

Amherst Board of License Commissioners

Alcohol Food Service Regulations

Adopted by the Board of License Commissioners on September 23, 2019.

Section 1: Purpose

The purpose of these regulations is to protect the health and safety of the inhabitants of the Town of Amherst by ensuring that there is food consistently available for patrons of establishments licensed to sell alcohol for on-premises consumption.

Section 2: Authority

These regulations are adopted under authority of Massachusetts General Laws c.138 and Amherst Home Rule Charter §6.3.

Section 3: Definitions

As used throughout these regulations, the terms contained within M.G.L. c. 138 and M.G.L. c. 140 will have the meaning as defined by statute. In addition, and to the extent not inconsistent with M.G.L. c.138 and c.140, the following terms will have the following meanings:

“**Board**” – the Amherst Board of License Commissioners.

“**Establishment**” – an entity within the Town of Amherst holding a Common Victualler License or Alcohol License, or the premises thereof.

“**Restaurant**” – an establishment holding a Restaurant type On-Premises alcohol license issued under M.G.L. c. 138 §12.

“**Snacks**” – prepackaged foodstuffs that are stored at room temperature and do not require a Food Establishment License to serve, and may be consumed in a casual manner without the use of utensils, e.g. popcorn, potato chips, pretzels, etc.

Section 4: Food Service Requirements

Section 4.00 Minimum Food Service

All establishments holding an M.G.L. c. 138 §12 On-Premises alcohol license shall, at a minimum, have snacks available to patrons at all times alcohol is being served. If there is no food being prepared and served on-site, these snacks shall be free of charge to all patrons consuming alcohol.

All establishments holding a §12 license shall provide patrons with a glass of tap water at least 16 fl oz in volume free of charge upon request at any time.

All establishments holding a §12 license shall also hold a Common Victualler license issued by the Town of Amherst.

Section 4.01 Restaurant Licensees

Establishments holding a §12 Restaurant license shall hold a Food Service Establishment license from the Amherst Health Department and shall provide a varied selection of food for consumption by patrons during the hours food is being prepared and served on-site.

During hours that alcohol is being served but food is not being prepared and served on-site, (for example, a restaurant where the kitchen closes at 9:00 PM but alcohol service continues until 11:00 PM), Restaurant licensees shall have snacks available free of charge to patrons who have been served alcohol. If there are more than two hours per day in which a Restaurant licensee serves alcohol but does not have freshly prepared food available, the licensee must also allow patrons to bring in outside food or have it delivered to the establishment and to consume it on-site free of charge during these hours. If take-in and delivery is required, licensees shall not discriminate as to the type of food brought in or its origin; licensees shall not make exclusive deals with other restaurants or food establishments to provide outside food.

While, generally, a Food Service Establishment license is required for establishments regulated under Section 4.01, the Board will entertain petitions by licensees holding a Retail Food license and having a rich, varied and substantive menu to be regulated under this Section.

Section 4.02 General On-Premises Licensees

Establishments holding a §12 General On-Premises license shall, at a minimum, have snacks available to patrons at all times alcohol is being served. These snacks shall be available free of charge to all patrons who have been served alcohol. General On-Premises licensees must also allow patrons to bring in outside food or have it delivered to the establishment and to consume it on-site free of charge. Licensees shall not discriminate as to the type of food brought in or its origin; licensees shall not make exclusive deals with other restaurants or food establishments to provide outside food.

General On-Premises licensees are encouraged to have additional food available for patrons on-site.

Section 4.03 Other Licensees

These regulations shall not apply to service in private rooms or function rooms within a Hotel licensed premises, but shall apply to any parts of a Hotel premises that are open to the public. For those public areas, Hotel licensees may choose at the time of renewal whether they would like to be regulated in accordance with Section 4.01 or Section 4.02.

Clubs, War Veteran's Clubs, any other §12 licensees, seasonal licensees, and Farmer Series licensees may choose at the time of renewal whether they would like to be regulated in accordance with Section 4.01 or Section 4.02.

Section 5: Exemptions

Non-profit, educational, or governmental organizations making less than 50% of their annual income from alcohol sales may petition the Board for an exemption from these requirements.

These regulations do not apply to establishments or premises licensed under M.G.L. c. 138 §14 or §15.

Section 6: Review Procedure

Applicants for a new §12 license or applicants for the transfer of a §12 license shall provide to the Board a description of their hours of alcohol service and what food will be available at the various times of day alcohol is served.

Licensees regulated under Section 4.01 shall provide a full menu and describe what the hours of the kitchen will be and, if applicable, describe the snacks or other food provided after hours and what steps are taken to accommodate take-in and delivery patrons.

Licensees regulated under Section 4.02 shall provide a description of what snacks will be provided and what food may be available above and beyond these requirements. They shall also describe what steps are provided to accommodate take-in and delivery patrons (e.g., providing cutlery and dishware at no charge, providing ample trash & recycle receptacles, etc).

Licensees looking to change their license type (e.g., from Restaurant to General On-Premises) shall follow the same review procedure as a new establishment.

Licensees seeking renewal of their liquor license during the annual license renewal process shall submit an overview of their food-service plan (including menus, if applicable, and a statement of how they remain in compliance with these regulations) as a part of their renewal application.

Licensees do not need to obtain Board approval for changing menu options; however, if there is a significant change in the menu or establishment (change in food style, significant remodeling, rebranding) the licensee shall come back before the Board for a review.

At any time, the Board may review a licensee's food selections and practices on its own motion at any time, including in connection with a license renewal.

The Board shall review food service selections & practices at a Public Meeting. The Board shall be the final authority to determine whether menu selections and snack selections are sufficient for the purposes of this Regulation.

Section 7: Enforcement

The provisions of this regulation may be enforced by any available means in law or equity, including but not limited to M.G.L. c.138, 204 CMR, and non-criminal disposition pursuant to M.G.L. c.40 §21D.

When enforced through non-criminal disposition, the penalties shall be not less than \$100.00 per each violation, with each calendar day constituting a separate violation.

Any licensee violating any provision of these regulations will be subject to a civil penalty of \$100.00 for the 1st offense, \$200.00 for the 2nd offense within a 12-month period, and \$300.00 for the 3rd and subsequent offenses within a 12-month period.

The Board, in their discretion, may suspend and/or revoke the alcohol license and/or Common Victualler license of an establishment after one or several violations of these regulations.

Section 8: Validity

These regulations shall take effect upon their approval by the Board of License Commissioners and shall supersede all previous regulations relating to food service requirements, including statements on licenses issued as of the date of the adoption of these regulations.

Section 9: Severability

If any section, paragraph, subdivision, clause, or provision of these regulations shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of these regulations shall be deemed valid and in effect.