the tendered documents are sufficiently complete so as to warrant consideration of the merits of the applications, the Board of Selectmen will hold at least one public hearing. The public hearing shall be conducted within thirty (30) days of acceptance of a complete application subject to the initial application filing period described herein. The applicant will be required to comply with the appropriate provisions of M.G.L. c. 138 including, but not limited to sections 15A and 16C relative to notification of abutters, churches and schools within the distance prescribed by law. In addition to the requirements of the above statute, the applicant or transferee shall be required to notify all residents who have not otherwise been notified as abutters within a 300 foot radius of the furthest points of the licensed property. Said notification requirement may be satisfied by hand delivery of said notice to each residence or place of business within the designated area. Strict compliance with the notification provision of these laws shall be adhered to, and shall be the sole responsibility of the applicant. Prior to the public hearing, the applicant shall present such evidence as required by the Board of Selectmen of compliance with this notification requirement.

12. EXERCISE OF LICENSE

Construction or alteration of any newly licensed premises shall commence within 45 days and be in full operation within four months from the date of the final license approval unless a longer period is authorized by the Board of Selectmen. Thereafter said licensee shall continuously operate the licensed premises in accordance with the terms and conditions of this license. The closing of the licensed premises for any reason for a period of seven consecutive days or more without prior approval of the Board of Selectmen shall be deemed to be an abandonment of the license and sufficient grounds for revocation.

13. OWNERSHIP AND INTEREST

The licensee shall disclose in its application the true corporate name of the applicant, its state of incorporation and the names and addresses of its current corporate officers. The licensee shall indicate the true names and residential addresses of any owners holding five percent or more of the outstanding corporate stock or the true names of the owners of five percent or more of the beneficial equity if the stock is held by trustees or straws for the benefit of others.* If the licensed corporation is owned or

controlled by another corporation, the true names and addresses of the owners of five percent or more of this holding corporation shall also be listed. The failure of a licensee or applicant to notify the Board of Selectmen of any changes in the corporate ownerships within seven days of the occurrence shall be deemed a violation of the license and be sufficient cause for its revocation or suspension.

No corporation organized under the laws of the Commonwealth, or of any other state or foreign country, shall be given a license to sell, in any manner, any alcoholic beverages unless such corporation shall notify the Board of Selectmen that it has appointed, by vote of its Board of Directors or other similar board, as manager or other principal representative, a citizen of the United States and shall have vested in him, by properly authorized and executed written delegation the full authority and control of the premises described in the license application of such corporation and control of all business therein relative to alcoholic beverages as the licensee itself could, in any way, have or exercise if the licensee were a natural person resident in the Commonwealth; nor unless such manager or representative is, with respect to character, satisfactory to the Board of Selectmen.

*If mortgagees desire to succeed to any rights in the license, full disclosure of their interest must be listed in the application.

14. FINANCIAL INFORMATION

The Board of Selectmen may require the applicant to supply complete financial statements and disclosures concerning the corporations and/or persons having in the original application or request for transfer for the purpose of determining the financial responsibility and capability of the applicants. This may include requirements that the license holder furnish such financial statements as the Board of Selectmen may require, a Certificate of Good Standing from the Massachusetts Department of Revenue, and a Certificate of Condition from the Corporations Division of the Massachusetts Secretary of State.

15. BUILDING AND SITE PLANS

In addition to the above forms, each application must contain the following information shown on a plan drawn to scale by an architect or an engineer. The Board of Selectmen may request town departments and agencies to informally review the plans and advise the Board as to any concerns or issues involving the jurisdiction of the department or agency.

15.1 Building Plans

- a. The net floor area* and the prospective decor and dimensions of each room or rooms requested to be licensed, for restaurants include dining room, function rooms, and rooms in which alcoholic beverages are to be stored.
- b. For restaurants, the location of any proposed service bars.
- c. For restaurants, the area in which seats or benches are to be securely fastened to the floor and/or walls forming what are commonly called booths.
- d. For restaurants, the area in which there are to be moveable or unsecured seats and tables.
- e. For restaurants, the total number and arrangement of seats.

