

MELROSE LIQUOR LICENSING COMMISSION GENERAL RULES AND REGULATIONS FOR LICENSING OF ALCOHOLIC BEVERAGE SALES IN THE CITY OF MELROSE

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MELROSE LIQUOR LICENSING COMMISSION GENERAL RULES AND REGULATIONS FOR LICENSING OF ALCOHOLIC BEVERAGE SALES IN THE CITY OF MELROSE

There is hereby established and adopted by the Melrose Liquor Licensing Commission ("Commission") the following rules and regulations for any establishment serving alcoholic beverages in accordance with Massachusetts General Laws Chapter 138 and Chapter 140.

SECTION ONE

(GENERAL RULES AND REGULATIONS)

Subject to further limitations fixed, modified, or amended by the Commission acting as the duly constituted licensing board of the City of Melrose with respect to alcoholic beverage licensing, the General Laws of Massachusetts and the Regulations of the Alcoholic Beverages Control Commission, the following rules and regulations will be in full force and effect for all licenses issued under the parameters of G.L. c.138 §12 or G.L. c.138 §15.

Any license issued by the Commission under the above authority shall be processed in accordance with the procedures listed herein and shall be subject to the rules and regulations contained herein. The Commission may adopt further rules and regulations and all such changes shall apply to existing license holders from the date of the adoption. The Commission may attach such conditions and restrictions to each license as it deems to be in the public interest.

A. Definitions

1. "AGENT" as used herein means a member of the Police Department or any other authorized licensing authority of the City of Melrose.
2. "ALCOHOLIC BEVERAGES" as used herein, shall mean any type of alcoholic beverages, including wines and malt beverages.
3. "COMMISSION" as used herein means the Melrose Liquor Licensing Commission.
4. "LICENSEE" or "LICENSEES" as used herein means an individual licensee, each member of a partnership or limited liability company licensee, each officer, director, member, manager, and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the Premises.
5. "LICENSE" as used herein means a revocable privilege granted by the Commission. When used in these regulations, the term collectively refers to licenses issued under G.L. c.138 §12 and G.L. c.138 §15.
6. "PATRON" as used herein means a customer who is legally on the licensed premises.

7. "PREMISES" as used herein means the food establishment or restaurant at which the licensed business is operated, including all land and buildings associated with the operation of the licensed business.
8. "RETAIL FOOD ESTABLISHMENT" as used herein means a retail store selling food products, not to be consumed on the premises, which shall include but not be limited to one or more of the following: fresh cheese, fresh meat or delicatessen products, freshly prepared baked goods or confections, natural and organic food or beverages, and which may also sell incidental to the sale of food products therein, wines and malt beverages, but not tobacco products, lottery tickets, pharmacy items, toiletries, personal care products or photographic supplies or services. The term "retail food establishment" as used herein shall further comport with the definition of "establishment" as defined in Chapter 327 of the Acts of 2008.
9. "RULES AND REGULATIONS" as used herein mean these Rules and Regulations and compilation of regulations, ordinances and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

B. Filing of Applications

All license applications must be "complete" to be considered by the Commission. An application shall be considered "complete," and eligible for consideration, when it has been filed in accordance with the City's procedural instructions, i.e., zoning approvals, site plan approvals, health approvals, fire department approvals, all forms required have been fully completed and executed and the plan of operation and all required supporting documentation have been filed. Application filing fees must be paid prior to processing of the application by the Commission. Annual license fees shall be payable immediately upon approval of the license by the Commission. All filing fees shall be paid by certified check or money order. Filing fees are not refundable once the Commission has accepted an application. License fees shall not be prorated and are not refundable.

Hearings on all license applications shall be conducted in accordance with the requirements of Massachusetts General Laws Chapter 138.

C. License Fee Schedule

Effective January 1, 2009, the annual fee for licenses issued pursuant to these regulations shall be as follows:

Restaurant License (all alcohol)	-	\$2,500
Restaurant Licenses (wine and malt beverage)	-	\$1,500
Retail Food Establishment Licenses	-	\$1,500
Club License	-	\$600

The non-refundable application filing fee for licenses issued pursuant to these regulations shall be as follows:

Restaurant License (all alcohol)	-	\$500
Restaurant License (wine and malt beverage)	-	\$500
Retail Food Establishment License	-	\$1,500

If the Commission approves a license application, said fee shall be credited toward the annual fee for the license issued.

