



TOWN OF ARLINGTON

DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

MEMORANDUM

To: Adam Chapdelaine, Town Manager

From: Ali Carter, Economic Development Coordinator
Jennifer Raitt, Director, Planning and Community Development

Date: October 21, 2021

RE: 2020-2021 Economic Development Report and Recommendations

Background

Arlington has experienced tremendous growth and momentum in economic development activity. We have welcomed beer gardens, outdoor markets, and expanded outdoor dining, retail, fitness, and arts opportunities for businesses in response to the COVID-19 pandemic. We have used Community Development Block Grant funds to provide hundreds of thousands of dollars in grants and technical assistance to small business owners in town. The Arlington Cultural District, spanning from East Arlington through the Center, was created as well as attaining All-American Road Federal Scenic Byway designation for the Battle Road Scenic Byway, which runs the entire length of Mass Ave and continues through Lexington, Lincoln, and Concord. Revisions to parking regulations in the Zoning Bylaw have made it easier for businesses to open in East Arlington and Arlington Heights, and the creation of a Parking Benefit District in Arlington Center helped to fund the replacement of aging brick sidewalks and beautify the district with seasonal plantings. The Town's Registration of Vacant Commercial and Industrial Properties Bylaw has stimulated commercial vacancy turnover and gained us national recognition for leadership in tackling the difficult issue of reducing long-term commercial vacancies. The Arlington Arts and Culture Action Plan of 2017 has brought public art in the form of murals, bus shelter art installations, and street performances to our business districts. The Arlington Heights Neighborhood Action Plan 2019 has spurred the revitalization of the Heights, which has had three successful community programs in the business district since the spring of 2021. Most recently, we have completed the Local Rapid Response Plan for Arlington Heights, which is geared toward driving foot traffic from the Minuteman Bikeway to the Heights business district, and we launched a pop-up program to recruit new business owners to town in underutilized town properties and vacant storefronts. The public art, placemaking, and community events in all three business districts have added vibrancy and foot traffic.

Despite all these positive developments, more can be done to attract businesses to our community. We can encourage strategic alignment of committees to maximize budgetary and operational efficiencies, and we can streamline some of our permitting and licensing processes without compromising on the quality of businesses that come to town or public health and safety. While our local economy remains strong, commercial vacancies have more than doubled from 3% town-wide in February 2020 to 7% town-wide as of October 2021 (see Appendix A for more details). As the pandemic continues to affect our small business community, we need to continue to find new ways to remain competitive as a town and keep our local businesses strong and resilient. This memo describes three challenges facing the Town and our local businesses and recommendations to tackle each of them proactively.

Challenge #1: Streamline economic development-related committees for organizational efficiency

Description of Current Economic Development-Related Committees

- **Arlington Economic Development Recovery Task Force** informs Town's COVID-19 business support programs and policies, including strategies for recovery.
- **Battle Road Scenic Byway Committee (BRSB)** advises on land use, transportation, and historic preservation issues that are along the Battle Road Scenic Byway, which includes the entirety of Massachusetts Avenue in Arlington.
- **Arlington Committee on Tourism and Economic Development (ATED)** manages the site of the Arlington Visitor Center and has a budget for staffing it and programming Patriot's Day events every April. Originally intended to implement the Arlington recommendations of the CMP, the ATED committee currently operates separately from the Battle Road Scenic Byway Committee.
- **Arlington Commission for Arts and Culture (ACAC)** focuses on broad visioning for arts and culture by developing long-term goals that implement the Arlington Arts and Culture Action Plan. Creates programming and recommends policies that support arts and culture in Arlington.
- **Arlington Cultural District Managing Partnership (ACD)** manages a Cultural District spanning much of East Arlington's business district and all of Arlington Center.

The COVID-19 pandemic spurred the creation of the Arlington Economic Development Recovery Task Force, comprised of local business owners and Town leaders, to guide the Town's business support and recovery strategies unique to the pandemic. This committee has been tremendously effective in creating pandemic-responsive programs and has made policy recommendations to consider for the future of the Town's economic vitality (including the ones detailed in this report). The Town has worked closely with the nonprofit Arlington Chamber of Commerce over the years to jointly promote the town, the business community, and various programs that drive economic development such as Shop Arlington First. The Economic Development Coordinator interfaces with these groups as well as the Arlington Commission for Arts and Culture (ACAC), the Arlington Cultural District Managing Partnership (a subcommittee of the ACAC), the Battle Road Scenic Byway committee, and the Arlington Tourism and Economic Development Committee. In addition, the coordinator hosts meetings with business owners in each of the town's three business districts monthly.

