Filed April 3, 2012

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DOCUMENT 47

CITY OF HAVERHILL

In Municipal Council April 3 2012

ORDERED

MUNICIPAL ORDINANCE **CHAPTER 100**

AN ORDINANCE RELATING TO ALCOHOLIC BEVERAGES

BE IT ORDAINED by the City Council of the City of Haverhill that the Code of the City of Haverhill, Chapter 100, Article III, as amended, be and is hereby further amended in §100-6 as follows:

By deleting the figure "60" and inserting in place thereof the figure "100".

APPROVED AS TO LEGALITY:

City Solicitor

PLACED ON FILE for at least 10 days
Attest:

City Clerk

JAMES J. FIORENTINI
MAYOR

CITY OF HAVERHILL
MASSACHUSETTS

CITY HALL, ROOM 100
FOUR SUMMER STREET
HAVERHILL, MA 01830
PHONE 978-374-2300
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WWW.CI.HAVERHILL.MA.US

March 30, 2012

City Council President John A. Michitson
And members of the Haverhill City Council

Re: Ordinance Relating to Alcoholic Beverages

Dear Mr. President and Members of the Council:

Enclosed, please find an ordinance which would increase the number of liquor licenses available in the City.

This change would be beneficial to our economic development allowing us to be able to provide alcoholic beverage licenses to restaurants who want to come to Haverhill.

I recommend approval.

Very truly yours,

James J. Fiorentini, Mayor

JJF/lk

Encl.

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CHAPTER 100. ALCOHOLIC BEVERAGES

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Chapter 100. ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the City Council of the City of Haverhill as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

License Commission — See Ch. 11, Art. IX.

Playgrounds, parks and recreation areas — See Ch. 193.

Article I. Consumption or Possession of Open Containers in Public

[Adopted 7-9-1974 by Doc. 192 (Ch. 100, Art. I, of the 1980 Code)]

§ 100-1. Consumption or possession of open containers in public prohibited.

[Amended 12-6-1988 by Doc. 228]No persons shall drink any alcoholic beverages or have in their possession any open alcoholic beverages, as defined in MGL c. 138, § 1, in or upon any public way or upon any way to which the public has a right of access, or any place which members of the public have access as invitees or licensees, in any park or playground or private land or place without the consent of the owner or person in control thereof.

§ 100-2. Arrest and prosecution.

Any person found drinking in such public place shall be arrested and prosecuted according to law.

§ 100-3. Seizure and return of alcoholic beverages.

All alcoholic beverages used in violation of this article shall be seized and held until final disposition of the charge against the person or persons arrested have been made in a court of law. The court shall make such order as it deems fit for the return of any which is seized, except any portion of the beverages used for the purposes of analysis.

Article II. Mandatory Server Training

[Adopted 11-23-1993 by Doc. 137 (Ch. 100, Art. II, of the 1980 Code)]

§ 100-4. Purpose.

The City Council recognizes the need to make all liquor establishments more responsible for the procedures they use when dispensing/selling alcoholic beverages; specifically, to ensure that management and employees of such establishments understand the consequences of unlawful serving practices and recognize and implement strict policies and procedures therewith.

§ 100-5. Training program required.

A. Any licensee holding an all alcohol, including seasonal, or beer and wine license shall participate in a program designed to train employees who engage in either package sales or pouring in methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors. This program will be based on the type of license issued.

B. Listed below are training programs that meet the requirements of this article:

(1) Only programs approved by the License Commission and the City of Haverhill and the LLJUA shall be deemed to meet the requirements of this article.

C. All personnel shall be required to participate in a training program based upon the type of license issued and as determined by the License Commission. Licensees must comply with this article from the date of its adoption and have 100% of their employees trained and certified by April 1, 1994. After that time, new employees of any licensee will have 45 days from the date of employment to become certified.

D. All establishments shall maintain and exhibit in a visible location during operating hours a roster or certificate of trained and certified personnel. An updated roster shall be submitted with the annual application for renewal of the license. The roster shall include:

(1) Employee name.

(2) Employee date of birth.

(3) Employee social security number.

(4) Type of training (license).

(5) Date valid.

(6) Date of expiration.

(7) Date of hire.

E. All personnel shall be required to be recertified once every three years through an approved program.

F. Failure to comply with this article will result in a show cause hearing before the License Commission, which shall determine what action, including, without hereby limiting, revocation or suspension of the license, is appropriate.

