

TOWN OF NATICK  
RULES AND REGULATIONS  
for  
THE SALE OF WINE AND MALT BEVERAGES AND LIQUEURS AND CORDIALS IN  
RESTAURANTS WITH A SEATING CAPACITY OF NOT LESS THAN 100 PERSONS

Subject to further limitations fixed or from time to time modified or amended by the Select Board acting as the duly constituted licensing authority of the Town of Natick with respect to this class of license (License) and to each license within said class, as provided in the General Laws of Massachusetts and the Regulations of the Alcoholic Beverages Control Commission, the following rules and regulations shall be in full force and effect:

I. GENERAL POLICY

1. It is the policy and purpose of the Select Board to limit the issuance of Licenses as provided in Chapter 138, Section 11, Sub-division E as an accommodating and incidental part of a common victualler's primary and principal business endeavor of serving food to the public in a restaurant and function room.
2. The Select Board reserves to itself the right to consider the experience of the applicant in the area of serving food to the public and in the area of serving alcoholic beverages to the public. While this will not be the determinative factor in the issuance of the License, it will be one factor that the Board may consider. If the applicant has had no experience, this alone will not disqualify said applicant from being considered and having a License issued.
3. The location of the premises to be licensed shall be in accordance with the Zoning By-law of the Town. The interior of said premises shall be strictly in accordance with the applicable provisions of the State Building Code and the respective rules and regulations of the Natick Board of Health, Natick Fire Chief, and all other applicable agencies of the Town of Natick and Commonwealth of Massachusetts.
4. To ensure compliance with their respective rules, regulations, and laws for which they are responsible to enforce, all agencies referred to in Section 3, above, shall be afforded reasonable access to the licensed premises.
5. The Select Board or any Select Board Member, as well as the Chief of Police or his designee, shall be afforded access to the licensed premises during all hours of operation, including times when alcoholic beverages are being served.
6. The requirements of the Chief of Police relative to security precautions at the licensed premises, and the control of rowdiness, loitering and similar behavior shall be adhered to

by the licensee, and failure to do so shall be just cause for revocation of the License.

7. The owner or, in the case of a corporation, the Manager of the licensed premises, or his designee shall be present on the premises at all times during which alcoholic beverages are sold. The names and addresses of each individual referred to in the preceding sentence shall be submitted to the Select Board and Chief of Police.
8. The Town shall conduct a bi-annual Alcohol Education Seminar in May and September of each year. Notice of said seminar will be provided to each Licensee no less than ten (10) days prior to the date of said seminar and shall be posted at Town Hall at least ten (10) days prior to the date of the seminar. Each Licensee is strongly encouraged to attend one Annual Education Seminar per year. Failure to attend the seminar shall not constitute a defense to any alleged violation of the Laws. Each Licensee is required to have knowledge of the requirements of the Laws, and such knowledge will be imputed to Licensees regardless of their attendance or non- attendance at the annual Alcohol Education Seminar sponsored by the Town.
9. Subject to the provisions of Sections V and VII, the service of food is required in all areas of the licensed premises where alcoholic beverages are served. The service of food shall be available in lounges and waiting areas permitted under Section V of these Regulations and at bars and counters permitted under Section VII of these Regulations.
10. A function room, as referred to in Chapter 138, Section 11, Sub-section E, may be included for the purpose of satisfying the minimum seating capacity of a restaurant as specified in said Sub-division E, but no function room may be separately licensed.
11. In determining whether a facility meets the minimum seating capacity as set forth in Chapter 138, Section 11, Sub-division E, the Select Board shall apply the standards set forth in the State Building Code.

## II. PROCEDURES

1. Each applicant shall submit to the Select Board, along with an application for a license, a plan drawn to scale by a registered architect or engineer, on which shall be shown the following information:
  - a. The net floor area and dimensions of the existing room or rooms, function rooms, and rooms in which alcoholic beverages are to be stored. Net floor area shall be the area of the room or rooms measured between the interior walls exclusive of stairways, service bars, hallways, lobbies, kitchens, waiting areas, etc.
  - b. The location of any proposed service bars, bars, counters, lounges and waiting areas.

- c. The area in which seats or benches are to be securely fastened to the floor forming what are commonly called booths.
  - d. The area in which there are to be moveable or unsecured seats and tables.
  - e. Entrances and exits.
  - f. All rooms not being requested to be licensed, if said rooms are on the same floor as those rooms to be licensed; those rooms shall be labeled as to their function such as kitchens, coatrooms, lobbies, etc.
2. The Select Board shall not act on any application, except to deny the issuance of the License applied for, in instances where the restaurant or function room in question requires additional construction in order to comply with the minimum seating capacity requirements as set forth in Chapter 138, Section 11, Sub-division E.
  3. The Select Board shall not act on any application for a license, or for renewal of a license, unless the applicant submits to the Select Board a written plan for compliance with laws of the Commonwealth of Massachusetts regarding obligations and liabilities of holders of licenses for the sale of alcoholic beverages, including, without limitation, obligations and liabilities regarding the sale of alcoholic beverages to minors and regarding conduct resulting from the consumption of alcoholic beverages sold by a license holder. No such license or renewal of a license shall be granted unless the Select Board approves, in writing, the written plan submitted by an applicant.