To coordinate Arlington's variety of economic development projects, plans, and strategies, the committees detailed above should function cooperatively to achieve overarching goals for the Town

that relate directly to Town plans, including the 2015 Master Plan, the 2019 Arlington Heights Neighborhood Action Plan, the 2021 Local Rapid Response Plan, and other town plans with economic development-related goals such as the 2014 Arlington Center Parking Study, the 2017 Arts and Culture Action Plan, and the 2021 Connect Arlington Sustainable Transportation Plan. To achieve Town goals for economic development and commercial district vitality, the committees need to be coordinated, their roles and budgets rationalized for where they fit in to the Town's overall planning picture. Finally, the 250th anniversary of the Revolutionary War battles that took place in Arlington and neighboring Lexington, Concord, and Lincoln is coming up in 2025. There is a regional planning committee, Revolution 250, that is coordinating events 2025-2031 in our region to celebrate our nation's semi-quincentennial anniversary. To be prepared to execute local programs that recognize Arlington's role in the Revolution for a national and international audience, we need to streamline and organize these committees now to rise to this momentous occasion.

Recommendation

The Arlington Tourism and Economic Development Committee should be reconstituted for the purpose of implementing economic development initiatives, exploring new ideas to bring about economic growth within town, and to further support the efforts of the commercial community as well as to activate the Town's Visitor Center and implement Arlington's action items related to the Corridor Management Plan of the Battle Road Scenic Byway. The revamped ATED committee should consist of membership of businesses from each of Arlington's three major business districts, and one representing the industrial sector. Individuals with professional expertise in commercial real estate financing, development, law, site selection, banking, marketing, technology, or other suitable professions that could be helpful to ATED's work should also be included. This would be an eleven-member committee, with four business representatives as described above, representatives from the Arlington Chamber of Commerce, the ACAC, the BRSB, the ACD, one representative from the Arlington Redevelopment Board and two additional representatives with professional expertise as described above, ideally from current ATED or Task Force committee membership. ATED will serve as an advocate on behalf of businesses alongside the Economic Development Coordinator, help to shepherd businesses through Town processes. ATED will promote streamlining of the Town's regulatory processes as they relate to opening a business, mixed-use/commercial development, licensing, and permitting. ATED will assist and advise other town boards as may be requested about development applications. For example, when requested by town boards, ATED would provide a committee perspective and/or recommendation on specific commercial development proposals. ATED should increase public awareness of the importance of community economic development through surveys, roundtables, newsletter and website submissions, and any other promotional events or community activities. A revamped ATED committee would assist with the critical work of filling commercial vacancies and work with staff and the Arlington Redevelopment Board on considering larger commercial and mixed-use developments in town. ATED will also participate in discussions with the ARB and Zoning Bylaw Working Group as they advance zoning amendments that focus on improved development opportunities along the town's major corridors and industrial areas.

The Arlington Commission for Arts and Culture, as currently constituted, provides a great case study for the successful consolidation of various Town committees and local organizations under one umbrella organization with representative leadership. An arts and culture organizational study was done concurrently during the Arts and Cultural Action Plan process in 2017. The organizational study recommended fusing several different official Town committees and other more informal groups that did effective arts and culture work in town under the auspices of a reconstituted Arlington Commission for Arts and Culture. Their budgets, annual work plans, and missions were combined and officially recognized by Town Meeting in 2018. Since then, they have become an organized and efficient group that operates collectively and leverages their resources with tremendous outcomes. For example, in fiscal year 2020, ACAC leveraged a \$35,000 allocation from the Town to raise an additional \$27,193 toward local arts and culture programming Arlington-based arts and culture activities, and a public art curator focused on community engagement. A revamped ATED could have similar impacts for the local economy that would benefit business owners, residents, and everyone who contributes to the commercial tax base and benefits from its growth.

Challenge #2: Expedite processes for conducting business outdoors

The Town has had a healthy outdoor dining program for many years, which has served the community well. During the pandemic, however, the need to respond rapidly to the need of businesses to conduct commerce outdoors led to the creation of the Temporary Outdoor Dining License (TODL) process as well as the Temporary Outdoor Fitness and Arts program.

In April of 2021, the Arlington Economic Development Recovery Task Force collected data from the community via the second Arlington Consumer Survey conducted during the pandemic. In the survey, which had 756 responses, 77% of respondents said that they would like the increase in outdoor dining options for restaurants to remain permanent. 77% reported that parklets and other public outdoor amenities made them either more likely (46%), or much more likely (31%) to shop at Arlington businesses. With clear public support for outdoor dining and increased interest from business owners, the need to plan for continued outdoor business accommodations longer-term is a sound economic strategy for the Town to pursue.

Recommendation: Create new Outdoor Restaurant and Retail Permit application process

Under the advisement of the Arlington Economic Development Recovery Task Force, a single set of regulations for an Outdoor Restaurant and Retail Permit application is attached in Appendix B. This process is a mash-up of the Sidewalk Cafe Permit regulations and the pandemic-responsive Temporary Outdoor Dining License process. It is primarily based on the Sidewalk Cafe regulations with the more expeditious elements of TODL blended in. In short, if a business is applying for outdoor seating with no public parking impacts (e.g., sidewalk or private parking lot) they can be permitted through an administrative review process as had been done with TODL. However, if a business wants to build outdoor dining or retail space in a parklet, that needs to be reviewed by the Select Board to weigh the parking impacts around the proposed installation. Each process has a different fee: \$50 for installations

with non-public parking impacts and \$250 for installations that do. The proposed regulations have been reviewed by the Select Board Office, the Department of Health and Human Services, Inspectional Services, the Legal Department, the Department of Public Works, and the Arlington Fire Department.