Article III. Number of Licenses

[Adopted 2-15-1983 by Doc. 41 (§ 49-4 of the 1980 Code)]

§ 100-6. Limit on alcoholic beverage licenses.

[Amended 10-30-1984 by Doc. 197]The number of all alcoholic beverage licenses issued in the City of Haverhill under MGL c. 138, § 12, and in force and effect at any one time during any license year shall be limited to 60, exclusive of any such licenses issued to any war veterans' organization as provided for in said § 12.

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M.G.L.A. 138 § 12

➡ § 12. Licenses authorizing sale of beverages to be drunk on premises; license to farmer-winery to serve wine on premises of winery located on the premises of farm; veterans' organizations, corporations, etc.; suspension or revocation; hours of sale; liqueurs and cordials; liquor legal liability insurance requirement

A common victualler duly licensed under chapter one hundred and forty to conduct a restaurant, an innholder duly licensed under said chapter to conduct a hotel, a pub brewer and a keeper of a tavern as defined by this chapter, in any city or town wherein the granting of licenses under this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, subject however, in the case of a tavern, to the provisions of section eleven A, may be licensed by the local licensing authorities, subject to the prior approval of the commission, to sell to travelers, strangers and other patrons and customers not under twenty-one years of age, such beverages to be served and drunk, in case of a hotel or restaurant licensee, only in the dining room or dining rooms and in such other public rooms or areas of a hotel as the local licensing authorities may deem reasonable and proper, and approve in writing; and provided further, that the limitations relative to service and consumption in a restaurant or hotel only in the dining rooms and such other public rooms or areas deemed reasonable and proper by the local licensing authority shall not be deemed to preclude the restaurant or hotel from allowing a patron to retain and take off the premises only so much as may remain of a bottled wine purchased by the patron in conjunction with a meal and not totally consumed by the patron during such meal; provided further, that the bottle shall be resealed in accordance with regulations promulgated by the commission and transported in a manner authorized in section 24*I* of chapter 90 when carried in a motor vehicle, as defined in section 1 of said chapter 90; provided, that no tavern license shall be granted to the holder of a hotel license hereunder. Such sales may also be made, by an innholder licensed hereunder, to registered guests occupying private rooms in his hotel, and in the dining room or dining rooms and in such other public rooms or areas of buildings on the same premises as the hotel and operated as appurtenant and contiguous to and in conjunction with such hotel, and to registered guests occupying private rooms in such buildings and in the case of condominium accommodations that are located appurtenant and contiguous to and also upon the same premises as a hotel, sales may be made by the hotel licensee as the local licensing authorities may deem reasonable and proper, and approve in writing. Such sales may be made by a restaurant licensee at such stands or locations in a sports arena, stadium, ball park, race track, auditorium or in any one building at an airport as the local licensing authority may deem reasonable and proper, and approve in writing. A local licensing authority may grant a license for the sale of all alcoholic beverages or a license for the sale of wines and malt beverages at any location on the grounds of a golf course as it deems reasonable and proper. Upon an application for a restaurant license, the local licensing authorities may in their discretion grant such a license authorizing the sale of alcoholic beverages on all days of the week or one authorizing such sale on secular days only, and the decision of such authorities as to which of the two types may be granted upon any particular application shall be final. During such time as the sale of such alcoholic beverages is authorized in any city or town under this chapter, the authority to grant innholders' and common victuallers' licenses therein under chapter one hundred and forty shall be

vested in the local licensing authorities; provided, that if a person applies for the renewal of both a common victualler's license or an innholder's license under said chapter one hundred and forty and a hotel or a restaurant license, as the case may be, under this section and the local licensing authorities refuse to grant said common victualler's or innholder's license or fail to act on the applications therefor within a period of thirty days, such applicant may appeal therefrom to the commission in the same manner as provided in section sixty-seven and all the provisions of said section relative to licenses authorized to be issued by local licensing authorities under this chapter shall apply in the case of such common victualler's license or innholder's license.

The local licensing authority of any city or town wherein the granting of licenses under this section is authorized, notwithstanding any limitation on the number of licenses the city or town is authorized to grant in section 17, may grant a license to the holder of a farmer-winery license under section 19B or from any other state for service to travelers, strangers, and other patrons and customers who are at least 21 years of age, such wine to be served and drunk on the premises of the winery at such locations on the premises of the farm as the local licensing authority may deem reasonable and proper. For purposes of this section, a farm shall have the meaning ascribed to it in section 1A of chapter 128.

