



TOWN OF BURLINGTON, MA

Board of Selectmen

POLICY

**TOWN OF BURLINGTON
RULES AND REGULATIONS
FOR THE LICENSING AND SALE OF ALCOHOLIC BEVERAGES
amendments (see listing on last page)**

I. DEFINITIONS.

1. **Full Menu Dining Establishment.** A restaurant which has a full menu dining area with a service bar or service bar and separate waiting area set aside as a waiting/overflow area where food and/or alcoholic beverages may be served while patrons are waiting to be seated in the main dining area or a function area pre-approved by the Board of Selectmen.
2. **Service Bar.** An area where alcoholic beverage orders are filled by qualified servers and is accessible exclusively by the establishment's wait staff.
3. **Seating Capacity.** In determining whether a facility meets the minimum seating capacity as set forth in Chapter 138, Section 11, Sub Division E, the Board of Selectmen shall apply the standards set forth in the State Building Code, 780 Code of Massachusetts Regulation, Article 10; and, Section II, paragraph 5, below.

II. POLICY STATEMENTS.

1. The issuance of an "All Alcohol Restaurant License" (AAR) or a "Wine and Malt Beverage Only" License is an accommodating and incidental part of a Common Victualler's primary and principal business endeavor of serving food to the public in a restaurant or as part of a function area or movie theater pre-approved by the Board of Selectmen.
2. An All Alcohol Restaurant License will be issued only to an applicant who is either (a) the licensee named on a Common Victualler's License and who operates a full menu restaurant having a minimum seating capacity of 30 dining table seats or (b) a movie theater who is the licensee named on a Common Victualler's License that also serves food to patrons for consumption on the premises either at tables located in the common areas of the theater or for consumption in individual theaters.
3. A Wine and Malt Beverage License will be issued only to an applicant (a) who is the licensee named on a Common Victualler's License, and (b) who either operates a full menu restaurant having a minimum seating capacity of 20 dining table seats or operates a movie theater that also serves food to patrons for consumption on the premises either at

tables located in the common areas of the theater or for consumption in individual theaters.

Cordial and Liqueurs Permit for holders of Wine and Malt License allowed with application to Local Licensing Authority, ABCC and additional permit fee of \$500 (Permit passed Town Meeting 1/25/10; Permit fee of \$500 established Selectmen's Meeting 4/26/10).

4. Licenses will only be granted to establishments whose principal business activity is a full-service restaurant whereby food and alcohol are prepared to order and delivered by a server to the table or a movie theater that also serves food to patrons for consumption on the premises either at tables located in the common areas of the theater or within individual theaters.
5. Stools or chairs at a food counter shall be limited to a number deemed appropriate by the Board of Selectmen. This limitation shall not apply to licensees who were licensed prior to April 1, 2006 for counter seats in excess of the number allowed hereunder.

III. RULES AND REGULATIONS.

1.
 - (a) A \$150.00 filing fee must be paid prior to acceptance of the application for the hearing by the Town. This filing fee is nonrefundable, regardless of the outcome of the application process. The annual license fee for an All Alcohol Restaurant License is \$3,000; and the annual license fee for a Wine and Malt Beverage Only License is \$1,500 (an additional \$500 with a Cordial and Liqueurs Permit).
 - (b) A \$150.00 fee will be required for any changes requested: i.e. Change of Manager, Transfer of License, Alteration of Premises, etc. This will be in addition to the fee charged by the Alcoholic Beverages Control Commission for similar changes.
 - (c) An All Alcohol Restaurant licensee shall be required to carry a minimum of \$1,000,000 of liquor Liability Insurance.
2. Hours of operation for dining establishments, from Monday through Sunday, shall be from 11:00 a.m. to 1:00 a.m. the next day. Last call will be 12:30 a.m., all alcoholic beverages shall be off the tables by 1:00 a.m.; and, all patrons shall be off the premises no more than 15 minutes after closing.
3. Alcoholic beverages shall be served no later than one hour after the full food menu has been discontinued.
4. Except for security and maintenance employees or those involved in food preparation, no other employees may remain on the premises later than one hour after closing time, or 2:00 a.m.
5. Seating space requirements shall be based on current building code regulations.