Challenge #3: Create an environment for restaurants and breweries to open more easily and remain competitive regionally

Restaurants have suffered tremendously during the pandemic. According to the National Restaurant Association, as of December 2020, 110,000 restaurants had closed nationwide. In Arlington, we currently have 5 restaurants that have closed during the pandemic, which is 0.5% of the current town-wide vacancies by sector, however the impact of their loss feels larger than that given the large physical footprint and tremendous social, cultural, and fiscal impacts on the town. The closure of Adventure Pub, Common Ground, Tango, Not Your Average Joe's, and Papa Gino's, which closed before the pandemic, has resulted in a loss of jobs, entertainment options, foot traffic, and meals tax income for our town. Now more than ever, if we want to see our current restaurants survive and thrive in the future, and to see these empty spaces reborn with new and unique culinary offering for our community and beyond, we need to make it easier for restaurants and breweries to open and operate in Arlington.

Recommendation: Revise Policies, Rules, and Regulations of Alcohol Licenses for Restaurants

Attached as Appendix C are proposed revisions to the rules for food service and alcohol in town. Some of the proposed revisions bring the regulations up to date with other town regulations that have been updated since 2015, such as the sign regulations in the Zoning Bylaw. Others, however, are aimed toward lifting some requirements on restaurants that increase their costs and operational burdens and may unintentionally keep certain food businesses from opening in town, such as fast-casual restaurants and breweries.

The fast-casual industry which sits between the more traditional full-service restaurants and typical fast-food establishments. Fast casual is typically order-at-the-counter and offers no table service, however the atmosphere is more upscale and the food is considered to be of high quality, is often locally sourced, and has a wide selection of healthy options. While it still accounts for less than 10% of the total market, the number and diversity of fast casual restaurants has experienced astounding growth of over 500% since 1999. In addition, the popularity of the beer gardens held in Arlington has proven a strong local demand for craft breweries in town, and local brewers several have shown interest in opening here over the years but have been discouraged specifically by the language regarding food service with alcohol, which should be amended so that food served with a third drink need not be served with silverware. The proposed changes could allow for a small brewery with a farmer-brewer license to operate in collaboration with another local restaurant to provide food service, catering, or even partnership with a food truck to provide food service with their alcohol. Greater flexibility for restaurants in how they serve alcohol with food can make the difference between someone deciding to open in Arlington or in another community. We look forward to a dialogue with the Select Board regarding the town's progress on economic development, challenges to achieving goals, and our recommendations.

APPENDIX A: COMMERCIAL VACANCIES FEBRUARY 2020 VS. OCTOBER 2021

February 2020

Vacancy Analysis by Unit

585 commercial properties in Arlington¹

18 total vacant units (3%)

- By Sector
 - 4 office units (1%)
 - 14 retail units (2%)

Vacancy Analysis by Business District

East Arlington: 6 units (4 retail; 2 office)

- 1% of town-wide vacancy rate; 3% vacancy rate w/in district (211 units in district)²

Arlington Center: 7 units (6 retail, 1 office)

- 1% of town-wide vacancy rate; 3% vacancy rate w/in district (264 units in district)³

Arlington Heights: 5 units (4 retail, 1 office)

- 1% of town-wide vacancy rate; 5% vacancy rate w/in district (110 units in district)⁴

¹ 383 commercial, 22 industrial properties according to Assessor's Office (does not account for 180 individual rental units within commercial properties)

² East Arlington defined as Broadway from Somerville border through 207 Broadway; Mass Ave from Cambridge border through 370 Mass Ave; Sunnyside Ave businesses

³ Arlington Center defined as 375-1056 Mass Ave; 283-327 Broadway; Medford, Mill, Mystic Street; Schouler Court; 21-206 Summer Street; Dudley Street

⁴ Arlington Heights defined as 1060 Mass Ave to Lexington border; 2-75 Park Avenue; Prentiss Road; Lowell Street; 251 Summer Street to Lexington line; Ryder Street

October 2021

Vacancy Analysis by Unit

585 commercial properties in Arlington⁵

42 total vacant units (7%)

- By Sector
 - 8 office units (1%)
 - 26 retail units (4%)
 - 5 restaurant units (.5%)
 - 2 industrial (.5%)
 - 1 other (1%)

Vacancy Analysis by Business District

East Arlington: 11 units (9 retail, 1 office, 1 restaurant)

- 1% of town-wide vacancy rate; 2% vacancy rate w/in district (211 units in district)⁶

Arlington Center: 22 units (10 retail, 6 office, 4 restaurant, 1 industrial, 1 kiosk)

- 4% of town-wide vacancy rate; 8% vacancy rate w/in district (264 units in district)⁷

Arlington Heights: 9 units (7 retail, 1 office, 1 industrial)

- 2% of town-wide vacancy rate; 8% vacancy rate w/in district (110 units in district)⁸

⁵ 383 commercial, 22 industrial properties according to Assessor's Office (does not account for 180 individual rental units within commercial properties)

