CITY OF MELROSE

OFFICE OF THE MAYOR

PAUL A. BRODEUR
Mayor

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4440

January 4, 2024

Joseph Nevin, Chair
Melrose Liquor Licensing Commission
Melrose City Hall
562 Main Street
Melrose, MA 02176

RE: Update of Liquor Licensing Commission regulations

Dear Chairman Nevin and Members of the Board:

I write to thank you for your service to the community and to put one more matter on your plate.

In reviewing our liquor licensing regulations to prepare for introducing the farmer-brewery model to the city, we discovered the regulations have several outdated and/or inconsistent provisions.

This presents challenges for the Commission and the business community in understanding, implementing, and enforcing the regulations. The regulations should also be amended to increase opportunities for businesses to enter Melrose, operate profitably, and provide the amenities and services that our residents desire and deserve.

To facilitate this effort, I offer the attached draft regulations. These revisions represent a more clearly organized and understandable product. The draft regulations address many of the issues that arose over the course of our

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

The Melrose Liquor Licensing Commission ("Commission"), acting as local licensing authority pursuant to the provisions of Massachusetts General Laws Chapter 138 and 140 and other pertinent legal authority, hereby establishes and adopts the following rules and regulations applicable to the sale and distribution of alcoholic beverages in the City of Melrose. These regulations are in addition and supplemental to all other legal requirements including but not limited to applicable State and Federal law and regulations.

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, G.L. c. 138, § 14, G.L. c.138 §15, or G.L. c.138 §19C.

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, G.L. c. 138, § 14, G.L. c.138 §15, G.L. c.138 §19C.

6. "PATRON" as used herein means a customer who is legally on the licensed premises.

7. "PREMISES" as used herein means the establishment 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, alcoholic 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. Types of Licenses to be Granted by the Melrose Liquor Commission:

The City of Melrose issues the types of alcoholic beverages licenses listed below. All licenses shall comply with Chapter 138 of the Massachusetts General Laws, and Chapter 204 of the Code of Massachusetts Regulations, as they relate to the specific type of license.

1. **Restaurant License (All Alcoholic Beverages):** Issued to qualified applicants to sell all alcoholic beverages in a restaurant and/or function room under the applicable regulations of Massachusetts General Laws, these Rules and Regulations for Licensing of Alcoholic Beverage Sales in the City of Melrose, and any and all conditions stipulated for the specific license. (M.G.L. c. 138, § 12)

2. **Restaurant License (Wine and Malt Beverages):** issued to qualified applicants to sell only wine and malt beverages in a restaurant under the applicable regulations of Massachusetts General Laws, these Rules and Regulations for Licensing of Alcoholic Beverage Sales in the City of Melrose, and any and all conditions stipulated for the specific license. (M.G.L. c. 138, § 12)

3. **Retail Food Establishment License:** issued to qualified applicants meeting the definition as provided in Section A(8) above to sell all alcoholic beverages in packages not to be consumed on the premises under the applicable, not to be drunk on premises. (M.G.L. c. 138, § 15)

4. **Club License:** issued to qualified applicant Clubs existing under Chapter 180 of Massachusetts General Laws and Veterans' Organizations duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts to sell all alcoholic beverages under the applicable regulations of Massachusetts General Laws, these Rules and Regulations for Licensing of Alcoholic Beverage Sales in the City of Melrose, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.12)

5. **One-Day Special Liquor License:** issued to qualified applicants of non-profit status to sell all alcoholic beverages; or to sell wine and malt beverages only; or to qualified applicants of for profit status to sell wine and malt beverages only. Liquor licenses are only given to non-profit companies or corporations, not to individuals. Caterers holding a license in another city or town are eligible to apply for a one-day special liquor license in the City of Melrose. (M.G.L. c. 138, § 14)

