



Haverhill

License Commission, Room 118
4 Summer Street, Haverhill, MA 01830
Phone: 978-420-3623 Fax: 978-373-8490
License_comm@cityofhaverhill.com

The City of Haverhill Carry In Alcoholic Beverages Policy

Policy:

It shall be the policy of the City of Haverhill that no common victualler shall permit intoxicating beverages to be consumed in a duly licensed Establishment which is owned, operated, leased, maintained or otherwise controlled by the common victualler except pursuant to a valid license issued under the provisions of M.G.L. Chapter 138 or pursuant to and in strict conformity with this Policy and the regulations adopted by the Board pursuant to this Policy.

Additionally, the City of Haverhill through its licensing authority, has determined to allow the possession and/or consumption of "Carry-in Alcoholic Beverages" by a person of lawful age at those commercial food establishments which have a Common Victualler License under M.G.L. chapter 140 and have been issued a Carry-in Alcoholic Beverages License by the Haverhill License Commission Authority ("LLA"). The issuance of a Carry-in Alcoholic Beverages License is permissive and at the sole discretion of the LLA.

A Carry-in Alcoholic Beverages License shall be issued for no more than one year and must be reapplied for annually at the time of renewal of the Common Victualler's License. The hours during which the consumption of Carry-in Alcoholic Beverages is allowed shall be at the discretion of the LLA and shall be specified on the License. A Carry-in Alcoholic Beverages License shall be issued in the name of the manager at the Establishment and shall not be transferred to a new manager of the Establishment without the prior approval of the LLA.

The City of Haverhill Carry In Alcoholic Beverages Regulations

1.0 Definitions:

- 1.1 Alcoholic Beverages – For the purposes of these Carry-in Alcoholic Beverages Regulations, shall refer to wine and malt beverages only in the quantities set forth below.
- 1.2 Assist – shall mean to provide help in the opening of or handling the Alcoholic Beverages in any manner including but not limited to the clearing of glasses or containers used in the consumption of alcohol.
- 1.3 Carry-in Alcoholic Beverages – wine and malt beverages in previously unopened containers.

1.4 Establishment – Any premises for which a Common Victualler license has been issued or can be issued by the Haverhill License Commission in conformity with any and all regulations of the City of Haverhill applicable to the Common Victualler License.

1.5 Intoxicating Beverages – Intoxicating beverages as defined in M.G.L. Chapter 138, Section 1.

1.6 License - Carry-in Alcoholic Beverage License

1.7 Licensee – The entity holding a valid Carry-in Alcoholic Beverage License

1.8 Licensing Authority - Haverhill License Commission (LLA).

1.9 Premises – The area of the Establishment duly licensed under the provisions of these Carry-in Alcoholic Beverages Regulations.

1.10 Food: Menu must include an entrée, sandwiches or other principal food items and be available at all times when alcoholic beverages are being consumed.

2.0 Carry-in Alcoholic Beverages License Regulations

Any Establishment which has been issued a Common Victualler's License and which applies for a Carry-in Alcoholic Beverages License allowing the consumption of Carry-in Alcoholic Beverages on premises must comply with all of the following regulations unless otherwise waived by the LLA.

2.1 The Application for a Carry-In Alcoholic Beverage License may be submitted at the same time as the Common Victualler License Application or anytime thereafter.

2.2 The Establishment must not have an alcoholic beverages license under the provisions of G.L. c. 138.

2.3 No Carry-In Alcoholic Beverage License shall be issued to any applicant whose license for the premises issued under the provisions of M.G.L. Chapter 138 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.

2.4 The Applicant shall not be less than twenty-one (21) years of age and must be a person of good character in the City of Haverhill.

2.5 Only those Carry-In Alcoholic Beverage License applicants operating with thirty (30) or fewer seats or operating a bona fide, non-profit arts and cultural organization, at the discretion of the LLA are eligible except, where the character of the neighborhood may warrant refusal or when not allowed as a permitted use under a Special Permit or Zoning Bylaw.

2.6 Patrons are allowed to carry in Carry-in Alcoholic Beverages only for personal consumption at the Establishment. No more than one 375 ml of wine per patron over the age of 21, or two containers of a malt beverage containing up to 24 ounces of beer in total, per patron over the age of 21, will be permitted for consumption. There shall be no consumption of Carry-In Alcoholic Beverages from a pitcher or carafe or in any container or glass which has a capacity in excess of sixteen (16) fluid ounces.