⁶ East Arlington defined as Broadway from Somerville border through 207 Broadway; Mass Ave from Cambridge border through 370 Mass Ave; Sunnyside Ave businesses

⁷ Arlington Center defined as 375-1056 Mass Ave; 283-327 Broadway; Medford, Mill, Mystic Street; Schouler Court; 21-206 Summer Street; Dudley Street

⁸ Arlington Heights defined as 1060 Mass Ave to Lexington border; 2-75 Park Avenue; Prentiss Road; Lowell Street; 251 Summer Street to Lexington line; Ryder Street



Appendix B: Outdoor Restaurant and Retail Permit Application

This is an application to the Select Board of the Town of Arlington Massachusetts, for a permit to place and maintain an outdoor seating or retail installation on the public right of way in Arlington, Massachusetts described below:

(PLEASE TYPE OR PRINT)

Business Name:

Length of Storefront (ft):

Business Address/Location:

Width of Sidewalk along Storefront (linear ft); *1:

Phone Number/Email:

Length of Proposed Sidewalk Café (linear ft); *2:

Business Representative's Name:

Width of Proposed Sidewalk Café (linear ft); *3:

Name & Address of Building Owner:

of Tables

of Seats

*1: Measure from front Building Wall to inside of sidewalk granite curb edge.

*2: Measure from one outer edge of perimeter fencing/barrier to the other outer edge of perimeter fencing/barrier.

*3: Measure from front Building Wall to outer edge of perimeter fencing/barrier.

Do you plan to erect a tent?*: YES _____ NO _____

*If "YES," a copy of your application for or copy of a Building Permit from the Inspectional Services Department should be provided as part of this application.

Outdoor dining and retail areas of appropriate design, configuration and appearance can be an attractive amenity throughout the warmer months of the year. Outdoor Restaurant and Retail (ORR) permit applications will be reviewed by Town staff for compliance with these guidelines and will be forwarded to the Select Board office for administrative approval in the case of installations that have no public parking impacts. For applications that involve installations in public parking spaces, which are only available for use between April 15 and November 15 annually (subject to change due to weather conditions), a hearing before the Select Board will be scheduled to analyze the parking impacts of such an installation. ORR permits must be reapplied for annually to assure that they remain in compliance with terms of the original approval and are adequately maintained from year-to-year.

1) SUBMISSION AND APPROVAL OF APPLICATIONS

- a) Applications for ORR permits shall be submitted to the Select Board office.
- b) The Select Board office will review the application and plan for outdoor dining or retail area for completion and will distribute it to the Department of Health and Human Services, the Inspectional Services Department, and Department of Planning and Community Development. Staff may also refer the application to the Department of Public Works or the Fire Department if the application contains elements that warrant their review, such as parklet barriers, accessible ramps, or outdoor heaters.

- c) If the outdoor seating plan is approved by staff in each of the aforementioned departments, they will forward it to the Select Board office for administrative approval within ten business days of receipt by department staff. If additional information is needed or a revision to the seating plan is required, Town staff will contact the applicant.
- d) If the application involves public parking impacts, it will be forwarded to the Select Board office after staff review for a hearing to be scheduled. Applications shall be submitted on the attached form along with a site plan for the outdoor seating area and insurance certificates as described below.
 - i) Fee for installations that have no public parking impacts: Annual permit fee of \$50.00 payable to the Town of Arlington filed with the Select Board office.
 - ii) Fee for installations in public parking spaces: Annual permit fee of \$250.00 payable to the Town of Arlington filed with the Select Board office.
- e) A neatly drawn, scaled site plan depicting the precise area of the proposed outdoor dining or retail area, the arrangement of outdoor furniture, perimeter fencing, umbrellas, outdoor heaters, and any other equipment is required. Areas designated for picking up take-out food shall also be shown on the plan. Smoking is prohibited in all outdoor dining and retail areas. If an applicant will be utilizing an existing private parking lot or yard area, a site plan meeting the criteria outlined above is required. Outdoor installations proposed for a private parking lot shall not occupy more than 50% of the parking in the lot.
- f) Upon approval of an outdoor dining or retail area by the office of the Select Board, the owner and operator of the business and Select Board office staff will sign the License Agreement which has been prepared for these purposes by Town Counsel. The site plan must also include a picture or photograph of the proposed furniture in compliance with the following requirements:
 - i) No person or entity shall cause to be placed within the public ways any furniture without applying for a permit and receiving approval from the Select Board of the Town. This permit shall be considered separate and distinct from others issued by the Town, including those for common victuallers.
 - ii) The location of the outdoor dining or retail installation must be directly in front of the business operating the installation and may not extend beyond the side property lines. Tables, chairs, benches, food equipment shall be located so that they do not impede, endanger, or interfere with pedestrian traffic, with a minimum width of four (4) feet of unobstructed passage for pedestrian traffic. In some cases, with prior approval from the Select Board and the Department of Public Works (DPW), the applicant can erect temporary barriers on the street to allow for the passage of pedestrians and wheelchairs around the portion of sidewalks devoted to outdoor installations, in compliance with Americans with Disabilities Act standards.
 - iii) No installation furniture or other infrastructure shall be affixed, erected, installed, placed, used, or maintained within five (5) feet of any marked or unmarked crosswalk or handicapped ramp; or within five (5) feet of any fire hydrant, fire lane, call box, or bus stop.
 - iv) Unlicensed furniture within the public ways of the Town will be subject to removal with the cost thereof to be borne entirely by the owner. In addition, fines may be imposed by the Select Board not to exceed \$100 for removal, storage, or destruction.
 - v) No fixtures or devices on which food or beverages are sold or consumed shall be attached to the sidewalk or other public area. The property owner is responsible for the restoration of the sidewalk or public-right-of-way if any damage is caused by the sidewalk café.
 - vi) Lighting for outdoor installations is subject to approval during the permitting process. Tabletop lighting may include candles and battery-operated fixtures. Seating capacity must not exceed the maximum number of allowed seats per accessible restroom according to the Massachusetts State Building Code—780 CMR.
 - vii) Physical barricades surrounding/framing sidewalk cafés are required. Appropriate perimeter materials include but are not limited to demountable wrought-iron fences, wood or terra cotta planters, or other fencing deemed acceptable by Town staff. The public sidewalk or street may not be damaged by the installation of any perimeter treatment. Cafe umbrellas and furniture should be of a design appropriate to the character of the building. Trash receptacles are the responsibility of the applicant to empty and maintain and should be integrated in the design and materials with other outdoor cafe elements.