D. Hearings and Investigations of Commission

- i. The Commission may conduct a hearing, upon a charge or charges, whether specified in writing or orally to the Commission, alleging any illegality, disturbance or disorder, or any condition contrary to the rules and regulations of the Commission as contained herein, or any reasonable requirement that the Commission may make from time to time with respect to the conduct of business of its licensees, or for any violation of any law of the Commonwealth or its agency, commission or authorities.
- ii. Notice of any hearing to be held by the Commission shall include the charge or charges, date and time of hearing and statement that if the charges as alleged are supported by reasonable evidence, the license may be suspended, modified, revoked or subject to cancellation, and/or the hours of operation may be rolled back by the Commission.
- iii. The Commission may cause an investigation on its own initiative to ascertain the veracity of any allegation of misconduct or violation of rules and regulations of its licensees, and may, after notice to the licensee as described herein, hold a hearing on any such matter and impose sanctions as it deems appropriate and consistent with the authority granted to the Commission under the law. The Commission may call upon any official of the City of Melrose to present testimony and to provide information and evidence before the Commission as may be required from time to time.
- iv. At any hearing or hearings, the Commission may take review of and/or administrative notice of any police complaints and/or reports on file, any ABCC complaints and reports on file, or any other complaints and/or reports, whether oral or written, involving any licensed establishment, and may take action on said complaints and/or reports any time until each is disposed of by the Commission in the manner it deems appropriate.

E. Local Laws and Codes

All such licenses shall be issued contingent upon the continued compliance with all appropriate State and Municipal licenses and permits which may pertain to the operation of premises including, but not limited to, the State Building Code, the State Health Code, the Melrose Zoning Ordinance and Common Victualler License requirements.

F. Duration of License

All licenses once issued are valid until December 31 of each year, and must be renewed prior to that date. It shall be the responsibility of the licensee to file a renewal application at least 45 days prior to the expiration of the existing license.

G. Renewals

Renewal applications shall require updating of all previously filed statements and plans where appropriate. Failure to renew prior to expiration shall result in a loss of license and any subsequent license request must be treated as a completely new application.

H. Hours

The hours during which sales of alcoholic beverages may be made under any license issued in accordance with G.L. c.138 §12 shall as set forth by the Commission but in no event shall the hours exceed the following: Sunday through Wednesday - 11:00a.m. to 11:00p.m.; Thursday through Saturday – 11:00a.m. to 12:00a.m. The hours during which sales of alcoholic beverages may be made under any license issued in accordance with G.L. c.138, §15 shall be from 10:00a.m. – 10:00p.m., Monday through Saturday, and from 1:00p.m. to 9:00p.m. on Sunday. Additionally, the hours during which the sale of alcoholic beverages may be made in any restaurant are further limited to the time when the dining room is open and full food service is available.

All beverages/glasses/bottles or other containers must be removed from tables and service bar areas one hour after closing time as designated on the license. Patrons must be off-premises one-half hour after closing time as designated on the license. Licensed operators, employees, contractors and subcontractors must be off-premises one hour after closing as designated on the license, unless they are actively involved in cleaning, next-day setup, maintenance or repairs to the premises.

The type of alcohol to be served and the hours of operation of any licensed premises shall be subject to change by the Commission at any time.

I. Suspension, Modification, Revision, Revocation of Forfeiture of Licenses

Any license granted is subject to suspension, modification, revision, revocation, or forfeiture for breach of any of its conditions, and/or regulations, including the City of Melrose Code of Ordinances, to include the Melrose Zoning Ordinance, or any laws and/or acts of the Commonwealth of Massachusetts. It shall be the obligation and responsibility of the licensee to be apprised of said regulations, conditions, ordinances, laws and acts, and the licensee's lack of knowledge shall not be sufficient grounds for preventing the Commission from acting on a violation of conditions, regulations, acts and/or laws.

J. Service Bars

The location of service bars shall not be changed unless approved by the Commission and unless an amended plan is submitted to the Commission showing the proposed change.

K. Inspections

The licensed premises shall be subject, at all times, to inspections by members of the Commission, the Melrose Fire Department, the Melrose Police Department, the Melrose Health Department, the Melrose Building Department, or any of their representatives.