If a license granted under this section to a person holding a license as an innholder or common victualler is suspended or revoked for any particular cause, no action shall be taken on account thereof by such authorities with respect to such innholder's or common victualler's license prior to the expiration of the period provided for an appeal under section sixty-seven in case no such appeal is taken, or prior to the disposition of any such appeal so taken, nor thereafter, except for further cause, in case such disposition is in favor of the appellant. Any club in any city or town wherein the granting of licenses to sell alcoholic beverages, or only wines and malt beverages, as the case may be, is authorized under this chapter may be licensed by the local licensing authorities, subject to the approval of the commission, to sell such beverages to its members only, and also, subject to regulations made by the local licensing authorities, to guests introduced by members, and to no others.

The local licensing authorities of any city or town wherein the granting of licenses under this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, may, subject to the approval of the commission and irrespective of any limitation of number of licenses contained in section seventeen, issue a license to any corporation the members of which are war veterans and which owns, hires or leases in such city or town a building, or space in a building, for the use and accommodation of a post of any war veterans' organization incorporated by the Congress of the United States, to sell such beverages to the members of such post only, and also, subject to regulations made by the local licensing authorities, to guests introduced by such members and to no others.

The local licensing authorities may determine in the first instance, when originally issuing and upon each annual renewal of licenses under this section, the amount of the license fee, for a tavern license or for any other license under this section for the sale of all alcoholic beverages, or for any other license under this section for the sale of wines and malt beverages, and provided that nothing herein shall prevent such authorities from establishing license fees differing in amounts within the limitations aforesaid for restaurant licenses authorizing such sale on secular

days only. If different license fees are so established the fee for licenses authorizing the sale of alcoholic beverages on all days of the week shall not be more than twenty-five per cent higher than the fee for licensing such sale on secular days only. Before issuing a license to any applicant herefor under this section, or before a renewal of such license, the local licensing authority shall cause an examination to be made of the premises of the applicant to determine that such premises comply in all respects with the appropriate definition of section one and that the applicant is not less than twenty-one years of age and a person of good character in the city or town in which he seeks a license hereunder. No license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.

The local licensing authorities may accept the surrender of a license issued under this section and may issue in place thereof to the same licensee any other form of license authorized under this section, and may allow as a credit on the fee for the new license the license fee paid for the license surrendered but no refund shall be authorized. Different licenses issued as aforesaid for any portion of the same license year to the same licensee shall count as one license for the purposes of section seventeen.

The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authorities either generally or specially for each licensee; provided, however, that no such sale shall be made on any secular day between the hours of two and eight o'clock antemeridian and that, except as provided in section thirty-three, no such licensee shall be barred from making such sales on any such day after eleven o'clock antemeridian and before eleven o'clock postmeridian, and no tavern shall be kept open on any such day between one o'clock antemeridian and eight o'clock antemeridian; provided, further, that any such licensee or his manager shall not be prohibited from being on the licensed premises at any time; provided, further, that the employees, contractors or subcontractors shall not be prohibited from being upon such premises at any time for the purpose of cleaning, making renovations, making emergency repairs to or providing security for, such premises or preparing food for the day's business or opening or closing the business in an orderly manner. The licensing authority shall not decrease the hours during which sales of such alcohol beverages may be made by a licensee until after a public hearing concerning the public need for such decrease; provided, however, that a licensee affected by any such change shall be given 2 weeks notice of the public hearing; provided further, that a local licensing authority, subject to the approval of the commission, may grant a license notwithstanding section 17 to sell wine for consumption on the winery premises to a winegrower authorized to operate a farmer-winery under section 19B, to sell malt beverages for consumption on the brewery premises to a farmer-brewer authorized to operate a farmer-brewer under section 19C and to sell spirits for consumption on the distillery premises to a farmer-distiller authorized to operate a farmer-distillery under section 19E; and provided further, that such licensees may sell for on premises consumption wines, malt beverages and spirits produced by the winery, brewery or distillery or produced for the winery, brewery or distillery and sold under the winery, brewery or distillery brand name.

No license issued under this section shall be subject to any condition or requirement varying the occupancy of the licensed premises as certified by any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules or regulations.