- g) Insurance: The Business Owner shall carry carried Workers' Compensation Insurance for all employees and those of its contractors and/or subcontractors engaged in work at the outdoor dining or retail installation, in accordance with the State Workers' Compensation Laws. In addition, the Business Owner shall carry Comprehensive Public Liability and Property Damage Liability Insurance with limits hereinafter set forth to cover the Business Owner and its contractors and subcontractors against claims due to accidents which may occur or result from operations under this Agreement. Such insurance shall cover the use of all equipment related to the provision of outdoor dining or retail services. The Comprehensive Public Liability and Property Damage Liability Insurance shall insure against all claims and demands for personal injury and property damage with respect to the sidewalk dining facilities and services, with limits of One Million Dollars (\$1,000,000) for property damage, One Million Dollars (\$1,000,000) for injury or death to one (1) person, and Two Million Dollars (\$2,000,000) for injury or death of more than one (1) person in a single accident. If such limits are not commercially available at a reasonable cost to the Business Owner, such insurance may be maintained at such lower limits that are commercially available at a reasonable cost; provided, however, that the Business shall notify the Town in advance of the effective date of any such lower limits. The Town shall be named as an "additional insured" in all policies for such insurance and the Business Owner shall furnish a certificate of insurance to the Town prior to commencing provision of the facilities and services authorized under these regulations. Where such insurance is renewed or replaced the Business Owner shall furnish the Town with a certificate of insurance evidencing the same.

2) COMPLIANCE REQUIREMENTS

- a) By signing this application, the Applicant agrees to accept and comply with the following requirements:
- i) All services and customer activity must occur within the designated outdoor dining or retail area.
 - ii) Permit holder is responsible for proper supervision of the outdoor dining or retail area to ensure the requirements of this section are met.
 - iii) Permit holders must ensure that the requirements for operation are met. Patrons must always wear shoes and shirts.
 - iv) All outdoor installations must always maintain at least one opening for ingress and egress. All outdoor installations shall abide by all requirements of the currently adopted International Building Code and the Americans with Disabilities Act.
 - v) To the extent applicable, outdoor installations must adhere to all regulations pertaining to food and beverage enforced by the Board of Health and Select Board. Outdoor food preparation is not allowed unless specifically authorized by the Health Department. Approval of an outdoor dining area shall not to be construed as an approval for the alteration or extension of premises where alcoholic beverages are served. The serving or consumption of alcohol outside of the premises of a duly licensed establishment to serve alcohol must be approved by the Select Board on a case-by-case basis. Interested establishments with alcohol licenses should submit an additional request for a temporarily amended alcohol license to the Select Board. The only change permitted is to the description of the premises providing that alcohol may be served in outdoor seating that was added or re-configured pursuant to these regulations.
 - vi) All areas within and surrounding an outdoor dining or retail area must be maintained in a clean, neat, and sanitary condition.
 - vii) All permit holders shall be required to abide by all federal, state, and local laws. In no event shall the overall number of seated customers shall exceed the number of seats available.
- b) Revocation: ORR permits may be revoked for failure to maintain the standards required for the initial permit. A notice of intent to revoke an ORR permit shall be given in writing days prior to actual revocation and shall specify the area or areas of failure to meet requirements and maintain conditions the Town may have imposed. If, during that period, proof of compliance is made to the satisfaction of designated Town Inspectors by the holder of the permit, the permit shall be continued in force.
- c) Applicant certifies that all current property taxes due on its licensed premises are paid if property is owned by the Applicant.
- d) Applicant agrees to permit the Town to periodically verify the accuracy of information contained in this Application and agrees to provide information requested to verify the accuracy of the information and the Certifications contained in this Application.