All establishments shall have suitable appliances, devices or machines that meet the characteristics of the Food Code for cleaning and sanitizing cups, glasses or other utensils that shall be maintained in

an operational condition at all times. A test kit or testing device shall be available to accurately determine the corresponding sanitizing final rinse temperature or chemical sanitizing solution strength.

All licensed premises shall be kept in a clean and sanitary condition at all times. Additionally, any alcoholic beverages license certificate must be conspicuously posted and displayed prominently, with hours of operation printed thereon, in an accessible place on the premises, available at all times to the Commission and its duly authorized agents, and to such other persons authorized by Mass. Gen. L. Ch. 138 §63A. All other licenses, permits or certificates issued to the licensee shall be kept in an accessible place on the premises, available at all times to the proper authorities.

L. Supervision – Presence

The manager or representative of the licensee shall, at all times during which alcoholic beverages are being sold pursuant to the license of such establishment, be present in the licensed premises and shall be available to the licensing authorities during all such times unless some other person similarly qualified, authorized and satisfactory to the licensing authorities and whose authority to act in place of such manager or principal representative shall first have been certified to the licensing authorities in the manner aforesaid, is present in the premises and is acting in the place of such manager or principal representative. The full time, residential address, business and home telephone numbers of said manager or representative must be on file in the office of the Melrose City Clerk. Failure to have such information on file and current shall alone be sufficient cause for revocation or suspension of such license.

M. Multiple Applicants for Retail Food Establishment Licenses Under G.L. c.138 §15

If more than one applicant seeks a license under G.L. c.138 §15, prior to the initial issuance of those licenses, the Commission shall consider all such applications for those licenses in an open, competitive process. As part of such process, every applicant shall be given an opportunity to comment upon the strengths of its application *vis a vis* other applications.

N. Competitive Process for Retail Food Establishment Licenses Under G.L. c.138 §15

The Commission may hold a competition among applicants to apply for the three licenses under G.L. c.138, §15 which it is empowered to issue. This competitive process will be conducted by using a uniform time frame and set of rules, as determined by the Commission. If the Commission determines that no application for a license under G.L. c.138 §15 is deemed to be in the best interests of the City of Melrose, it shall reject all such applications.

O. Changes, Alterations and Renovations

Any plans detailing changes, alterations and/or physical renovations of any kind to the premises must be submitted to and are subject to the approval of the Alcoholic Beverages Control Commission and the Commission prior to changes and/or alterations being made. A plan review application shall be filed with the Melrose Health Department consistent with the requirements of the Food Code, and Health Department approval shall be required before making any changes.

P. Interior and Exterior Illumination for Licensed Premises

The interior and exterior of the licensed premises must be well lit at all times and shall be in compliance with the Melrose Code of Ordinances, the Melrose Zoning Ordinance, the Massachusetts State Building Code (780 CMR), and the Massachusetts Electrical Code.

Q. Employees of Licensee

A completed employee registration form for each employee of the licensed establishment must be on file prior to the license being issued. It shall be the responsibility of the licensee to obtain a completed employee registration form from every new employee hired at the time of hire. All licensed establishments shall provide a current list of the names and addresses of all employees and the capacity in which each is employed at said establishment annually to the Melrose Liquor Licensing Commission, together with said licensee's annual renewal application. The renewal application will not be considered or processed by the Commission unless it is timely filed and includes a current list of the names and addresses of all employees and the capacity in which each is employed at the establishment.

R. Closure of Licensed Premises

1. Licensees intending to close the licensed premises, whereby ceasing to conduct business under the terms of the alcoholic beverages license must notify the Commission in writing before any closing date. The written notice to the Commission shall state the reason for said closing and the date of closing.
2. A licensee intending to close the licensed premises, whereby ceasing to conduct business under the terms of the licensee's alcoholic beverages license must remit said license to the Commission, without hearing, on the date the licensed premises closes, and/or on the date the licensed premises ceases to conduct business under the terms of the alcoholic beverages license.

