



TOWN OF CHILMARK, MASSACHUSETTS  
**BOARD OF SELECTMEN**  
TOWN HALL, 401 MIDDLE ROAD, P.O. Box 119  
CHILMARK, MA 02535-0119

TEL: 508-645-2101 FAX: 508-645-2110

**SELECTMEN'S OFFICE**

(Date Received)

APPLICATION FOR LICENSE

## COMMON VICTUALLER

New Application \_\_\_ Renewal \_\_\_

*I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a Common Victualler's License, in accordance with the provisions of Chapter 140 of the General Laws.*

**Applicant's Full Legal Name:** \_\_\_\_\_

Applicant's Legal Home Address: \_\_\_\_\_

Applicant's Mailing Address (if different): \_\_\_\_\_

Applicant's Home Telephone Number: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax No. \_\_\_\_\_

Applicant's E-Mail Addresses: Primary \_\_\_\_\_ Secondary \_\_\_\_\_

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Full Legal Name of the **Business Concern:** \_\_\_\_\_

Full Street Address of the Business Concern: \_\_\_\_\_

Mailing Address of the Business Concern (if different): \_\_\_\_\_

Telephone Number of the Business Concern (if different): \_\_\_\_\_ Fax No. \_\_\_\_\_

E-Mail Addresses of the Business Concern (if different): Primary \_\_\_\_\_ @ \_\_\_\_\_

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Give a complete description of all the premises to be used for the purpose of carrying on the business (e.g. number of dining rooms, cooking facilities, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Proposed Hours of Operation: \_\_\_\_\_ Days of Operation: \_\_\_\_\_

This will be a: **Year Round** Operation \_\_\_\_\_ **Seasonal** Operation: \_\_\_\_\_

Proposed Dates of Operation (for Seasonal only): \_\_\_\_\_

Seating capacity contemplated: Indoors: \_\_\_\_\_ Outdoors: \_\_\_\_\_

Are you acquainted with the rules and regulations of the Chilmark Board of Health concerning Common Victualler licenses? \_\_\_\_\_ (Yes or No)

Do you own \_\_\_\_\_ or lease \_\_\_\_\_ the premises? If leasing, please provide the name and address of the lessor  
\_\_\_\_\_

What other business, if any, is to be conducted on the premises for which this license is requested?

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Have you ever applied for or held a Common Victualler's license? \_\_\_\_\_  
(Yes or No)

If so, in what Town? \_\_\_\_\_

Did you receive a license? \_\_\_\_\_ For what year? \_\_\_\_\_  
(Yes or No)

Has any Common Victualler's license issued to you in Massachusetts or any other state ever been suspended or revoked? \_\_\_\_\_  
(If yes, please explain in detail on separate page)

**Attach the following information to the completed application form:**

1. **Building floor plan** showing all seating, entrances, exits, loading dock or receiving areas, and other relevant information.
2. **Site Plan** (scaled 1" = 40 ft.) showing all available parking, driveways, lighting, and location of trash containers.
3. **Menu** or description of food to be served and the manner in which such food shall be served.
4. Zoning Opinion from the Building Inspector / Zoning Officer (*if new application*).
5. Planning Board and/or Board of Appeals Decisions (*if new application*).

*Pursuant to M.G.L. Ch. 62C § 49A the applicant certifies that all state tax returns have been filed and all state and local taxes have been paid as required by law; and further agrees to comply with the terms of the License and applicable law, and all rules and regulations promulgated thereto.*

*The Applicant further certifies that the information contained in this application is true and accurate and also authorizes the Licensing Authority or its agents to conduct whatever investigation is necessary to verify the information contained in this application.*

**THE ABOVE STATEMENT IS MADE UNDER PENALTIES OF PERJURY**

\_\_\_\_\_  
Signature of Applicant \_\_\_\_\_ Date

License Fee must be submitted with this form. Make check payable to Town of Chilmark.

