

TOWN OF STONEHAM

BRING YOUR OWN BEVERAGE (BYOB) REGULATIONS

Sec. 1. **Purpose.** The purpose of these regulations is to allow patrons to bring alcoholic beverages into an establishment for their personal consumption in a manner that is compliant with M.G.L. c.138.

Sec. 2. **Authority.** These regulations are adopted under authority of Massachusetts General Laws c.138 and the applicable provisions of the Town Code of the Town Stoneham.

Sec. 3. **Definitions.** The following words as used in this regulation, unless the context otherwise requires, shall have the following meanings:

Alcohol – per M.G.L. c.138 §1 shall mean all alcohol other than denatured alcohol or alcohol described in section three hundred and three A of chapter ninety-four of the Massachusetts General Laws.

Alcoholic beverages – per M.G.L. c.138 §1 shall mean any liquid intended for human consumption as a beverage and containing one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit.

Beer – shall be synonymous with “malt beverage”.

BYOB – “bring your own beverage” – bringing alcoholic beverages into an establishment by a patron for consumption on the premises by the patron.

Common Victualler – any establishment that has on its premises the ability to assemble, prepare, or cook food and has seating for the purpose of consuming that food on the premises.

Licensing authorities – the Alcoholic Beverages Control Commission of the Commonwealth of Massachusetts or the local licensing authorities, or both, as the case may be.

Liquor or cordial – all alcoholic beverages manufactured or produced by mixing or redistilling or redistilling neutral spirits, brandy, gin, or other distilled spirits with or over fruits, flowers, plants or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolations, or maceration of such materials and containing no less than two and one-half percent sugar by weight.

Local licensing authorities – the Stoneham Select Board.

Malt beverages – all alcoholic beverages manufactured or produced by the process of brewing or fermentation of malt, with or without cereal grains or fermentable sugars, or of hops, and containing not more than twelve per cent of alcohol by weight.

Wine – all fermented alcoholic beverages made from fruits, flowers, herbs or vegetables and containing not more than twenty-four per cent of alcohol by volume at sixty degrees Fahrenheit, except cider containing not more than three per cent, or containing more than six per cent, of alcohol by weight at sixty degrees Fahrenheit.

Sec. 4. **Applicability.** No person will consume alcoholic beverages on any premises open to the public for business unless a license for such is issued by the Select Board.

No patron of a food establishment shall bring their own malt beverage, wine, or other alcoholic beverages into a food establishment for consumption in those premises unless the establishment has been duly licensed for BYOB by the Select Board.

An establishment that wishes to allow BYOB must first obtain a BYOB license from the Select Board.

Sec. 5. **Eligibility.** A BYOB license: a) Is only available for establishments that provide meals and that have been issued a Common Victualler's license. b) Shall only be issued in the name of the manager and shall not be transferred without prior approval of the licensing authority. c) Only applies to malt beverages and wine, patrons are not permitted to carry in hard liquor. d) Alcoholic beverages may only be consumed between the hours of 11:00am and 11:00pm by patrons seated at a table with a meal being served by the licensee. Buffet arrangements are acceptable provided that the food and beverages are consumed only at a dining table.

Sec. 6. **Exercising the BYOB license.** The BYOB licensee, employees, or establishment may not deliver alcoholic beverages or sell alcoholic beverages directly or indirectly. a) No alcoholic beverages may be purchased or provided from within the premises. b) The BYOB licensee, employees or establishment cannot charge the patron either directly or indirectly to consume alcoholic beverages on the premises: Any service fee, glass fee, table fee, or corkage fee, etc. would be considered an indirect sale and is illegal without an alcoholic beverages license. c) The BYOB licensee, employees, or establishment may not handle or serve alcoholic beverages: This includes storing, refrigerating, or pouring alcoholic beverages. This would be considered a delivery of alcohol and is illegal without an alcoholic beverages license. [This does not preclude the BYOB licensee from disposing of alcoholic beverages left on the premises by the patron.] d) Patrons are allowed to carry in alcoholic beverages only for personal consumption. Patrons may carry in no more than 750ml of wine for every one or two patrons 21 years of age or older, or up to 36oz of beer per patron 21 years of age or older. e) Patrons bringing in alcoholic beverages for their personal consumption must order food. f) Alcoholic beverages brought into the premises must be in previously unopened containers. g) Wait staff serving and bus staff clearing tables of patrons with carry-in alcoholic beverages must be 18 years of age or older. h) Patrons under the age of 21 shall not be allowed to consume carry-in alcoholic beverages. It shall be the responsibility of the licensee to ensure that patrons who consume alcoholic beverages on the premises are 21 years of age or older. i) Alcoholic beverages are not to be consumed on the premises by an intoxicated person. j) Patrons cannot leave the premises with an open container of alcohol in violation of the Stoneham Town Code and open container laws, any unconsumed

alcoholic beverages must be left on the premises and disposed of immediately by the staff. k) The BYOB licensee is responsible for training employees in the correct procedures with respect to BYOB laws and to this policy. l) No BYOB licensee permit any product containing cannabis or marijuana, as defined in 935 CMR 500.002 to be consumed on the premises. m) Licensees must abide by all laws of M.G.L. c.138, the rules and regulations of the Alcoholic Beverages Control Commission and Stoneham Select Board, and ordinances of the Town of Stoneham. n) Licensees must allow inspection by members of the Stoneham Police Department or other agent of the Select Board.

Sec. 7. **BYOB Licensee Rules and Policies.** Nothing in these regulations is construed to prevent the BYOB licensee from making rules for their establishment with regard to allowing BYOB, not in conflict with these regulations.

Sec. 8. **BYOB Licenses – Expiration.** BYOB licenses shall expire on December 31st annually and may be renewed.

The Select Board shall determine the annual fee for a BYOB license.

Sec. 9. **Enforcement.** The provisions of this regulation may be enforced by any available means in law or equity, including but not limited to Massachusetts General Laws chapter 138 and 204 CMR and enforcement by noncriminal disposition pursuant to M.G.L. c.40 §21D. When enforced through non-criminal disposition, the penalties shall be \$100.00 per each violation, with each calendar day constituting a separate violation. Any BYOB licensee violating any provision of these regulations or any of the conditions of their license will be subject to a civil penalty of \$100.00 for the 1st offense, \$200.00 for the 2nd offense, and \$300.00 for the 3rd and subsequent offense(s), &/or suspension or revocation of their license.

Sec. 10. **Validity.** 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.

These regulations shall take effect upon their approval by the Select Board and shall supersede all previous regulations dealing with BYOB.