S. Additional General Rules and Regulations for all Licenses Issued by Commission

1. No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be considered responsible, whether present or not, for all conduct occurring on the licensed premises, including the actions of employees and/or entertainers, for the purposes of the Commission's consideration of any license renewals, modifications, revocations and suspensions.
2. No licensee for the sale of alcoholic beverages shall be permitted to affix any neon signs, which advertise the sale of alcohol, on any window that faces a public street, sidewalk, parking lot, or other area to which the public has access.
3. No person who has been convicted of a violation of any federal or state narcotic drugs law or for any felony shall be employed by any licensee to conduct any function in or on the licensed premises, unless otherwise authorized by the Commission.

4. Samples of alcoholic beverages may be taken, upon inspection by the Commission and its duly authorized agents, who may enter upon the licensed premises to ascertain the manner in which business is being conducted, and submit for analysis any sample alcoholic beverages so taken.
5. Every licensed premise shall be kept in a clean and sanitary condition at all times.
6. No person under the age of twenty-one shall be sold, served, delivered or allowed to purchase or be allowed to attempt to purchase alcoholic beverages.
7. No devices or electronic equipment shall be utilized by any licensed premises for purposes of signaling employees that authorized agents of the Commission or proper authorities are present.
8. Any alcoholic beverage authorized to be sold at a licensed premises shall not be adulterated, diluted or tampered with so as to change its composition or alcohol content; provided that cocktails and other mixed drinks may be prepared in the usual and customary course of conducting business. Substitutions of any alcoholic beverages of a kind or brand different from that ordered by a purchaser is prohibited unless it is done with the consent of the person making the purchase.
9. No license shall contract bills for the licensed premises under any corporate or trade name other than that under which said licensee is licensed.
10. A licensee may for good cause refuse entry of any patron, except that not licensee shall refuse entry or make any distinction, discrimination or restriction on account of race, color, religious creed, national origin, physical or mental disability, sex, sexual orientation, or ancestry relative to the admission or treatment of any person.
11. Every licensed premises must post in a clear and conspicuous manner a copy of the penalties for operating a motor vehicle under the influence of alcohol, pursuant to Mass. Gen. L. Ch. 138 §34D.
12. A licensee has no property interest in any document or paper evidencing the granting of the license. Upon expiration, revision, suspension, revocation, alteration, cancellation or forfeiture of the license, said license must be turned over immediately to the possession of the Commission.
13. Any licensee whose lease or rental agreement to occupy any premises so licensed is revoked, canceled, expired or who is otherwise unable to continue lawful occupancy of said premise as granted, shall, without delay, submit said license to the Commission.
14. Licenses will not be granted to establishments whose principal business activity is fast-food, take-out, counter-service, or have any drive -through aspect.
15. All agents and/or employees of the licensed establishments involved in the direct handling, sales and service of alcoholic beverages shall attend 21 Proof™ or Training for Intervention Procedures by Servers (TIPS), ServSafe (formerly BarCode), Safe ID Check, or the equivalent training, which has been approved by the Commission.

It shall be the responsibility of the licensee to ensure that each agent and/or employee shall receive such training within 30 days of the date each said agent and/or employee is hired by the licensee.

16. No liquor licenses shall be issued or reissued to an establishment which does not verify that their Managers have successfully completed an acceptable or accredited alcohol beverage server training program (such as 21 Proof™, TIPS, ServSafe (formerly BarCode), Safe ID Check, or the equivalent training). All employees of the establishments who serve alcoholic beverages must be server licensed. All other employees who sell alcohol beverages shall receive at a minimum in-house training as described above within 30 days of employment. The employee training program will include proper procedures for verifying that patrons are at least 21 years of age and do not appear intoxicated. A written description of such program, along with a written policy outlining measures which will be taken against any employee for violating said policy, shall be filed with the Commission as part of the original or renewal application materials and be maintained on the Premises at all times. A signed certification of each employee, indicating that that employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the Commission, or any authorized agent thereof, upon demand.
17. The Chief of Police and/or Health Director may initiate alcohol compliance checks at any establishment at any time using ABCC's compliance check guidelines. Refusal to cooperate with a police officer designated by the Chief of Police, or a health department employee designated by the Health Director, to perform compliance checks will be considered a violation of this policy. The following penalties represent guidelines for action to be taken by the Commission for violations occurring within two (2) years of one another for violation of the commissioner's rules and regulations or the General Laws: 1) Retail food establishment license holders: 1st offense: warning to two consecutive day suspension of license, 2nd offense: three to seven consecutive day suspension of license, 3rd and subsequent offense: ten or more consecutive day suspension, or revocation, of license. 2) Restaurant license holders: 1st offense: warning to two consecutive day suspension of license, or rollback of closing hours up to three consecutive days, 2nd offense: three to seven consecutive day suspension of license, or rollback of closing hours of three to twelve days, being of at least three consecutive day periods, 3rd and subsequent offenses: seven or more consecutive day suspension, or revocation, of license.
18. All license applicants, excluding those individuals renewing an existing liquor license, shall be required to submit to a Criminal Offender Record Information ("CORI") background check.
19. Patrons in any unlicensed premises, or in licensed premises where alcoholic beverages are consumed, may not bring their own beverages (BYOB) for consumption on the premises.
20. Meals at premises where alcoholic beverages are being served should generally be served on solid dinnerware with silverware accompanying the same, and