I have read and fully understand the above rules and regulations applying to the approval of this permit.

Dated _____, 20__ By: _____
(Signature)

(Print Name & Address) _____

APPENDIX C:

TOWN OF ARLINGTON

Massachusetts OFFICE OF THE SELECT BOARD

ALCOHOL LICENSES AND REGULATIONS



CERTIFICATION OF LICENSE APPLICANTS

All license applicants must sign a certification attesting that they have read and understood the Town policies, rules, and regulations relevant to their license.

The certification form is available at the Office of the Select Board and should be filed concurrently with any and all alcohol license applications.

TYPES OF LICENSES TO BE GRANTED IN ARLINGTON

	Page
• Alcohol Licenses for Restaurants (both all alcohol and wine and malt only restaurants).....	3
• All Alcohol Package Store Licenses	10
• Special (One-Day) Liquor License Policy	16
• Licenses for the Sale of Wine and Malt Beverages to be Consumed on the Premises in Theaters.....	18
• Sale of Wine at Farmers' Markets	24
• Caterer's License	26
• Club Licenses	27

Policies, Rules, and Regulations of Alcohol Licenses for Restaurants

Approved: 9/21/09

Revised: 9/10/12

Revised 1/12/15

I. Introduction

A. General Statement of Policy

The Town of Arlington is home to a wide array of high-quality eating establishments. As the local licensing authority for all sales of alcoholic beverages in the Town of Arlington, the Select Board (“Board”) wishes to support the existing restaurant culture and to stimulate its further growth through the issuance of liquor licenses to restaurants as appropriate. The Board also intends that all service and consumption of alcohol in the Town of Arlington be done responsibly and in conformance with all legal requirements. In service of these goals, licenses will be issued under these Policies, Rules, and Regulations only to holders of Common Victualler Licenses and/or Commonwealth of Massachusetts Brewery Licenses and with the consistent expectation that licensees will conduct their establishments to the highest standards.

The Board intends that the issuance of liquor licenses will contribute to the Town’s development in the following respects:

- (1) Bring to the Town quality restaurants and function rooms that provide fine dining opportunities in attractive surroundings.
- (2) Improve the variety of shops in Arlington.
- (3) Promote increased foot traffic; and
- (4) Strengthen the Town’s commercial tax base.

Consequently, the Board’s consideration of license applications will include location, proximity of proposed premises to residential neighborhoods or business areas, traffic impact, parking availability, content of proposed menu and other aesthetic considerations, including design and layout of the proposed establishment’s interior. All required notification of applications for new licenses, amended licenses, or license transfers must be provided to abutters and other affected parties in accordance with state law.

B. Conditions of Licensure: Compliance with Legal Requirements

Liquor licenses are subject to these Policies, Rules, and Regulations as well as relevant provisions of state law (Chapter 138 of the Massachusetts General Laws) and the rules, regulations, and other guidance of the Alcoholic Beverages Control Commission, as they may be from time to time amended. Further, the Board may attach such conditions and restrictions to each license it issues as it deems to be in the public interest. All licensees must be familiar with all requirements that apply to their licenses and must abide by those requirements in the operation of their establishments. In addition to legal provisions governing liquor licenses, licensees must also maintain compliance with all other requirements that apply to the operation of

licensed premises, including but not limited to the State Building Code, Fire Code, Common Victualler License, and Brewery license requirements as well as all applicable Town Bylaws and codes. Failure to comply with these or any other applicable provisions may lead to further conditions being placed upon the license or to license suspension or revocation.

II. Licensing

A. Types of Licenses, Seating Capacity

The Board is authorized to issue two types of licenses for the sale of alcohol to be consumed on the premises: (1) All-Alcohol; and (2) Wine and Malt Beverages. All-Alcohol Licenses may be issued for restaurants having a minimum seating capacity of 50. Wine and Malt Beverage Licenses may be issued for restaurants having a minimum seating capacity of 19. Holders of licenses to sell wine and malt beverages for consumption on the premises may not sell cordials or liqueurs unless and until the Town adopts local-option legislation to allow such sales. Seating capacity will be determined in accordance with the applicable provisions of the Massachusetts State Building Code. Unless specified otherwise, these Policies, Rules, and Regulations apply to both All-Alcohol and Wine and Malt Beverages licenses.

B. Application Process

1. Forms: Application for a license to sell alcoholic beverages for consumption on the premises requires submission of the following forms, in addition to any other information required by Chapter 138 of the General Laws or the rules, regulations, or policies of the Alcoholic Beverages Control Commission:

- (a) Alcoholic Beverages Control Commission application form.
- (b) Town of Arlington application form.
- (c) Criminal Offender Record Information ("CORI") release form; and
- (d) Department of Revenue release form.

The Board reserves the right to decline to process incomplete applications and to supplement or substitute required application materials at any time. Complete application information must be provided for each individual appearing on the application.