6. **Farmer Series Pouring Permit:** issued to qualified applicants holding a Farmer Brewery License from the ABCC pursuant to M.G.L. c.138 §19C to sell malt beverages, for consumption on the premises and at retail for consumption off the premises pursuant to M.G.L. c. 138, § 19C, and in accordance with the applicable regulations of the Massachusetts General Laws, the City of Melrose Rules & Regulations Governing the Sale of Alcoholic Beverages and any and all conditions stipulated for in the specific license. This license allows for the sale of malt beverages manufactured by the licensee on the premises, and sale of items produced for the licensee off the premises in the licensee's name, to be consumed on premises and to be sold at retail for consumption off premises. This permit only permits the licensee to sell its own products which have either been brewed on premises, or off premises in the licensee's name, and no other alcoholic beverages may be sold under this license. For purposes of these regulations, the word "License", "Licensee" and "Licensed Premises" shall include a "Farmer Series Pouring Permit", "Farmer Series Pouring Permittee", and "premises subject to a Farmer Series Pouring Permit", respectively, unless otherwise noted. (M.G.L. c. 138, § 19C)

C. 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.

D. License Fee Schedule

Effective January 1, 2024, the annual fee for licenses issued pursuant to these regulations shall be as follows:

Restaurant License (all alcohol)	-	$3,000
Restaurant Licenses (wine and malt beverage)	-	$ 2,000
Retail Food Establishment Licenses	-	$$2,000

Club License	-	$ 1000
Farmer Series Pouring Permit	-	$1,500

The non-refundable application filing fee for initial 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.

E. 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.

F. 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.

G. Duration of License

All licenses (with the exception of a one-day special liquor 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.

H. 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.

I. Hours

The hours during which sales of alcoholic beverages may be made under any license issued in accordance with G.L. c.138 §12, §14, or §19C shall be 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, except for alcohol sold by a Farmer Series Pouring Permittee, the hours during which the sale of alcoholic beverages may be made in a dining room are further limited to the time when the dining room is open and full food service is available. No alcoholic beverages shall be sold or served in a dining room before the dining room is open and food service is available, or after the dining room has been closed and food service has been suspended to the public.

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. 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. Patrons must be off-premises one- half hour after closing time as designated on the license. No patrons or persons shall be allowed to enter the licensed establishment once the sale and/or delivery of alcoholic beverages ceases. Licensees shall ensure that their patrons leave the premises in an orderly manner.

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, but they may not dispense or consume any alcoholic beverages during such non-public hours. This provision shall not limit employees from being on the premises to produce malt beverages in accordance with a license issued pursuant to G.L. c.138, §19C.

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.

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.

J. 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.

K. 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.

L. 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 food 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.

M. 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.

N. 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.

O. 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.

P. 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.

Q. 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.

R. 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.

S. 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.

T. Additional General Rules and Regulations Applicable to All Licenses Issued by Commission

1. Licensees shall make all reasonable and diligent efforts to ensure that loitering, disorder, disturbances or illegality of any kind does not occur at the licensed premises. The Licensee shall ensure that business in the licensed premises is conducted in a responsible manner so that no activity shall detract from the quality of life in the City generally, or in the neighborhood in which the licensed premises are located. The licensee may be considered responsible, whether present or not, for all such activity 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. The alcoholic beverage license must be prominently displayed and available for public viewing inside the premises.

3. 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.

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 premises shall be kept in a clean and sanitary condition at all times. Licensees shall also at all times maintain the immediate and surrounding area outside the licensed premises in a state of cleanliness and upkeep.

6. No licensed restaurant, Farmer Series Pouring Permittee, or Retail Food Establishment may permit the use of any amusement service such as electronic games on the premises.

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

8. Service of alcoholic beverages shall be by a bartender/server/wait person (applicable to on premise Licensees only, including Farmer Series Pouring Permittees).

9. 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.

10. 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.

11. No alcoholic beverages shall be delivered to any person without cost and/or be given away, other than by operation of law as permitting wine and malt tasting pursuant to Mass. Gen. L. Ch. 138 §15. 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.

12. 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.

13. 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.

14. No license shall contract bills for the licensed premises under any corporate or trade name other than that under which said licensee is licensed.

15. 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.

16. 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.

17. 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.

18. 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.

19. Licenses will not be granted to establishments whose principal business activity is fast-food, take-out, counter-service, or have any drive -through aspect.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. No entertainment of any kind, excluding televisions, shall occur unless Licensee has received an entertainment license as may be required by relative

City ordinances and regulations.

26. 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.

27. No cover charge shall be collected by any licensed establishment for entry into said establishment.

28. 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.

29. 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.