6. No establishment shall allow alcoholic beverages to be brought onto the premises for consumption in any of their public areas.
7. No liquor license holder shall directly, or through any agent, employee, or other person, dilute or change or in any manner tamper with and/or allow the dilution of any alcoholic beverage authorized to be sold under such license so as to change its composition or alcoholic content.
8. No alcoholic beverages may be served in a “pitcher” or similar container. However, wine may be served in either half or full liter carafes.
9. No stools or chairs are permitted at any service bar and no alcoholic beverages are to be sold or served to patrons for direct consumption at a service bar.
10. No cocktail lounges or bars shall be permitted in the Town of Burlington, with the exception of those bars located in restaurant or movie theater establishments, as set forth in Section II.
11. No alcoholic beverages shall be served without charge, excluding wine/malt tastings and in-store/establishment promotions. NOTE: This does not apply to “One Day Licenses”.
12. Patrons waiting to be seated in the main dining area or movie theater may consume a maximum of two drinks per person during this time period.
13. No liquor license shall be issued or reissued to an establishment which does not verify that their Managers have successfully completed an acceptable or accredited alcoholic beverage server training program (such as Training for Intervention Procedures by Servers (TIPS) or “Serve Safe”). All employees of the establishments who serve alcoholic beverages must be server licensed. (See “Server Licensing”, Section V). All other employees of the establishment such as cashiers and wait staff who sell alcoholic beverages shall receive at a minimum in-house training similar to that received under TIPS within 30 days of employment. The employee training program will include proper procedures for verifying that patrons are at least 21 years of age and do not appear intoxicated.
14. Any disorder, disturbance, or illegality occurring in or on a premise holding a liquor license, shall be the responsibility of the licensee, whether present or not; and, any sale/serving of alcoholic beverages to under-aged persons shall be the responsibility of both the licensee and server. The manager shall at all times maintain order and decorum in the premises and in the immediate surrounding area of the premises and shall cooperate in all ways with Town officials in ensuring safe and orderly premises. The manager will ensure that noise does not become disturbing to abutters and/or neighbors.

15. The number of all liquor and wine and malt beverage licenses issued by the licensing authority to full service restaurant establishments shall be determined by the licensing authority in accordance with applicable State laws (Chapter 138, Section 17) and as allowed by special legislation.
16. Entertainment in, or on, the premises shall not be permitted without prior written approval or consent of the Issuing Authority.
17. Special One Day licenses shall require, at the discretion of the issuing authority, (a) a server who has successfully completed alcohol server training; (b) a special detail officer to be present at all times on the premises; (c) insurances as required above; and (d) a minimum fee of \$75, which may be waived under sole discretion of the issuing authority and, be limited to one, One Day License per applicant per three month period with a maximum of four One Day Licenses granted per calendar year.
18. Sales and service of alcoholic beverages are prohibited in any areas or locations not identified on the approved floor plan or not expressly approved by the licensing authority.
19. In accordance with M.G.L. Chapter 138, Section 63 and 63A, the licensed premises shall be subject to inspection by duly authorized agents of the Licensing Authority (Board of Selectmen). Any hindrance or delay of such inspection caused by an employee of the licensee shall be cause for action against the licensee.
20. Any license issued by the Burlington Board of Selectmen shall be processed in accordance with the procedures listed herein and shall be subject to the rules and regulations for such licenses. The Board of Selectmen may adopt further rules and regulations and all such changes shall apply to existing license holders from the date of their adoption. And, the Board may attach such conditions and restrictions to each such license as it deems to be in the public interest.
21. Any situation not expressly covered by these regulations shall be addressed in accordance with the latest publication of the Alcoholic Beverages Control Commission's Guide to Massachusetts Liquor Laws and adjudicated on a case-by-case basis by the Issuing Authority.
22. For breach of any of the above requirements or any violation of the laws and regulations of the Town of Burlington, including but not limited to failure to pay real estate taxes, charges, license fees, water and or sewer bills; or those of the Commonwealth of Massachusetts, the licensing authority reserves the power and right to modify, suspend, revoke or cancel said license, and/or set a fine commensurate with the offense in accordance with the Alcoholic Beverages Control Commission's guidelines and Massachusetts General Laws.