2. Fees:

- (a) filing fee: A non-refundable filing fee of \$100 must be submitted with each application.
- (b) license fees: If a license is granted, the following annual license fee shall be due at the time the license is issued and upon each renewal:
 - (i) All Alcohol License: \$3,000. By vote of the Board, this annual fee may be prorated for licenses granted after January 1, but in no event shall it be less than \$1,500.
 - (ii) Wine and Malt Beverage License: \$1,750. By vote of the Board, this annual fee may be prorated for licenses granted after January 1, but in no event shall it be less than \$600.

- (iii) Reductions: The Board may choose to reduce the annual license fee by \$400 for All-Alcohol Licenses and by \$200 for Wine and Malt Beverages Licenses for applicants who demonstrate successful completion of a certified server-training program.
- (c) the Board reserves the right to adjust any of the fees listed above from year to year.
- (d) form of payment: All payments must be made by certified or personal check.
- 3. Building and Site Plan: Every application must include the following information for the proposed licensed premises on a clear and accurate scale drawing.
 - (a) The net floor area and dimensions of the existing room or rooms requested to be licensed, including dining rooms, function rooms, and storage rooms.
 - (b) The location of any proposed service bars.
 - (c) Moveable or secured seats and tables.
 - (d) Entrance and exit doors, windows, and stairs; and
 - (e) All rooms that are not requested to be licensed but are on the same floor as the room or rooms that are requested to be licensed, identified as to function (e.g., kitchen, coatroom, lobby).
- 4. Corporate Ownership and Interest:
 - (a) application materials: Every application made by a corporate entity shall state the full name and home address of the entity's president, treasurer, clerk, secretary, directors, investors, developers, managers, or any other person with a financial interest in the entity. The application shall be signed by a corporate officer duly authorized by a vote of the entity's board of directors or equivalent governing board. Copies of the following documents shall be filed with the application: the entity's certificate of incorporation, the vote authorizing the application, and the vote appointing the manager or other principal representative with respect to the license being requested.
 - (b) manager or principal representative: No corporate entity may receive a license to sell alcoholic beverages for consumption on the premises unless such entity shall have first appointed, by a vote of its board of directors or equivalent governing board, a manager or principal representative who is (1) a citizen of the United States; (2) vested with properly voted authority (evidenced by written delegation) over the premises to be licensed and the conduct of all business to be conducted thereon to the same extent that the licensee itself would be if a natural person resident in the Commonwealth; and (3) satisfactory to the Board.
 - (c) change in interest: Except as otherwise provided by law, no change in the stock ownership of a corporate entity shall be made after the license has been granted or renewed without the express written approval of the Board.
- 5. Advertising & Notification: The applicant is responsible for complying with state-law requirements for advertising and written notification, including but not limited to

requirements set forth in Sections 15A and 16C of Chapter 138 of the General Laws. The Board reserves the right to order additional notification.

6. Statements in Application Materials: Any false statement made in connection with an application shall be cause for denial of the license or for suspension, cancellation, or revocation of a license already granted.

C. License Duration, Renewals

Once issued, licenses are valid until December 31. The licensee is responsible for filing a renewal application at least 45 days before December 31. At the time of renewal, all previously submitted materials must be updated as appropriate and the required fee must be paid. The Board or its designee shall inspect the licensed premises prior to renewal and the complete inspection report must be filed with every renewal application. A renewal application that fails to meet any of these requirements will be treated as an original license application.

III. Operation of Licensed Premises

A. Hours

Unless otherwise fixed for a particular license, licensees may sell alcoholic beverages for consumption on the premises between the hours of 11:00 a.m. and 12:00 midnight daily, provided that food service is available during all hours in which alcoholic beverages are offered for sale. All alcoholic beverages and containers must be removed from tables and service bars one-half hour after closing time. Patrons must be off the licensed premises one hour after closing time. The licensee, the licensee's manager or principal representative, and employees or subcontractors of the licensee may be on the licensed premises after closing only in accordance with Chapter 138 of the General Laws.

B. Supervision, Order, and Decorum

The licensee or licensee's manager or principal representative shall be present at the licensed premises at all times during which alcoholic beverages are offered for sale. The licensee may designate and authorize some other person to act as the responsible manager and be present at the licensed premises while alcoholic beverages are offered for sale, provided that this person shall first have been identified to, and approved by, the Board. The designated manager or representative described in this section shall be available to the Board or its designee at all times during which alcoholic beverages may be sold on the licensed premises. The full name, current residential address, and current business and home telephone numbers of all designated managers or representatives described in this section shall be on file with the Board. Failure to provide this information and keep it current shall alone be sufficient cause for suspension or revocation of the license.

The manager or representative on site shall at all times maintain order and decorum on the premises and in the area immediately surrounding the premises. These areas must be kept clean, neat, and sanitary at all times. The manager or representative on site shall cooperate in all ways with Town officials, including but not limited to representatives of the Board, the Police Department, the Fire Department, Inspectional Services, and the Board of Health.

C. Inspections

At any time, licensed premises are subject to inspection by the Board or its designee, including but not limited to the Police Department, the Fire Department, Inspectional Services, and the Board of Health.