- f. Entrances and exits.
- g. An architectural rendition of the exterior of the building.
- h. All rooms not being requested to be licensed, if said rooms are to be on the same floor as those rooms to be licensed, shall be labeled as to their function, such as kitchens, coat rooms, toilets, rest rooms, lobby, etc. The actual use of these ancillary areas shall be strictly limited to the uses indicated on said plans.
- i. The precise location of any room designated for private functions where alcohol may be served as provided below.

15.2 Site Plans

- a. Off-street parking.
- b. Landscaping.
- c. Exterior lights and signs.

* Net floor area shall be the area of the room or rooms measured between the interior walls exclusive of stairways, service bars, hallways, etc.

16. HOURS

The hours during which sales of alcoholic beverages may be made by any licensee shall be from 11:00 A.M. to 11:00 P.M. Monday through Saturday and from 12:00 noon to 11:00 P.M. on Sundays, Christmas Day (or the day following when Christmas Day is on a Sunday), or Memorial Day. The hours during which the sales of alcoholic beverages may be made are further limited to the hours of operation as designated on the common victualer's license and furthermore when the dining room/retail establishment is open and full food service is available.

All beverage/glasses/bottles or other containers must be removed from tables and service bar area one-half hour after closing time or 11:00 P.M., whichever first occurs. Patrons must be off premises one-half hour after closing time. Licensed operators and employees must be off premises one hour after closing.

17. INSURANCE

All licensees shall be required to provide to the town a certificate of insurance providing coverage for fire, premises liability, and liquor liability with reasonable limits of coverage, except that liquor liability shall have minimum coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whereas the policy shall carry an endorsement that the Town of Belmont shall be notified by the insurer no less than ten days prior to the cancellation of said coverage.

18. SERVICE AREAS

No food or alcoholic beverages may be served at a service bar or any counter in a licensed restaurant. The location of service bars shall not be changed unless approved by the Board of Selectmen and unless an amended plan is submitted to the Board showing the proposed change.

19. DINING AREAS

19.1. Service of food is required in all areas where alcoholic beverages are to be served, and alcoholic beverages may only be served with a "full meal", as herein defined, ordered from the menu of the licensed premises. Under no circumstances will a second drink be served without the patron having ordered a full meal from the menu. An alcoholic beverage shall not be served unless the patron is seated.

19.2. The Board reserves the right to approve the menu and further define what constitutes a full meal consistent with these policies, rules, and regulations, in particular that the service of alcoholic beverages shall be adjunct to the primary purpose of service of food. Single servings of menu appetizers, soups, side salads, or desserts shall not be considered a full meal, except that this requirement shall not preclude multiple servings to a patron from the above list or like items from constituting a full meal. The word "meal" shall not consist of items such as potato chips, corn chips, nuts, pretzels or other so-called "snack foods" customarily served with alcoholic beverages in a bar or cocktail lounge or any other edibles which are served gratuitously with alcoholic beverages. Menus shall reflect the requirement that alcoholic beverages may only be ordered in conjunction with the consumption of a full meal.

19.3. Alcoholic beverages may be consumed only from glasses.

19.4. No licensed restaurant may permit the use of any amusement device such as electronic games or gambling devices on the premises.

19.5. No pitchers of beer may be served.

19.6. Service of alcoholic beverages shall be by a wait person, and only to patrons who are seated. Service of food is required in all areas where alcoholic beverages are to be served, however; notwithstanding the foregoing, alcoholic beverages may be served in a designated area for those waiting to be seated for dining. No individual shall be served alcoholic beverages in this area until he or she has given his or her name or the name of their party to that individual designated by the owner of the premises charged with task of establishing an order of seating in the area. The owner of the premises shall take appropriate measures to ensure that no one is served in the waiting area whose intention it is not to dine. Bars and cocktail lounges, where alcohol is served as a primary function without service of full meals, are prohibited.