IV. VIOLATIONS.

The following penalties represent the minimum guidelines for action to be taken by the Licensing Authority for violations for selling/serving alcohol to minors and *do not preclude the Licensing Authority from taking additional action:*

1. Liquor Stores

| <u>First Offense</u> | <u>Second Offense</u> | <u>Third Offense</u> | <u>Fourth Offense</u> |
|----------------------|-------------------------------------|--------------------------------------|--------------------------------------|
| 1-Day Closing | 5-Day Closing (Consecutive Days) | 10-Day Closing (Consecutive Days) | 15-Day Closing (Consecutive Days) |

2. Dining Establishments

| <u>First Offense</u> | <u>Second Offense</u> | <u>Third Offense</u> | <u>Fourth Offense</u> |
|--------------------------------|--|---|---|
| 1-Day Suspension of License | 5-Day Suspension of License (Consecutive Days) | 10-Day Suspension of License (Consecutive Days) | 15-Day Suspension of License (Consecutive Days) |

3. In Lieu of 5-Day Suspension

In lieu of the 5-Day Suspension for the second offense, the licensee may elect to serve only a 2-Day Suspension and contract with a company for a compliance and training program relating to the sale and serving of alcoholic beverages approved by the Chief of Police. The company is to monitor the licensee for compliance for a period of one (1) year and forward a report to the Chief of Police. If the licensee is in compliance during the one (1) year period, the Board will consider that the three (3) remaining days of the suspension has been served. Any failure will be brought to the Board of Selectmen for review.

Notes:

1. Above penalties for Liquor Stores and Dining Establishments and private clubs will be in effect commencing with the first Monday following enforcement by the Licensing Authority, unless the licensing authority decides otherwise.
2. Second, third and subsequent penalties will be enforced commencing with the first Monday following the license holder's hearing, unless the Licensing Authority decides otherwise.

V. SERVER LICENSING

1. All sellers/servers of alcoholic beverages are to be registered with the Burlington Police Department within 30 days of assuming employment or 30 days from the date of adoption of these rules and regulations. An up-to-date list of all employees shall be available on the premises at all times for review by authorized agents of the Licensing Authority (Board of Selectmen).
2. Sellers/servers of alcoholic beverages will present their TIPS or SERV SAFE, or equivalent certificates to the license issuing officer.

3. Upon verification, the seller/server will be issued an “Alcohol Server Identification Card” which is good for three years from date of issue.
4. Sellers/servers are to keep the ID on their person or in some easily accessible place. Owners should be allowed to copy the IDs and place them on file in lieu of the seller/server not having it with them.
5. The fee for obtaining the ID card is \$15.
6. The ID remains the property of the Town and must be surrendered upon termination of/resignation from employment; however, the individual may retain possession of their ID card as long as they remain working in Burlington.
7. If a seller or server is found to have sold/served alcoholic beverages to an under-aged individual, s(he) will have the right to request, within two weeks of the finding, a hearing before the Licensing Authority to give cause why their privilege to sell or serve within the Town of Burlington should not be taken away. Further, the seller/server may be subject to a fine or penalty as determined by the Licensing Authority.

Alcohol Rules & Regulations Subcommittee

Rules and Regulations History:

Revised 3/26/01

Amended 10/29/01 (Wine & Malt fee amended)

Amended 12/13/04 (Violations)

Amended & Adopted 2/12/07 (added Policy on Licensing Servers of Alcoholic Beverages, adopted 9/25/06)

Amended & Adopted (added Cordial and Liqueurs Permit--1/25/10 Town Meeting); (additional fee 4/26/10 Selectmen’s Meeting)

Amended 11/5/12 (Function Area by pre-approval)

Amended 5/20/13 (Server ID fee amended)

Amended 7/13/15 (Section II-4 – full service)

Amended 8/17/15 (Sections III – 14, 15, 17, 19-22; IV; V – 1)

Amended 1/11/16 (Sections II – 1, 2, 3, 4; III 9, 10, 12 – Movie Theater)

Amended 4/12/2021 (Section II – 2, 3 minimum seating - All Alcohol 120 to 30 and Wine and Malt 40 to 20)