beverages served in glasses. No paper, plastic or Styrofoam plates or cups or plastic cutlery is permitted except in outdoor seating areas specifically allowed by the Commission.

SECTION TWO

(RULES FOR THE ISSUANCE OF ALCOHOLIC BEVERAGE LICENSES PURSUANT TO MASSACHUSETTS GENERAL LAWS CH. 138 §12: SALE OF ALCOHOLIC BEVERAGES TO BE CONSUMED ON THE PREMISES)

A. Policy Statement

It is the express purpose and intent of the Commission acting as the City's licensing authority, to limit the issuance of licenses pursuant to G.L. c.138 §12 and place considerable emphasis on favorable acceptance of applicants who present proposals contributing significantly to the overall community development plan that has the following objectives:

1. Bring a high quality restaurant to the community that provides fine food and table service in a high quality atmosphere.
2. Provide convenient and attractive parking.
3. Improve the variety of shops in the community.
4. Enhance the vitality of the commercial districts within the City of Melrose.
5. Strengthen the community's commercial tax base.

B. Service Area

Service of food is required in all areas where alcoholic beverages are to be served, however, notwithstanding the foregoing, alcoholic beverages may be served in a designated area for those waiting to be seated for dining. No individual shall be served any alcoholic beverage in this area until he or she has given his or her name (or the name of their party) to that individual designated by the owner of the premises charged with the task of establishing an order of seating in the dining area. The owner of the premises shall take appropriate measures to ensure that no one is served in the waiting area whose intention is not to dine.

C. Service With Menu Item Only

Alcoholic beverages may only be served with food ordered from the menu of the licensed premises. Menus shall reflect the requirement that alcoholic beverages may only be ordered in conjunction with the consumption of food ordered from the menu. Notwithstanding, an establishment may elect to serve up to one (1) alcoholic beverage to a customer without requiring an order of food.

D. Pitchers of Alcoholic Beverages

No pitchers of alcoholic beverages may be served, however wine and wine-based mixed beverages may be served in a carafe or decanter which does not exceed one (1) liter in volume.

E. Minimum Seating Capacity

No premises may be issued an alcoholic beverages license under this Section unless the premises has a seating capacity in accordance with any law and/or regulation then in effect governing minimum seating thresholds for such licenses in Melrose.

F. Outdoor Seating and Service

Outdoor seating, including patios, sidewalks and other areas adjacent to the interior of the establishment, is allowed for service of alcoholic beverages, however no such seating shall be included for the purposes of determining minimum seating capacity for licenses. In considering the appropriateness of outdoor seating, the Commission shall evaluate whether the proposed outdoor dining area is safe and sanitary, whether it will be free of unreasonable noise or otherwise create a public nuisance, and whether it should be reasonably screened from the surrounding neighborhood. In evaluating these issues, the Commission may consider the character of the surrounding neighborhood, buildings and uses, and the impact upon pedestrian traffic.

No outdoor seating shall be allowed without the express approval of the Commission, and all such areas must be included within the definition of the licensed premises. All outdoor seating shall be enclosed by a fence, railing, plantings or other means to reasonably prevent patrons or members of the public from walking into the outdoor seating area by any entrance other than the main entrance of the premises or another entrance monitored at all times by one or more employees of the licensed premises, but without impeding any emergency exits. The outdoor seating area must be fully viewable by the manager of the establishment from inside the building.