2.6.1 It shall be the obligation of the manager of the Establishment to ensure compliance with these consumption limits.

2.7 Patrons bringing in Carry-in Alcoholic Beverages must consume food (as defined in 1.10) on the premises.

2.8 No Carry-In Alcoholic Beverage License shall be issued to any establishment, which is part of a chain or franchise.

2.9 No Carry-in Alcoholic Beverages shall be consumed by any person under the age of twenty-one (21) in violation of G.L. c. 138 §34. The Licensee shall verify by appropriate picture identification that any patrons and customers consuming such Carry-in Alcoholic Beverages in the Establishment are twenty-one (21) of age or older. It will be the responsibility of the on-site manager to ensure that this requirement is met and report violations to the Haverhill police in a timely manner.

2.10 Carry-in Alcoholic Beverages shall not be consumed by intoxicated persons. The Licensee shall ensure that Carry-in Alcoholic Beverages are not consumed in the Establishment 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 Establishment or on the public ways upon leaving the Establishment. The Licensee is hereby authorized to confiscate all remaining Carry-in Alcoholic Beverages from any patron who shall be deemed either intoxicated or deemed to be unruly and/or a danger to themselves or others. The Licensee shall immediately report to the Haverhill Police Department any situation involving customers or patrons who appear to be a danger to themselves or others either in the Establishment or on the public ways upon leaving the Establishment by virtue of consuming Carry-in Alcoholic Beverages.

2.11 The management or employee of the Establishment who Assists a patron with Carry-in Alcoholic Beverages must be over 18 years of age. No staff under the age of 18 shall be allowed to clear from the tables or premises containers from which Carry-in Alcoholic Beverages were poured or consumed.

2.12 Licensees may set a “corkage fee” on bottles at their own discretion.

2.13 Carry-in Alcoholic Beverages shall be consumed inside the area of the premises licensed for consumption as delineated in the initial application, except that no outdoor deck or patio possession or consumption shall be permitted unless a waiver is requested in writing at the time of application and granted by the LLA.

2.14 In accordance with the City of Haverhill Ordinance Chapter 100 §1, no Carry-in Alcoholic Beverages may be removed from the premises which have been opened but not fully consumed on the premises except in one-time, secure tamper-evident bags specifically designed for this purpose, as set forth in 204 CMR 2.00.

2.15 All Carry-in Alcoholic Beverages which have not been opened must be removed from the premises by the patron, or a member of the patron’s party who is at least 21 years of age, who carried them into the premises.

2.16 All employees, including but not limited to the manager of the Establishment, legally authorized to handle alcohol, must be trained in safe service of alcohol training (commonly referred to as TIPS) and proof of current and valid training shall be submitted to the LLA.

2.17 Nothing in these regulations shall preclude an Establishment from imposing additional limits or restrictions on patrons with Carry-in Alcoholic Beverages.

2.18 The Applicant shall complete the Carry-in Alcoholic Beverages License Application and once the Carry-in

Alcoholic Beverages License is issued it must be visibly displayed at the Establishment.

2.19 The Applicant shall complete a Criminal Offenders Record Information (“CORI”) authorization form and said report shall be provided to the LLA or its authorized agent. In the event the LLA determines that the information found in the CORI review would render the Applicant unsuitable for a Carry-In License as holding same would have a detrimental impact on the health, safety or welfare of the citizens of Haverhill, then this shall be a reason for denial of said License. No Carry-in Alcoholic Beverages License shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.

2.20 The Carry-in Alcoholic Beverages License shall not be transferable between persons or locations except with advance permission of the LLA and then only if consistent with public interest. The Carry-in Alcoholic Beverages License 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.

2.21 The Licensee shall not permit the consumption of Carry-in Alcoholic Beverages or any other intoxicating beverages by the manager or employees while on duty.

2.22 The Licensee shall post conspicuously a copy of the penalties set forth in Massachusetts General Laws chapter 90 section 24 (1) for operating a motor vehicle under the influence of alcohol in the form that such a posting is distributed by the Massachusetts Alcoholic Beverages Control Commission (ABCC).

2.23 The Licensee shall post conspicuously a copy of the penalties set forth in Massachusetts General Laws chapter 90 section 24 (1) for operating a motor vehicle while drinking from an open container in the form that such a posting is distributed by the Massachusetts Alcoholic Beverages Control Commission (ABCC).

2.24 Licensee must provide a Certificate of Liability Insurance which includes Liquor Liability, in the form provided in M.G.L. Chapter 138, section 12, for bodily injury or death for a minimum amount of \$1,000,000.00 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.

3.0 Enforcement

3.1 These regulations may be monitored, with and without notice, by agents of the LLA and the City of Haverhill Police Department.

