

## **Policy for Service of Alcoholic Beverages by Restaurants on a "Bring Your Own Bottle" Basis**

The Swampscott Select Board, as the local licensing authority, hereby adopts this policy for approval of "Bring Your Own Bottle" (BYOB) alcohol service by restaurant establishments not holding an alcoholic beverages license under Chapter 138 of the General Laws. For purposes of this policy, an "establishment" shall mean a full-service commercial food service enterprise holding a common victualler's license for the sale of food to the public. "Full service" shall mean having a full wait staff and sit down and eat-in dining services for its patrons, which represents the primary portion of its business and not less than 75% of its gross revenue, as opposed to take-out service.

General Requirements: An establishment requesting approval to serve alcohol under this BYOB policy agrees to abide by all legal standards to ensure safe and proper service to patrons in accordance with all requirements and restrictions of the Massachusetts General Laws, the Alcoholic Beverages Control Commission (ABCC), and the rules and regulations of the Town of Swampscott. Any BYOB approval shall be evidenced by a permit and shall be subject to the following standard conditions. In addition, the Select Board may impose such additional conditions as it determines are necessary or appropriate. BYOB approval is at the sole discretion of the Select Board. There is no entitlement to approval.

Applicant shall complete the Town of Swampscott BYOB Permit application, and once the permit is issued, it must be visibly displayed at the establishment.

### **Permit Requirements**

1. Alcoholic beverages which may be brought into the establishment are limited to malt beverages and wine, as defined in G.L. c.138, §1.
2. Alcohol beverages must be unopened when the patron enters the establishment.
3. The establishment is responsible for training all staff in the correct procedures pertaining to this Policy.
4. The manager, and all waitstaff, must successfully complete an industry-approved alcohol training program such as, but not limited to, Training for Intervention Procedures by Servers (TIPS). Certifications shall be renewed upon expiration and valid certificates must be submitted to the local licensing authority on an annual basis.
5. Alcoholic beverages are to be consumed inside the establishment's premises only. The establishment shall provide bottle openers and glasses for consumption.
6. No alcoholic beverages are to be consumed by any person under the age of 21, as sale or delivery to such a person is a violation of G.L. c.138, §34. It is the responsibility of the establishment to ensure that patrons who consume alcoholic beverages on the premises are at least 21 years of age.
7. Alcoholic beverages are not to be consumed on the premises by an intoxicated person.

8. Patrons bringing in alcoholic beverages for their personal consumption must order food. No more than one (1) 750 ml bottle of wine for every one or two patrons 21 years of age or older; or 36 ounces of malt beverages, including but not limited to beer or hard seltzer, per person 21 years of age or older shall be permitted.
9. Consumption of alcohol must be limited to the hours of operation as indicated on the Common Victualler's license issued to the establishment.
10. The establishment cannot charge the consumer, either directly or indirectly, for consuming alcoholic beverages on the premises, whether by a service fee, glass fee, table fee, corking fee, or otherwise.
11. No alcoholic beverages may be served or handled by the employees of the establishment. This includes storing, refrigerating, or pouring alcoholic beverages.
12. No alcoholic beverages may be purchased or provided from within the premises. BYOB approval applies only to beverages brought to the premises by patrons.
13. Patrons cannot leave the premises with an open container of alcohol except in compliance with the requirements of ABCC regulation 204 CMR 2.18. A patron who wishes to remove their unfinished bottle of wine from the premises must have the establishment ensure that the bottle is securely resealed and placed in a one-time, tamper proof transparent bag as provided for in 204 CMR 2.18. No partially consumed container of beer may be taken from the premises by a patron. Remaining unused wine and beer not removed by a patron must be disposed of by the establishment in an acceptable manner that meets all applicable laws and regulations. No unused wine or beer may be consumed by any other party or establishment staff.
14. The Applicant shall complete a Criminal Offenders Record Information ("CORI") authorization form and said report shall be provided to the Select Board or its authorized agent. In the event the Select Board or its authorized agent determines that the information found in the CORI review would render the Applicant unsuitable for a BYOB Permit as holding same would have a detrimental impact on the health, safety, or welfare of the citizens of Swampscott, then this shall be a reason for denial of said Permit.
15. Permittees must abide by all laws of G.L c. 138, the rules and regulations of the Alcoholic Beverages Control Commission and the Town of Swampscott.
16. Any establishment which, in the conduct of its business either directly or through its agent causes or permits any violations of state or local statutes or regulations under this BYOB Policy or permits any other illegalities on its premises shall be subject to a disciplinary hearing by the Select Board for modification, suspension or revocation of its common victualler license.
17. The establishment shall immediately report to the Swampscott Police Department any situation in which patrons consuming alcohol appear to present a danger to themselves or others, either on the premises or elsewhere, by virtue of such consumption.

18. The Select Board shall issue no more than three (3) BYOB permits annually.
19. BYOB license shall expire on December 31<sup>st</sup> annually and may be renewed each year.
20. The annual fee for a BYOB Permit shall be waived for first-year applicants. Following the first year, the annual fee for a BYOB Permit shall be \$400.00.

### **Liability Requirements**

1. Applicant must submit proof of liquor liability insurance for bodily injury or death for a minimum amount of \$1,000,000 on account of injury to or death of 1 person, and \$2,000,000 on account of any 1 accident resulting in injury to or death of more than 1 person.
2. Proof of liquor liability insurance for bodily injury or death for a minimum amount of \$1,000,000 on account of injury to or death of 1 person, and \$2,000,000 on account of any 1 accident resulting in injury to or death of more than 1 person is required as a condition to renew a BYOB permit.

### **Enforcement**

1. Permittees must allow compliance inspection by the members of the Swampscott Police Department or other agent of the Alcoholic Beverages Control Commission.
2. Any permittee who violates G.L. c.138, any provision of this Policy or any of the conditions of their permit may be subject to a public hearing with the local licensing authority which may result in suspension or revocation of their permit.

Adopted by the Swampscott Select Board on November 16, 2022.