D. Physical Plant

The location of service bars shall not be changed without the submission of an amended floor plan to the Board and the Board's written approval. No premises will be licensed unless adequate and appropriate toilet facilities are available to patrons. All licensed establishments shall have suitable appliances to maintain water temperature consistently at 180° so that eating, drinking, cooking, and serving utensils are thoroughly cleaned and sanitized.

E. Service and Consumption of Alcoholic Beverages and Food

1. Service of Alcoholic Beverages: Alcoholic beverages may be served only by staff of the licensed establishment.

2. Service of Food: Food service must be available in all areas in which alcoholic beverages are served. No more than two alcoholic beverages per person may be served without food. After two alcoholic beverages have been served and consumed, a third such beverage may be served only with the delivery of food. Food must be served on solid, reusable, recyclable, or compostable dinnerware.

3. Consumption of Alcoholic Beverages on the Premises: Only alcoholic beverages sold on the licensed premises shall be consumed on the premises: no patron shall be permitted to bring alcoholic beverages purchased off-site onto any licensed premises for consumption. All alcoholic beverages purchased on the premises shall be consumed on the premises, except unfinished bottles of wine re-sealed in accordance with Chapter 138, Section 12, of the General Laws and regulations of the Alcohol Beverages Control Commission. Even if the licensee's Common Victualler permit allows for outdoor seating, alcoholic beverages may be served in an outdoor space only if: (1) the description of the licensed premises expressly includes such outdoor space; (2) the outdoor space is surrounded by a suitable barrier or other physical element that maintains separation between the licensed premises and the general public; (3) the outdoor space is privately owned, or the outdoor space is on a public way and the owner of the licensed premises: a) obtains permission for such use from the Board, b) agrees to indemnify and hold harmless the Town of Arlington and all of its officers, officials, and assigns from any and all claims connected with their use of public ways areas described in the licensed premises, c) presents proof of insurance for its use of same, and d) complies with all other town, state, and federal laws including maintaining Americans with Disabilities Act (ADA) compliance; and (4) the Board is satisfied that neither the safety, nor the enjoyment of public ways shall be unreasonably compromised by issuance of a license permitting outdoor service of alcohol on a publicway. All outdoor food and alcohol service shall conclude before 10:00 p.m. Sunday through Thursday, and 11:00 p.m. Friday and Saturday, unless otherwise affixed on a particular license as approved by the Board.

IV. Status of License

A. Exercise of License: Once a license is granted under these Policies, Rules, and Regulations, the licensee shall commence construction or alteration of the licensed premises within forty-five days and shall be in full operation within four months, unless a longer period is authorized by the Board. Thereafter, the licensee shall operate the licensed premises continuously in accordance with the terms of the license.

Closing of the licensed premises for seven consecutive days or for any ten days during the calendar year (other than outside the establishment's normal business hours) without prior written approval of the Board shall be considered abandonment of the license and sufficient grounds for revocation.

B. Violations

1. Generally: Any violation of Chapter 138 of the General Laws pertaining to licenses for the sale of alcoholic beverages to be consumed on the premises; any violation of the rules, regulations, or policies of the Alcoholic Beverages Control Commission relative to the sale of alcoholic beverages to be consumed on the premises; any violation of these Policies, Rules, and Regulations; or any violation of the conditions attached to any license granted under these Policies, Rules, and Regulations may result in additional conditions being placed on the license or in the cancellation, suspension, or revocation of the license following a hearing before the Board. Any action taken under this section shall be commenced by written notification to the licensee at the address on file with the Board. A hearing held under this section shall commence within two weeks or as soon as reasonably practicable thereafter following written notification. The Board or its agents may seize a license immediately if, in the Board's discretion, public health or safety warrants such a seizure and the penalty must begin on the same day of the week as the violation occurred. If a license is seized immediately, a hearing will be commenced within two weeks of the seizure, unless the licensee assents in writing to a longer time.

2. Service to Underage Individuals: If, after notice and a hearing, the Board or its designee concludes that an under-aged person was served alcohol at a licensed establishment, the Board shall suspend the license as provided below, or for such other time as the Board in its discretion shall choose.

First offense:	3-5 days suspension
Second offense:	6-10 days suspension
Third offense:	10-15 days suspension or revocation

This section shall not impair the Board's discretion to impose some other type of penalty in place of license suspension if the Board concludes that another penalty is appropriate. Such other penalties may include (but are not limited to) rolling back hours of operation, fixing other conditions on the license, or suspending or fixing conditions on the licensee's other licenses, such as Common Victualler or entertainment.

In fixing the penalty for sales to underaged individuals, the Board may consider the following factors:

- (a) licensee's policies and procedures and application of those policies and procedures to guard against service to underaged individuals.
- (b) severity and type of offense.
- (c) efforts made to identify purchasers of alcohol.
- (d) appearance of the underaged purchaser of alcohol.
- (e) quality of the evidence of a violation.
- (f) circumstances of the case; and
- (g) number and nature of licensee's previous violations.

C. Transfers

Licenses granted under these Policies, Rules, and Regulations may not be transferred or assigned except with the approval of the Board and in accordance with Chapter 138 of the General Laws and rules, regulations, and policies of the Alcoholic Beverages Control Commission.