### III. PROHIBITIONS

1. Stools or benches at any service bar are prohibited, subject to the provisions of Section VII, Section VIII and Section IX.
2. The sale or service of alcoholic beverages at service bars is prohibited, subject to the provisions of Section VII, Section VIII and Section IX.
3. Service bars are prohibited in locations not expressly approved and authorized by the Select Board in writing.
4. The location of service bars shall not be changed unless approved by the Select Board and unless an amended plan, as described in II.1.a, is submitted to the Board showing the proposed changes.
5. The sale and/or service of alcoholic beverages is prohibited in any area not licensed by the Select Board, and no change in such area or location shall be made without approval of the Select Board and unless an amended plan, as described in II.1.a, is presented to said Board.

6. Subject to the provisions of Section V and Sections VII through IX, no alcoholic beverages shall be sold and/or served at counters, lobbies or any similar type location notwithstanding the fact that meals or other food service may be available at such locations, nor shall the areas comprising such locations and related seating be used in computing whether or not the facility complies with the minimum seating capacity as set forth in Chapter 138, Section 11, Sub-division E.
7. No alcoholic beverages shall be sold and/or served from the premises to be consumed outside the premises, i.e., curb service, window service, take-out service, etc.
8. Subject to the provisions of MGL c. 138, s. 15 (para. 1), no individual, partnership or corporation shall be issued more than one License.
9. Subject to the provisions of MGL c. 138, s. 15 (para. 1), no more than one alcoholic beverages license may be exercised on the same premises at any time.
10. The sale of alcoholic beverages at reduced or discounted prices during specified times, including, without limitation, "happy hours" and "two for the price of one" specials, is expressly prohibited.
11. The sale or service of alcoholic beverages in pitchers is prohibited.

#### IV. HOURS OF SALE AND SERVICE

1. The hours during which the sale and service of alcoholic beverages may be authorized for any licensee shall be from 11:00 a.m. to 12:00 midnight on Mondays through Saturdays, and from 10:00 a.m. to 12:00 midnight on Sundays.
2. The hours during which the sale and service of all alcoholic beverages may be made in a public dining area are further limited to the hours during which the dining room is open and food service is available. In no event shall the sale and service of alcoholic beverages be permitted outside the hours set forth in IV - 1, above.

Notwithstanding the previous sentence, alcoholic beverages may be sold and served to patrons in a public dining area, who have ordered a meal, for up to one hour after the kitchen closes.

3. Notwithstanding any other provision of these Regulations, no orders for service of alcoholic beverages may be taken and no alcoholic beverages may be served after last call. In this context "last call" shall mean thirty (30) minutes prior to the licensed establishment's closing time. In this context "closing time" shall mean the latest time set forth in the License at which alcoholic beverages may be sold on a given day. At last call

no licensed establishment shall serve more than one (1) alcoholic beverage to a patron. All patrons shall vacate a licensed establishment no later than thirty (30) minutes after the licensed establishment's closing time.

V. LOUNGES AND WAITING AREAS

1. A restaurant may offer service of alcoholic beverages in a lounge or waiting area, provided that:
  - a. Seating at licensed bars and counters shall be used in computing whether or not the facility complies with the minimum seating capacity as set forth in Chapter 138, Section 1, Sub-division E;
  - b. The service of food from the restaurant's printed food menu(s) shall be available, but shall not be required, in all such lounges and waiting areas;
  - c. The hours during which the sale and service of all alcoholic beverages may be made in a lounge or waiting area are further limited to the hours during which the restaurant is open and food service is available. In no event shall the sale and service of alcoholic beverage be permitted outside the hours set forth in IV-1 above.

Notwithstanding the previous sentence, alcoholic beverages may be sold and served to patrons in a lounge or waiting area, who have ordered a meal, for up to one (1) hour after the kitchen closes.

- d. No such lounge or waiting area shall constitute a tavern within the meaning of Chapter 138 of the Massachusetts General Laws.
2. All restaurants which seek a license to serve alcoholic beverages in a lounge or waiting area shall submit to the Select Board, along with an application for such a license, a plan which shows the information required by Section II of these Regulations and the location and number of seats and benches. All restaurants which seek to obtain a modification to an existing license to serve alcoholic beverages in such a lounge or waiting area shall submit to the Select Board with the application a plan pursuant to Section II and Section V of these Regulations which shows changes in existing conditions.