3.2 If the Establishment is not operated in a manner that is consistent with this Policy or any regulation promulgated by the LLA pursuant to this Policy, the LLA may, after written notice to the Carry-in Alcoholic Beverages Establishment and reasonable opportunity for a hearing, modify, suspend, cancel, deny, refuse to renew or revoke the Carry-in Alcoholic Beverages License. In the event of suspension, modification, cancellation, denial, refusal to renew or revocation of any Carry-in Alcoholic Beverages License, no abatement or refund of any part of the fee paid shall be made. A violation of this policy may also result in the suspension, modification, cancellation, denial, refusal to renew or revocation of the Common Victualler License. In the event of suspension, modification, cancellation, denial, refusal to renew or revocation of any Common Victualler License, no abatement or refund of any part of the fee paid shall be made.

3.3 Violation by the Licensee of this Policy or any regulation promulgated by the LLA pursuant to this Policy shall be punishable by a fine of \$500.00 for the first offense, and any further violations will result in a fine of \$1,000.00 per offense. Each day a violation continues shall be considered a separate offense. These fines are in addition to an not in limitation of the rights of the LLA set forth in Section 3.2 above

3.4 Any person bringing Carry-in Alcoholic Beverages into an Establishment having a Carry-in Alcoholic Beverages License shall be punished by a fine of \$100.00 per offense for any of the following violations of this Policy:

3.4.1 Refusing, upon request of the Licensee, a Haverhill Police Officer or an agent of the LLA, to state his name, age and address and produce a valid identification document

3.4.2 Stating in response to such a request a false name, age or address, including a name or address not his name or address in ordinary use

3.4.3 Producing or displaying in response to such request a false or fraudulent identification document

3.4.4 Refusing to allow the Licensee to confiscate any remaining Carry-in Alcoholic Beverages under Section 2.10 hereof

3.4.5 Acting in a manner dangerous to himself or other in the Establishment

Any sums of money collected as fines shall be paid forthwith into the general revenues of the City.

4.0 License Application Procedures

4.1 The Applicant shall complete a City of Haverhill Carry-in Alcoholic Beverages License Application Form. The Applicant shall not be less than twenty-one (21) years of age and must be a person of good character in the City of Haverhill.

4.2 The LLA shall conduct a public hearing on the Application, after advertising the hearing in a local newspaper and notifying by certified mail the direct abutters and any schools, churches or hospitals located within a radius of five hundred (500) feet from said proposed location at least 10 days prior to the public hearing. Renewal of a Carry-in Alcoholic Beverages License shall not require a public hearing.

4.3 A copy of the Application shall be forwarded to the City of Haverhill Police Department for comment. The LLA may not act on an Application without having first received comment from the Police Department.

4.4 The Applicant shall be responsible for the following fees and costs:

4.4.1 All costs of advertising and mailing for public hearing notice purposes.

4.4.2 An Initial Application Fee of \$60.00

4.4.3 An Initial License fee of \$ 500.00

4.4.4 A Renewal License fee of \$500.00

4.5 Upon complete review of the material presented and all facts relevant to the application, the LLA may in its sole discretion issue a License hereunder including any appropriate conditions applicable thereto.

5.0 Number of Licenses Issued and Term of Each License

5.1 The LLA shall issue no more than five (5) Carry-in Alcoholic Beverage Licenses annually and no more than three (3) during the first six months immediately following passage of these regulations.

5.2 A License issued hereunder shall be valid for one (1) year or until December 31 of the year issued, whichever is the first to occur.

6.0 Severability

In case any section, paragraph or part of this Policy or any regulation promulgated by the LLA pursuant to this Policy be for any reason declared invalid or unconstitutional by any court of last resort, every other section or part shall continue in full force and effect.

7.0 Effective date

This Policy shall take effect upon passage.

8.0 Liability

By allowing patrons and customers the privilege of Carry-in Alcoholic Beverages, the Licensee is potentially exposed to significant liability for injuries and damages to the persons who consume Carry-in Alcoholic Beverages or to others who are injured or damaged by the persons consuming Carry-in Alcoholic Beverages. Acceptance and exercise of the Carry-in Alcoholic Beverage License will be deemed to be acknowledgment of awareness of this potential liability. Licensees are encouraged to discuss the potential risks and to take appropriate measures to avoid injuries, damages and liability to others. The City of Haverhill and the Haverhill License Commission, acting as the Local License Authority shall not be liable to the Licensee or to others if injury or damage results from the exercise of the Carry-in Alcoholic Beverage License. By allowing Carry-in Alcoholic Beverages on the premises, the Licensee acknowledges that he/she/it understands and will comply with all applicable liquor regulations set forth by the Alcoholic Beverages Control Commission and the Haverhill License Commission.