19.7. No premises may be licensed that contain any advertisement or sign on the outside facade upon which appears any brand name of an alcoholic beverage product. Signs on the inside of the premises are subject to Board approval at its discretion.

19.8. The sale or service of alcoholic beverages is prohibited in any area not licensed by the Board of Selectmen and no change in such area or location shall be made without prior approval of the Board of Selectmen and unless an amended plan is presented to said Board.

19.9. Cordials and Liqueurs may not be served in a wine and malt beverage establishment unless and until Chapter 451 of the Acts of 1993 is accepted by the Town and written approval of the same is granted by the Board consistent with said law.

20. PRIVATE FUNCTIONS

Private functions where alcohol is to be served may be held (a) in a portion of licensed premises whose area is in addition to the space required for the seats available to the general public, and/or (b) in part or all of the licensed premises whose area is part of the space required for the seats available to the general public. In the case of 'a', the area must be in addition to the space required for the seats available to the general public and consist of a room or rooms duly licensed for the service of alcoholic beverages and shall be closed to the general public. In the case of 'b', the area for the private function must be made unavailable to the general public while the private function is taking place and no alcohol may be served to any member of the general public. The service of meals is not required in any area of a private function where alcoholic beverages are to be served.

21. INSPECTIONS

The licensed premises shall be subject, at all times, to inspection by members of the Board of Selectmen, the Town Administrator, Police and Fire Departments, Board of Health, the Office of Community Development, or their representatives, or any other department or official of the town so directed by the Board of Selectmen.

22. SUPERVISION-PRESENCE

The manager or principal representative of the licensee shall, at all times during which alcoholic beverages are being sold pursuant to the license of such corporation, be present in the licensed premises and shall be available to the licensing authorities during all such times unless some other person similarly qualified, authorized and satisfactory to the licensing authorities and whose authority to act in place of such manager or principal representative shall first have been certified to the licensing authorities in the manner aforesaid, is present in the premises and is acting in the place of such manager or principal representative. The full name, residential address, business and home telephone numbers of said manager or representative must be on file in the Board of Selectmen's office. Failure to have such information on file and current shall alone be sufficient cause for revocation or suspension of such license.

All managers and representatives for a restaurant establishment, referenced herein must have successfully completed a certified server training program for alcoholic beverages approved by the Board of Selectmen prior to licensing or approval of any change of management. All individuals taking orders or serving alcoholic beverages shall be required to have completed an approved certified server training program prior to working, except that servers shall be allowed thirty days to complete the program when first working as a wait person. All managers and representatives and persons taking orders or serving alcoholic beverages shall also be required to complete an approved certified server training program every two years. Licensees are responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by any other patron.

23. ORDER AND DECORUM

The manager or representative shall at all times maintain order and decorum in the premises and in the immediately surrounding area of the premises and shall cooperate in all ways with Town officials including but not limited to representatives from the Office of Community Development, Board of Health, and Fire

and Police Departments in ensuring safe and orderly facilities. Premises must be kept clean, neat and sanitary at all times. Outside areas of the premises will likewise be kept in orderly and neat condition.

24. PURCHASE AND CONSUMPTION ON PREMISES

No patron of a licensed restaurant will be permitted to bring into the licensed restaurants any alcoholic beverage for consumption on the premises. All alcoholic beverages held for sale shall be consumed on the premises.

25. VIOLATION OF RULES AND REGULATIONS

Any license issued under these rules and regulations may be suspended or revoked by the Board of Selectmen if any of the rules or regulations are violated or for other reasonable cause related to the public good and the licensee's fitness to hold a license. Suspension or revocation shall be initiated by the Board by written notification of such intent to suspend or revoke, sent to the license holder. The Board shall hold a Public Hearing upon such suspension or revocation. The hearing shall be commenced within two weeks of the notice of intent to suspend or revoke said license.