A licensed premises may consider use of dinnerware other than glass or other breakable materials, suitable for outdoor use to prevent accidents and dangerous conditions. Any use of paper, plastic or other materials for service of food and beverages is subject to the prior approval of the Commission.

Applications for licenses of modifications which include outdoor seating areas shall include plans that describe the area in detail, stamped by a professional engineer or licensed architect, and shall clearly show all proposed seating arrangements, means of ingress and egress to and from the outdoor area, and the proposed means of enclosure of the area. Approval of an outdoor seating area by the Commission shall not constitute approval by any other City Department. All outdoor seating areas must comply with all other City Ordinances and Codes, including, without limitation, all rules, codes and regulations of the Health Department, Department of Inspectional Services and Fire Department.

G. Additional Regulations for Licenses Issued Pursuant to G.L. c.138 §12

1. Gambling of any sort, except those games of chance authorized by the Massachusetts Legislature and/or the local licensing authorities, shall not be permitted on any licensed premises.

2. No alcohol sold may be taken from premises, except as otherwise permitted by state law and/or regulations.
3. All alcohol sold must be opened and consumed on the premises, except as otherwise permitted by state law and/or regulations.
4. Applicant must have been granted a Common Victualler's License before application can be made to the Commission.
5. No licensee shall keep for sale, store or sell alcohol outside the premises stated on license.
6. Sale of alcohol in bottles or original containers is prohibited, except malt beverages and wine.
7. Doors (except upon entry and exit) and windows of the licensed premises shall remain closed at all times, unless otherwise authorized by the Commission.
8. Prices at which alcohol is sold shall not be displayed on any window or front of the premises.
9. No person or employee of the licensed premises under the age of eighteen shall be involved in the direct handling, mixing, delivering or selling of alcohol.
10. No alcoholic beverages shall be delivered to any person without cost and/or be given away. This shall not include beverages that are included with the set cost of a menu food item. "Happy hours", or similar periods of reduced-price consumption of alcoholic beverages, are not allowed.
11. Alcohol shall be poured or served per customer order. Additives, such as fruit or condiments may not be added to any bottle or container of alcohol except when prepared for a specific customer order or as a pre-mixed batch. Alcohol shall remain in its original container until poured or served per customer order, except when prepared as a pre-mixed batch. All alcohol shall be obtained from a licensed wholesaler, distributor or manufacturer. No brewing or fermenting of alcoholic beverages shall take place on the premises without a variance from the Melrose Health Department consistent with the Food Code.
12. No entertainment of any kind, excluding televisions, shall occur unless specifically authorized by the Commission.
13. It shall be the obligation of the licensee to establish clear policies for staff and employees as to the manner of business to be conducted on the licensed premises by employees and any other person or persons who may have functions in or on the licensed premises regarding sale and/or service of alcoholic beverages.
14. No cover charge shall be collected by any licensed establishment for entry into said establishment.
15. A licensee who charges a minimum charge for the purchase of food and/or non-alcoholic beverages shall include a specific statement in writing in or on the licensed premises

stating that there is no minimum charge for the purchase of alcoholic beverages. Such minimum charge cannot be collected in advance of gaining entrance to the licensed premises.

16. Last call for the serving of alcohol shall be made no later than thirty (30) minutes prior to the closing hour posted on the license held by the establishment. It shall be the obligation of the licensee to review the hours of operation and hours for sale and/or delivery of alcoholic beverages with each employee and/or staff member, and/or any other person who may have functions at said premises.
17. No patrons or persons shall be allowed to enter the licensed establishment once the sale and/or delivery of alcoholic beverages ceases pursuant to Paragraph 16 above.
18. Licensees shall ensure that their patrons leave the premises in an orderly manner.
19. No licensee shall employ, hire or permit, on or in the licensed premises, any person to touch, caress, or fondle the breasts, buttocks, or genitals and/or wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair, groin or genitals or any portions thereof. All employees of the licensed establishment, while on or in the licensed premises, shall wear garments of a nontransparent material which conceal the genitals, pubic hair, breasts, buttocks and groin. Said acts are deemed contrary to the public need and common good, and therefore no license shall be granted or allowed to remain valid where such acts, conduct, and/or dress is permitted.
20. No person shall be employed, hired, encouraged or permitted, on or in the licensed premises, to perform any act or acts, or to simulate an act or acts of: (1) sexual intercourse, masturbation, sodomy, flagellation or any sexual acts prohibited by law; or (2) touching, caressing, or fondling of the breasts, buttocks, or genitals of another or one's own person.
21. No licensee shall employ, encourage or permit, in or on the licensed premises, the showing of motion picture films, videos, television, television-type cassettes, still pictures or other photographic and/or video reproductions exposing to view the breasts, buttocks, pubic hair, groin or genitals or any portions, and/or depicting any of the acts or any simulation of the acts prohibited in these Rules and Regulations. Said acts are deemed contrary to the public need and common good, and therefore no license shall be granted or allowed to remain valid where such acts, conduct, and/or dress is permitted.