30. 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.

31. Prices at which alcohol is sold shall not be displayed on any window or front of the premises.

32. 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.

33. 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 premise stating that there is a minimum charge for the purchase of alcoholic beverages. Such minimum charge cannot be collected in advance of gaining entrance to the licensed premises.

34. 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. Notice shall be effective through regular postal delivery or hand delivery.

SECTION TWO

(ADDITIONAL RULES AND REGULATIONS APPLICABLE TO RETAIL FOOD ESTABLISHMENTS)

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. 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.

7. 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 THREE

(ADDITIONAL RULES AND REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS)

A. Policy Statement

It is the policy of the Commission that the issuance of Restaurant Licenses 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. Licenses will not be granted to establishments whose principal business activity is fast food, take-out, or which has any "drive-through" component.

B. Service Area

Service of food must be available 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. 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.

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. On-Premises Consumption

No alcohol sold may be taken from premises, except as otherwise permitted by state law and/or regulations. All alcohol sold must be opened and consumed on the premises, except as otherwise permitted by state law and/or regulations. No licensee shall keep for sale, store or sell alcohol outside the premises stated on license. Sale of alcohol in bottles or original containers is prohibited, except malt beverages and wine.

D. Doors and Windows

Doors (except upon entry and exit) and windows of the licensed premises shall remain closed at all times, unless otherwise authorized by the Commission.

E. Dinnerware, Silverware, Glassware

Meals must be served on solid dinnerware with silverware accompanying the same. Beverages may be consumed only from glasses. No paper, plastic or Styrofoam plates or cups or plastic cutlery is permitted except in outdoor seating areas specifically allowed by the Commission.

F. Pitchers

No pitchers 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.

G. Service of Beverages

Beverages 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 / wine/ malt beverage shall be obtained from a licensed wholesaler, distributor or manufacturer.

H. 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 /alcoholic beverages (depending on the license issued) are to be consumed on the licensed premises. Consumption and/or sale of such beverages is prohibited with take-out meals.

I. Cordials or Liqueurs Prohibited

Cordials and Liqueurs may not be served to those licensees holding a Restaurant License (Wine and Malt Beverage Only).

J. 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.

K. 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.

L. Minimum and Maximum Seating Capacity

No premises may be issued a wine and malt beverage only license or alcoholic beverages 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.

SECTION FOUR
ADDITIONAL RULES AND REGULATIONS APPLICABLE TO CLUBS AND VETERAN ORGANIZATIONS

A. Every Club Applicant to be eligible to be licensed to sell any or all alcoholic beverages within the City of Melrose must be a corporation duly organized and existing under Chapter 180 of the General Laws of the Commonwealth of Massachusetts and has maintained club facilities for not less than three (3) years prior to the filing of an application. The within provisions may be waived by the Commission.

B. Every Veterans organization to be eligible to be licensed to sell any and all alcoholic beverages within the City of Melrose must be duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts.

C. Each Applicant shall furnish a copy of its Charter or other legal evidence of its eligibility as herein specified when requested by the Commission.

D. Each eligible club and veteran's organization must have the exclusive legal right to the possession and enjoyment of indoor facilities of not less than 2,000 square feet of floor space on one or more floors and which may consist of one or more rooms.

E. Each Licensee hereunder acting by and through its Board of Directors or other governing body shall appoint a manager or bartender who is of good moral character and a responsible person. The manager or bartender will be in charge during open hours acting for and on behalf of the Board of Directors or other governing Board. Acting for and on behalf of the Board of Directors the manager or bartender shall be responsible for the conduct of the members and guests, accountable for keeping order and the prevention of undue noise and disturbances

on the licensed premises and the neighborhood.

F. No alcohol sold may be taken from premises, except as otherwise permitted by state law and/or regulations. All alcohol sold must be opened and consumed on the premises, except as otherwise permitted by state law and/or regulations. No licensee shall keep for sale, store or sell alcohol outside the premises stated on license. Sale of alcohol in bottles or original containers is prohibited, except malt beverages and wine.