No person, firm, corporation, association or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever, licensed under the provisions of sections eighteen or nineteen shall be granted a license under this section.

In cities and towns which vote to authorize under section eleven the granting of licenses for the sale of all alcoholic beverages, specific licenses may nevertheless be granted under this section for the sale of wines or malt beverages only, or both. The licensing authorities may refuse to grant licenses under this section in certain geographical areas of their respective cities or towns, where the character of the neighborhood may warrant such refusal.

All malt beverages sold by a licensee under this section containing not more than three and two tenths per cent of alcohol by weight shall be expressly sold as such.

No malt beverage shall be sold on draught from a tap, faucet or other draughting device, unless there shall plainly appear on or attached to such device, in legible letters, the brand or trade name of the malt beverage so sold therefrom.

In any city or town wherein the granting of licenses under this section to sell alcoholic beverages or wines and malt beverages is authorized, a person may be granted a general on-premise license by the local licensing authorities, subject to the prior approval of the commission, authorizing him to sell alcoholic beverages without food to patrons and customers subject to all other relevant provisions of this chapter, provided that such beverages shall be sold and drunk in such rooms as the licensing authorities may approve in writing. The annual license fee for such general on-premise license shall be determined by the local licensing authority. For the purposes of section eleven an affirmative vote on subdivision A or B shall be considered an authorization for the granting of general on-premise licenses in a city or town.

A common victualler who holds a license pursuant to this section may provide on premises sample wine or malt beverage tasting; provided however, that such licensee shall not solicit orders for wine or malt for off premises consumption; and provided further, that any such wine tasting shall be limited to one ounce per serving and any such malt beverage tasting shall be limited to two ounces per serving and food shall be served in conjunction with any such wine or malt beverage tasting.

In any city or town which votes to accept the provisions of this paragraph, a common victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

A common victualler who holds a license for the sale of all alcoholic beverages or holds a license for the sale of wines and malt beverages and who also holds pursuant to this section written approval to sell liqueurs and cordials pursuant to his license may provide on-premises sample liqueurs and cordials tasting; provided however, that a licensee shall not solicit orders for liqueurs and cordials for off-premises consumption; and provided, further, that any such liqueurs and cordials tasting shall be limited to 1/4 of an ounce per serving and food shall be served in conjunction with any liqueurs and cordials tasting.

A common victualler who holds a license for the sale of all alcoholic beverages may provide on premises sample alcoholic beverages tasting; provided, however, that a licensee shall not solicit orders for alcoholic beverages for off-premises consumption; and provided further, that any tasting of alcoholic beverages, other than wines and malt beverages, shall be limited to 1/4 of an ounce per serving and food shall be served in conjunction with any alcoholic beverages tasting.

No license shall be issued or renewed under this section until the applicant or licensee provides proof of coverage under a liquor legal liability insurance policy for bodily injury or death for a minimum amount of $250,000 on account of injury to or death of 1 person, and $500,000 on account of any 1 accident resulting in injury to or death of more than 1 person. Proof of the insurance coverage required by this section shall be made by filing a certificate of insurance in a form acceptable to the local licensing authority. The insurance shall be subject to sections 5 and 6 of chapter 175A of the General Laws.

M.G.L.A. 138 § 12

Haverhill

License Commission, Room 118
Phone: 978-420-3623 Fax: 978-373-8490
License_comm@cityofhaverhill.com

March 28, 2012

Re: **Request to Increase Limit on §12 All Alcohol Licenses**

Dear Mayor:

On March 15, 2012, the License Commission voted to increase the §12 All Alcohol Licenses, excluding Veteran's Clubs, from 60 to 100 as governed by our Ordinance Article II § 100-6.

The License Commission has requested the City Solicitor draft a proposed Ordinance to be approved by City Council to reflect the above change.

The current ordinance is attached.

Heather Budrewicz
License Commission Clerk

Number of Licenses (§ 100-6)

[Adopted 2-15-1983 by Doc. 41 (§ 49-4 of the 1980 Code)]

Limit on alcoholic beverage licenses.

[Amended 10-30-1984 by Doc. 197]

The number of all alcoholic beverage licenses issued in the City of Haverhill under MGL c. 138, § 12, and in force and effect at any one time during any license year shall be limited to 60, exclusive of any such licenses issued to any war veterans' organization as provided for in said § 12.