SECTION THREE

(RULES FOR THE ISSUANCE OF ALCOHOLIC BEVERAGE LICENSES PURSUANT TO MASSACHUSETTS GENERAL LAWS CH. 138 § 15: SALE OF ALCOHOLIC BEVERAGES NOT TO BE CONSUMED ON THE PREMISES)

A. Policy Statement

It is the policy of the City of Melrose that the issuance of alcohol licenses, in accordance with G.L. c.138 §15, is intended to enhance the economic viability of the community's commercial zoning districts, in which the establishments are permitted.

B. Licensing Evaluation Criteria

In reviewing applications, the Commission will be guided by the following evaluation criteria:

- Character and financial stability of applicant.
- Experience with other licensed alcoholic beverage operations.
- Appearance of the proposed establishment inside and outside, and the quality of the products to be offered therein.
- Level of direct involvement of the owners and stockholders.
- Location compliant with zoning and other criteria at the discretion of the Commission.
- Size of store – in relation to the location appropriately serving all areas of the community.
- Availability and convenience of parking.
- Quality of the training program and related procedures to ensure enforcement of existing laws and regulations with respect to liquor sales.
- Completeness and quality of application.
- Input received from abutters and from the general public.

C. Additional Regulations for Licenses Issued Pursuant to G.L. c.138 §15

1. No sale of alcohol shall be made other than during hours permitted for sale.
2. No alcoholic beverages sold may be opened or consumed on the licensed premises other than by operation of law as permitting wine and malt tasting pursuant to Mass. Gen. L. Ch. 138 §15.
3. No alcohol may be sold at any time or in any area other than that specified on the license.
4. Licensees shall be required to post in the vicinity where alcoholic beverages are sold, or at the point of display, the prices of said beverages. Sales of said alcoholic beverages shall be made only in the original manufacturer's or wholesaler's or importer's package and at the prices stated on the current price list.
5. No alcoholic beverages shall be given away (no alcoholic beverages for free), except as authorized by Mass. Gen. L. Ch. 138 §15-wine or malt tasting, nor can alcoholic beverages be sold at a price less than the invoiced cost as defined by the Alcoholic Beverages Control Commission regulations.
6. Refusal to allow inspection as authorized by Mass. Gen. L. Ch. 138 §63A is prohibited, and shall result in fines and/or imprisonment in accordance with Massachusetts General Laws.
7. No person under age eighteen shall be involved in the direct handling or selling of alcoholic beverages.
8. Prices at which alcohol is sold shall not be displayed on any window or front of the premises.

9. Any alcoholic beverages license issued pursuant to Mass. Gen. L. Ch. 138 §15 shall be conspicuously posted and displayed with hours of operation printed thereon, in an accessible place on the premises, available at all times to the Commission, its duly authorized agents, and to such other persons authorized by Mass. Gen. L. Ch. 138 §63-63A. All other licenses, permits or certificates issued to the licensee shall be kept in an accessible place on the premises, available at all times to the proper authorities.
10. The Commission reserves the right to change or add to the foregoing terms and conditions with notice to the licensee. Notice shall be effective through regular postal delivery or hand delivery.
11. Nothing contained within these rules and regulations shall prohibit the Commission from imposing any other condition or reasonable requirements that are not contained herein, effecting any licensed premises in the City of Melrose pursuant to the provisions of Mass. Gen. L. Ch. 138 §23.
12. The general rules governing hearings and other actions the Commission may take from time to time are stated in Mass. Gen. L. Ch. 138, and apply to all retail food establishment licenses. Penalties shall be consistent with those set forth in Section 2(C) of the Commission's Rules and Regulations.