Mail Application Form, Workers' Compensation Affidavit and all required documents, along with check to:

**Board of Selectmen, P.O. Box 119, 401 Middle Road, Chilmark, MA 02535.**

**LICENSE APPROVALS ARE CONTINGENT upon the INSPECTION & APPROVAL of the FIRE CHIEF, BUILDING INSPECTOR, and BOARD OF HEALTH.**

NOTICE: The filing of this application confers no rights on the part of the Applicant to undertake any activities until the license has been granted. The issuance of a license under this section or sections is subject to the Applicant's compliance with all other applicable Federal, State or local statutes, ordinances, bylaws, rules or regulations. The Licensing Authority reserves the right to request any additional information it reasonably deems appropriate for the purpose of determining the terms and conditions of the License and its decision to issue a License. The provisions of G.L. c.152 may require the filing of a Workers' Compensation Insurance Affidavit with this application. Failure to file the Affidavit, along with any other required information and/or documentation, shall be sufficient cause for the denial of the License application. Common Victuallers License

MGL 140 § 4 "...licenses shall expire on December thirty-first of each year; but they may be granted during December, to take effect on January first following."

MASSACHUSETTS GENERAL LAWS ANNOTATED  
PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE XX. PUBLIC SAFETY AND GOOD ORDER

CHAPTER 140. LICENSES  
DEFINITION

Current through 2016

§ 1. "Licensing authorities" defined

"Licensing authorities", as used in this chapter, unless a contrary meaning is required by the context, shall mean the boards in Boston and other cities which by special statutes or city charters have the power to issue licenses for innholders or common victuallers, licensing boards appointed under section four of chapter one hundred and thirty-eight in cities which at the municipal election next preceding the first day of January, nineteen hundred and twenty-five, voted to authorize the granting of licenses for the sale of certain non-intoxicating beverages and also in cities wherein by special statutes said boards are vested with all the powers and duties exercised by licensing boards in cities that vote to grant such licenses, the aldermen in all other cities and the selectmen in towns.

§ 2. Issuance of license; signing; refusal; fee; record; penalty

Licensing authorities may grant licenses to persons to be innholders or common victuallers. Such license shall not be issued or be valid until it has been signed by a majority of the aldermen in cities where the license is to be granted by the aldermen, by a majority of the licensing board in other cities or by the selectmen in towns. An alderman, any member of the licensing board or a selectman may refuse to sign a license for a person who, in his opinion, has not complied with this chapter. This section shall not require the licensing authorities to grant either of said licenses if, in their opinion, the public good does not require it. Unless otherwise established in a town by town meeting action and in a city by city council action, and in a town with no town meeting by town council action, by adoption of appropriate by-laws and ordinances to set such fees, a fee of not more than twenty-five dollars may be charged for either of said licenses, but in no event shall any such fee be greater than \$100. The licenses shall be recorded in the office of the licensing authorities. An alderman, member of a licensing board or selectman who signs a license granted contrary to this chapter shall be punished by a fine of not more than fifty dollars

§ 3. Content of innholders' licenses; governing statutes

All innholders' licenses shall be expressed to be subject to sections twenty-two to thirty-two, inclusive, of this chapter and sections twenty-five to twenty-seven, inclusive, of chapter two hundred and seventy-two.

§ 4. Contents generally; coverage; term

Every license of an innholder or common victualler shall specify the street and number, if any, of the building where the business is to be carried on or give some other particular description thereof, and the license shall not protect a licensee who carries on his business in any other place. Such licenses shall expire on December thirty-first of each year; but they may be granted during December, to take effect on January first following.

§ 5. Food and accommodations; availability

Every innholder and every common victualler shall at all times be provided with suitable food for strangers and travelers. Every innholder shall also have upon his premises suitable rooms, with beds and bedding, for the lodging of his guests.

§ 6. Conditions precedent; proposed plans; cost estimates; license as victualler or innholder

A common victualler's or innholder's license may be issued to an applicant therefor if at the time of his application he has upon his premises the necessary implements and facilities for cooking, preparing and serving

food for strangers and travelers, and, in the case of an applicant for an innholder's license, also has the rooms, beds and bedding required by law. An applicant for a license as a common victualler or as an innholder, proposed to be exercised upon premises which have not been equipped with fixtures or supplied with necessary implements and facilities for cooking, preparing and serving food and upon which, in the case of an applicant for an innholder's license, there are not also provided suitable rooms, beds and bedding for the lodging of his guests, shall file with the licensing authorities a plan showing the location of counters, tables, ranges, toilets and in general the proposed set-up of the premises, which shall include, in the case of an applicant for an innholder's license, a plan of the proposed suitable rooms for the lodging of his guests and a list of the beds and bedding, which he proposes to have upon said premises if and when the license may issue, together with an itemized estimate of the cost of said proposed set-up and of such fixtures, and of the implements and facilities necessary for cooking, preparing and serving food and of such beds and bedding; and thereupon the licensing authorities may grant a common victualler's or an innholder's license, as the case may be, upon the condition that such license shall issue upon the completion of the premises according to the plans and estimate submitted, and the decision of the licensing authorities as to whether or not said premises are so completed shall be final. For the purposes of section twelve of chapter one hundred and thirty-eight, a person to whom a license has been granted under this section shall be deemed to be a common victualler duly licensed under this chapter to conduct a restaurant or an innholder duly licensed thereunder to conduct a hotel, at the case may be.