VI. POLICY REGARDING TRAINING FOR DISPENSERS AND SELLERS OF ALCOHOLIC BEVERAGES

1. Any licensee holding a license shall participate in a program designed to train its employees in methods of observation and detection to avoid serving or selling alcohol to intoxicated persons and/or minors.

2. All employees, whether full-time, part-time or occasional who engage in the sale, pouring or service of alcohol shall, within thirty (30) days of their date of employment, be required to participate in and receive certification by one of the training programs listed below, or by an in-house trainer certified as a trainer in one of the training programs listed below.
3. Programs that are currently available and meet the requirements of this policy are:
  - Training for Intervention Procedures by Servers of Alcohol (T.I.P.S.)
  - Alcohol Intervention Methods (A.I.M.)
  - Any Insurance Industry approved and qualified program offered by a certified trainer and previously approved by the Select Board
4. Employees shall be re-certified by an approved training program or in-house trainer at intervals of no more than three (3) years.
5. Applications for new or renewal of licenses shall include a roster of employees with the following information for each employee:

Name

Affirmation that employee is at least 18 years of age

Date of hire

Type of training (e.g., T.I.P.S.) received

How training provided (outside class attendance or in-house certified trainer)

Date employee last certified as trained

Expiration date of employee's training

Note: Applications lacking this information will be rejected.

6. Licensees shall maintain a file containing copies of the current certification records for all employees engaged in the sale, pouring or service of alcohol. The file shall be available for examination upon request of the Natick Select Board or the Natick Police Department.
7. Failure to comply with the requirements of this policy, including but not limited to the sale or service of alcohol by an uncertified employee with more than 30 days of service,

may result in a public hearing to determine whether the licensee's license should be suspended, revoked or subject to any other sanction permitted by law.

## VII. BARS AND COUNTERS

Alcoholic beverages may be sold and/or served at bars and counters provided that:

1. Stools or benches shall be permitted at such a bar or counter;

2. The service of food from the restaurant's printed food menu(s) shall be available, but shall not be required, at all such bars and counters;
3. The hours during which the sale and service of all alcoholic beverages may be made at a bar or counter are further limited to the hours during which the restaurant is open and food service is available. In no event shall the sale and service of alcoholic beverages be permitted outside the hours set forth in IV-1 above.

Notwithstanding the previous sentence, alcoholic beverages may be sold and served to patrons at a bar or counter, who have ordered a meal, for up to one (1) hour after the kitchen closes.

4. Seating at licensed bars and counters shall be used in computing whether or not the facility complies with the minimum seating capacity as set forth in Chapter 138, Section 1, Sub-division E;
5. No such bar or counter shall constitute a tavern within the meaning of Chapter 138 of the Massachusetts General Laws.

## VIII. VIOLATIONS

If the Select Board, after a hearing conducted pursuant to M.G.L. c. 138 S64 determines the holder of a license to sell alcohol beverages has violated or permitted a violation of the license or any law of the Commonwealth of Massachusetts; the Board may issue the following penalties:

### **Types/Categories of License Penalties**

Penalties by the Board may consist of any one or more of the following as appropriate: (a) Revocation of license; (b) Suspension of license; (c) Modification of license, including decreasing hours of operation after notice and hearing; (d) Imposition of new conditions on the license; (e) Mandatory participation in alcohol abuse and offense prevention programs; and/or (f) any other reasonable penalty, in the Board's reasonable discretion.

### **Penalty Guidelines**

The penalty guidelines stated in these Regulations are intended to provide indication of the range of penalties the Board may impose if a hearing is held on any offense.

At the discretion of the Chair of the Select Board, a licensee may waive the right to a hearing, and the Board in such cases may make findings and act without a hearing on recommendation of the of the Police Chief or his designee. The licensee may only waive a hearing for a first offense within a 24 month period.

The Board will refer to these guidelines by deciding whether to approve a negotiated recommended resolution.

**A. Base level offenses**

All references in this subsection are to sections of Chapter 138 unless otherwise noted.

1. Sale outside of permitted hours (Chapter 138, Sections 12 and 15);
2. Purchase or procurement by person under age 21 (Chapter 138, Section 34A);
3. Employment by Licensee of person under age 18 for direct handling or selling of alcohol;
4. Sale or delivery to a person under age 21 for own use or for use of another (Chapter 138, Section 34);
5. Sale to an intoxicated person (Chapter 138, Section 69);
6. Hindering or delaying investigation (Chapter 138, Section 63A);
7. Failure to post notice of penalty for driving under the influence and driving while drinking from open container of alcoholic beverage (Chapter 138, Section 34D);
8. Failure to comply with section 204 CMR 4.03 ("Prohibition Against Happy Hours and Discounted Sales") of the Alcoholic Beverages Control Commission regulations;
9. Failure to Comply with the Town of Natick's rules and regulations.