SECTION FOUR

(SPECIAL RULES FOR THE ISSUANCE OF WINE AND MALT BEVERAGE ONLY LICENSES PURSUANT TO MASSACHUSETTS GENERAL LAWS c.138 §12)

A. Policy Statement

It is the policy of the Commission that the issuance of wine and malt beverage only licenses, in accordance with G.L. c.138, §12, will be utilized so as to enhance the dining experience of individuals patronizing Melrose restaurants, to advance diversity in ownership and cuisine, and to foster economic development of business areas in the City of Melrose by encouraging and promoting foot traffic in those areas where restaurants are located. The Commission will consider when deciding upon a license application the foregoing factors and any other matter thought appropriate by the Commission including by way of description but not limitation: proximity to residential neighborhoods, traffic impacts, parking, appropriateness of menu and other aesthetic considerations including the physical design and layout of the establishment. The following rules apply to all wine and malt beverage only licenses, in addition to those in SECTION TWO above.

B. Service With Menu Item Only

Service of food is required in all areas where wine and malt beverages are to be served, and wine and malt beverages may only be served with food ordered from the menu of the licensed premises. In no event may a patron be served a wine or malt beverage prior to having been seated and having ordered food from the menu, unless otherwise required herein. Menus shall reflect the requirement that wine and malt beverages may only be ordered in conjunction with food.

Notwithstanding, an establishment may elect to serve up to one (1) wine and/or malt beverage to a customer without requiring an order of food.

C. Dinnerware, Silverware, Glassware

Meals must be served on solid dinnerware with silverware accompanying the same. Wine and malt beverages may be consumed only from glasses. No paper, plastic or Styrofoam plates or cups or plastic cutlery is permitted.

D. Pitchers of Wine and Malt Beverages

No pitchers of wine or malt beverages may be served, however wine and wine-based mixed beverages may be served in a carafe or decanter which does not exceed one (1) liter in volume.

E. Service by Wait Person at Table Only

Service of wine and malt beverages shall be by a wait person, and only to patrons who are seated at tables. All wine and malt beverages must be ordered by the patron at the table at which the patron has been seated, and may not be ordered at a counter.

F. No Counter or Take-Out Service

Generally, no premises may be licensed where food service is provided over a counter be it for sitting down or take out purposes. This prohibition shall not apply to premises where counter stools are permanently affixed to such counter, or to premises which the Commission determines has a bona fide cultural or ethnic need for providing counter service without fixed stools, such as a “sushi bar.” The Commission retains the discretion to grant a license where ancillary un-affixed counter seating food service consists of 15% or less of the total seating capacity. This prohibition shall not apply to premises which also offer ancillary take-out service. All wine and malt beverages are to be consumed on the licensed premises. Consumption and/or sale of wine and malt beverages is prohibited with take-out meals.

G. Cordials or Liqueurs Prohibited

Cordials and Liqueurs may not be served.

H. One Year in Business With No Disciplinary Actions

1. No premises may be licensed unless the applicant is the licensee named in a Common Victualler’s License for at least one full year prior to issuance of the license, who for that one year period has had no violation which resulted in disciplinary action, except for a warning taken against them by the Commission. This one year violation shall run from the date the violation occurred. If the applicant has been subject to disciplinary action, he or she may apply for a license. However, a license shall not be issued until one year from the date of the violation, subject to no further violations occurring during that period.
2. Effective through March 1, 2010, an applicant shall not be required to have held a Common Victualler’s License in the City of Melrose for a one year period prior to applying for a wine and malt beverage only license. However, if the applicant has

held a Common Victualler's License in Melrose or has held a Common Victualler's License or any other type of pouring license in any other locality for a one year period prior to filing their application, they must have had no type of disciplinary action taken against them with regards to their licenses, including but not limited to, a suspension (served or suspended), or a roll-back in hours (served or suspended) for any type of activity on the premises.

I. Minimum and Maximum Seating Capacity

No premises may be issued a wine and malt beverage only license unless the premises has a seating capacity in accordance with any law and/or regulation then in effect governing minimum seating thresholds for such licenses in Melrose.