§ 6B: Food allergy awareness

(a) As used in this section, the word "department" shall mean the department of public health.

(b) A person licensed as an innholder or common victualler, when serving food, shall:

(1) prominently display in the staff area a poster approved by the department relative to food allergy awareness. The poster shall include, but not be limited to, information regarding the risk of an allergic reaction and shall be developed by the department in consultation with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network; and

(2) include on all menus a notice to customers of the customer's obligation to inform the server about any food allergies, the language of the notice shall be developed by the department in consultation with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network.

(c) A person in charge and certified food protection manager, as those terms are used in the state sanitary code for food establishments, in order to obtain certification, shall view, as part of an otherwise approved food protection manager course, a video concerning food allergies. The department shall approve the video in collaboration with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network. A person designated as an alternate person-in charge, as that term is used in the state sanitary code for food establishments, in addition to existing requirements, shall be knowledgeable with regard to the relevant issues concerning food allergies as they relate to food preparation.

(d) A violation of this section shall be subject to the remedies available under the state sanitary code for food establishments.

(e) The department may adopt regulations to carry out this section.

(f) This section shall not establish or change a private cause of action nor change a duty under any other statute or the common law, except as this section expressly provides.

(g) The department shall develop a program for restaurants to be designated as "Food Allergy Friendly" and shall maintain a listing of restaurants receiving that designation on its website. Participation in the program shall be voluntary and the department, in consultation with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network, shall issue guidelines and requirements for restaurants to receive the designation; provided that the requirements shall include, but not be limited to, maintaining on the premises and making available to the public, a master list of all the ingredients used in the preparation of each food item available for consumption.

§ 9. Suspension; revocation; forfeiture

If, in the opinion of the licensing authorities, a licensee as an innholder or a common victualler ceases to be engaged in the business he is licensed to pursue, or fails to maintain upon his premises the implements and facilities required by this chapter, they shall immediately revoke his license. If a licensee at any time conducts his licensed business in an improper manner, the licensing authorities, after notice to the licensee and reasonable opportunity for a hearing, may upon satisfactory proof thereof suspend or revoke his license or impose a fine; provided that, the fine for the first offense within a 6 month period shall be not less than \$500 and not more than \$1,000; for the second offense within a 6 month period the fine shall be not less than \$1,000 and not more than \$2,000; for the third offense within a 6 month period the fine shall be not less than \$2,000 and not more than \$5,000; for the fourth offense within a 6 month period the fine shall be not less than \$5,000 and not more than \$10,000; and for the fifth offense within a 6 month period the fine shall be not less than \$10,000. An innholder who violates section seven shall forfeit his license. A licensee who is convicted a second time of the violation of any of the provisions of sections six to eighteen, inclusive, shall forfeit his license.

§ 9A. Keeping of premises open throughout year

Nothing in sections two to nine, inclusive, shall be construed to require a common victualler to keep his premises open for business throughout the entire year.

§ 18. Every innholder and common victualler shall at all times have a board or sign affixed to his house, shop, cellar or store, or in a conspicuous place near the same, with his name legibly inscribed thereon in large letters and the business for which he is licensed inscribed thereon, and upon neglect thereof shall forfeit twenty dollars.

§ 20. Whoever assumes to be an innholder or common victualler without being licensed as such under this chapter shall forfeit one hundred dollars.

§ 21. Whoever is convicted a third time of a violation of any provision of the preceding sections, except those contained in sections seven and eight, shall, in addition to the penalties before provided, be punished by imprisonment for not more than three months.

§ 201. A sheriff, marshal or their deputies, a constable or police officer may at any time enter a billiard, pool or sippio room, bowling alley, skating rink, the licensed premises of a common victualler or room connected therewith, or a grove required to be licensed under section one hundred and eighty-eight, or any building therein, for the purpose of enforcing any law; and whoever obstructs or hinders the entrance of such officer shall be punished by a fine of not less than five nor more than twenty dollars.