**B. Aggravating Factors**

1. Failure to request identification card, operator's license, or passport;
2. Juvenile appearance of purchaser;
3. Use of altered identification;
4. Refusal to cooperate in investigation;
5. Multiple sales on same occasion;
6. Quantity of beverage sold;



7. Staff not suitably trained;
8. Unregistered server;
9. Server unable to provide Server ID card upon request;
10. Underage server;
11. Violations of other laws such as: prostitution, solicitation, drugs, gambling, disorderly conduct, cigarette sales to minor;
12. Concealing violation(s);
13. Furnishing false information to investigator;
14. Exceeding lawful capacity of premises;
15. Intimidating or coercing witnesses or attempting to do so;
16. Offense occurring while under suspension of penalty;
17. Sale occurring while license suspended; and/or
18. The occurrence of any personal injuries or fatalities related to the underlying violation.

**C. Previous Violations**

1. Same offense.
2. Different offense.
3. Recent prior offense.
4. Same Manager.
5. Same server.
6. Severity of prior penalty.
7. Offense while under suspension of prior penalty.

**D. Consequential Misconduct Related to an Underlying Violation**

1. Operating under the influence.

2. Causing personal injury or death.
3. Causing property damage.
4. Disturbance of the peace.
5. Domestic violence.

#### **E. Mitigating Factors**

1. Reasonable reliance upon an identification card or operator's license for proof of identity or age. (Chapter 138, Section 34B);
2. Acceptance of responsibility as shown by:
  - a. Substantial and voluntary assistance offered in investigation
  - b. Public acknowledgment of responsibility
  - c. Agreement to participate in training program by Licensee, manager, and servers
  - d. Prompt notice of decision not to contest charge and agreement to proposed recommended resolution.
  - e. Agreement to participate in an effective program to detect and prevent future offenses.
3. Attendance at the Town of Natick's Annual Alcohol Education Seminar.
4. Successful passing of alcohol compliance stings.
5. Random compliance checks without violations.

#### **Sanctions for Violations**

1<sup>st</sup> Violation – Letter of reprimand and/or suspension of license up to 3 days or both.

2<sup>nd</sup> Violation - Letter of reprimand AND suspension of license from 3 to 10 days.

3<sup>rd</sup> Violation - Letter of reprimand AND suspension of license from 10 to 30 days.

4<sup>th</sup> Violation – Revocation of license.

For the purpose of counting violations, prior actions on other occasions by the Alcoholic Beverage Control Commission taken against the license holder will be counted as violation(s) that will be applied to the guidelines above.

If the Board finds at its hearing that the license holder's actions were grievous the Board may add an additional violation to the number of violations being applied to these guidelines. Only violations that have occurred within the past 3 years (counted from date of last violation) will be counted.

## **Police Department Recommendation; Negotiation Procedure; Record Keeping**

The Police Chief or his designee is authorized to negotiate with any authorized representative of the Licensee the terms upon which the Police Department will recommend to the Board that an offense be resolved.

Any such negotiated recommended resolution must be in writing, signed by the Manager of Record or designated representative of the Licensee charged with the offense and approved by the Police Chief. The recommendation must include a statement detailing the facts determined in the Police Chief's or his designee's investigation. The recommended resolution is not binding upon the Town unless and until approved by the Board.

If the Police Chief or his designee and the Manager of Record and/or an authorized representative of the Licensee cannot agree on a recommended resolution, the Police Chief or his designee will make any additional investigation it deems necessary for a complete presentation of the facts and will file a written report with the Board.

The Board may consider, but is not required to accept, a negotiated resolution recommended by the Police Department. The Board is empowered to consider alternative penalties consistent with this Article XIV and the Laws.

The Police Chief or his designee and the Board will maintain a public record of offenses and their disposition that will be indexed according to the Licensee, Manager or Assistant Manager, server and purchaser involved.

The Board shall receive annual reports from the Police Chief or his designee and/or Licensing Administrator detailing violation of these regulations and the penalties imposed by the Board for said violations by November 1 of each year. The Board will use these reports to analyze the factors are commonly associated with violations, such as over serving, underage serving, failure of serving training or registration, etc. This process will allow the Board to periodically review this policy and recommend any areas of the policy that need to be amended, and/or updated.

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Paul R. Joseph, Chair

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Michael J. Hickey, Jr., Vice-Chair

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Bruce T. Evens, Jr., Clerk

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Kathryn Coughlin.

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Richard Sydney

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Amended September 7, 2022

Amended: