

## **COMMON VICTUALLER “BYOB” POLICY**

### **1. General Rule**

No common victualler shall permit alcoholic beverages to be consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler except pursuant to a valid license issued under the provisions of chapter 138 of the General Laws or pursuant to this policy.

### **2. BYOB Permission for Alcoholic Beverages**

The Board of Selectmen may grant permission in writing to a common victualler to allow alcoholic beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler (“BYOB”) provided that:

- a.** Application for BYOB permission shall be made to the Board of Selectmen at the time of the initial or renewal application for a common victualler’s license or any time during a calendar year for the initial application for BYOB permission for an existing establishment having a common victualler’s license. The determination whether to grant BYOB permission is solely in the Board of Selectmen’s discretion.
- b.** No BYOB permission shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.
- c.** No BYOB permission shall be issued to any fast food restaurant, defined as a restaurant with seating but no table service.
- d.** BYOB is not allowed in establishments with a liquor license issued under the provisions of chapter 138 of the General Laws.
- e.** BYOB permission will not be granted to establishments licensed under the provisions of chapter 138 of the General Laws whose license has been suspended or revoked, or to any person, firm, corporation, association or other combination of persons affiliated, directly or indirectly, with such licensee through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever.
- f.** Before approving or renewing BYOB permission, the Board of Selectmen may cause an examination or examinations to be made of the premises of the applicant or may otherwise review such evidence as the Board deems credible to determine whether such permission is appropriate.
- g.** The Board may refuse to grant BYOB permission in certain geographical areas of the Town, where the character of the neighborhood may warrant such refusal.

- h.** The common victualler shall comply with any and all conditions imposed by the Board of Selectmen with respect to such BYOB permission, including, without limitation, conditions with respect to hours and days during which such alcoholic beverages may be consumed in the restaurant and the insurance which shall be carried with respect to operation of the restaurant having BYOB permission.
- i.** BYOB permission is not transferable between persons or locations except with the advance permission of the Board and then only if consistent with the public interest. BYOB permission shall be revocable as provided herein.
- j.** Approval of BYOB permission under this policy shall not create any property rights; rather such permission is authorized solely to serve the public need and in such a manner as to protect the common good.
- k.** Every approval of BYOB permission under the provisions of this policy shall expire on December thirty-first of the year of issue, subject, however, to earlier revocation or cancellation within its term. Renewal of BYOB permission is not automatic and will be reviewed by the Board of Selectmen each year.

### **3. Obligations of a Common Victualler Granted BYOB Permission for Alcoholic Beverages**

Any common victualler approved for BYOB permission shall at all times comply with the following requirements:

- a.** The common victualler shall not permit any person under the age of twenty-one to consume alcoholic beverages in the restaurant. Any person bringing or accompanying any person bringing alcoholic beverages into a restaurant having BYOB permission shall, upon request of the common victualler, a Medway police officer, or an agent of the Board of Selectmen, state his name, age, and address, and produce a valid identification document. The common victualler shall verify by appropriate picture identification that any patrons and customers consuming such alcoholic beverages in the restaurant are twenty-one years of age or older. Any common victualler, or agent or employee thereof, under this policy who reasonably relies on a valid operator's license issued by the registry of motor vehicles pursuant to section eight of chapter ninety, a valid liquor purchase identification card issued pursuant to chapter 138, section 34B, a valid passport issued by the United States government or by the government of a foreign country recognized by the United States government, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of its BYOB permission or common victualler's license by virtue of that individual's under-age drinking in the restaurant.
- b.** The common victualler shall only allow alcoholic beverages to be consumed in the dining room or dining rooms of the restaurant.
- c.** Employees are not permitted to handle alcoholic beverages in any way, including but not limited to mixing, uncorking, or chilling. Consumption of alcoholic beverages must take

place completely inside the restaurant premises. No glasses or opened bottles containing alcoholic beverages are allowed off the premises.

- d. The common victualler shall ensure that alcoholic beverages are not consumed in the restaurant by customers or patrons so as to cause or contribute to their becoming unruly and/or a danger to themselves or others either in the restaurant or on the public ways upon leaving the restaurant.
- e. The common victualler shall immediately report to the Medway Police Department any situation in which customers or patrons consuming alcohol in the restaurant appear to present a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of alcoholic beverages.

#### **4. Fee**

Annual fee: \$200.

#### **5. Suspension, etc., of BYOB Permission**

The Board of Selectmen may suspend, modify, cancel, deny, or revoke BYOB permission for any violation of this policy.

The Board of Selectmen may suspend, modify, cancel, deny, or revoke a common victualler's license in the event a common victualler has committed multiple, willful, or repeated violations of this policy.

The Board of Selectmen may decline to renew a BYOB permission at its sole discretion. In case of suspension, modification, cancellation, denial, refusal to renew, or revocation of any BYOB permission or any license as aforesaid, no abatement or refund of any part of the fee paid therefor shall be made.

#### **Severability**

In case any section, paragraph or part of this policy is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

#### **Effective Date**

This policy shall take effect January 7, 2013.