G. Service of food must be available in all areas where alcoholic beverages are to be served.

H. Outdoor Seating and Service Regulations Listed Under Section Three above also Apply to Club Licenses.

SECTION FIVE
(ADDITIONAL RULES APPLICABLE TO ONE-DAY SPECIAL LIQUOR LICENSES)

A. Hours of Sale

Request for the sale of alcohol under a One-Day Special Liquor License is limited to between the hours of 11:00 a.m. and 12:00 a.m. on Monday through Saturday, and 12:00 p.m. and 12:00 a.m. on Sundays.

B. Notice

One-Day Special Liquor Licenses are exempt from the legal notice and publication Requirements of the other licenses issued hereunder by the Commission.

C. Eligibility

1. No One-Day Special Liquor License shall be granted to any person while their application for an On-Premises license is pending before the Liquor Commission
2. No person shall be granted a One-Day Special Liquor License for more than 30 days in a calendar year.

D. Application

The Applicant shall provide the following information and documents to the Melrose Liquor Commission:

1. A Completed One-Day Special Liquor License Application.
2. Documentation of your organization (i.e. Agricultural, Caterer, For Profit, Non-Profit, Not-For Profit, etc.)
3. $50.00 non-refundable check made payable to the City of Melrose.

4. Certificate of Liability Insurance stating your organization has general liability & also 1-million-dollar liquor liability coverage for the duration of the event. The certificate holder should list the address where the event is taking place *and* identify the City of Melrose as an additional insured (City of Melrose, 562 Main Street, Melrose, MA 02176).
5. Written evidence of the owner's permission to use the proposed license premises.
6. Proof of Non-Profit Status (if request is for all alcoholic beverages).
7. Copy of Valid Photo Identification and accompanying Valid ServSafe or TIPS Certification Cards of all Bartenders/Wait Staff . *That is anyone involved with the direct handling, sales and service of alcoholic beverages and clean up. The alcohol must be served not self-served (i.e. bottles on tables for self-pouring is not permitted).
8. Alcohol order form/invoice from Certified Wholesaler(s) /importer, manufacturer, farmerwinery, farmer-brewery or special permit holder. A person holding a section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch.138, Sec 14, 23; 204 CMR 7.04)
9. Order form(s)/invoice(s) must include a description of the alcohol the organization is purchasing & seeking approval for as well as payment information & delivery drop off/pick up times. Alcohol cannot be donated. The alcohol has to be delivered by the certified wholesaler(s) that have a transportation permit from the State. View the Alcoholic Beverages Control Commissions most recent list on the ABCC's website (scroll to One Day Permit section).
10. Include a letter detailing information about the event *and* intended alcohol service procedures (i.e. musical event, dance showcase, 21+ event, a family friendly event, all guest seeking alcohol will be required to show identification at each transaction, 21+ guest will receive a stamp, bracelet upon entry, cash only bar, drink tickets etc. etc.)

E. Conditions

The Special Event Manager shall provide for the orderly and safe conduct of the event, shall be responsible for the proper sale, service, delivery, dispensing and consumption of alcoholic beverages, shall be physically present during the duration of the entire event and shall sign the Event Information Sheet. The Special Event Manager shall display such Special Event License where sale of alcoholic beverages is taking place.

F. Alcohol Training

The Liquor Commission may require the Event Manager or individuals serving or handling alcohol at the event to complete a training program to prevent service to underage or intoxicated persons.

SECTION SIX
(ADDITIONAL RULES APPLICABLE TO FARMER SERIES POURING PERMITS)

A. Purpose

The issuance of Farmer Series Pouring Permits shall be utilized so as to foster the economic development of the City by encouraging and promoting patronage in those areas where Farmer Series Pouring Permittees are located. The Commission shall consider when deciding upon a license application the foregoing factors and any other matter deemed appropriate by the Commission including by way of description but not limitation: proximity to residential neighborhoods, traffic, parking, community engagement, and other aesthetic considerations including the physical layout of the interior of the establishment.

B. Applicants

Applicants for a Farmer Series Pouring Permit shall hold a Farmer-Brewery License (M.G.L. c.138, §19C) from the ABCC at all times. If an Applicant for a Permit does not have a valid ABCC Farmer-Brewery License at the time of Application,,issuance of the Permit shall be conditioned on receipt of such ABCC license.

C. Water Station

At all times, there shall be a free, self-service water station for patrons and customers to use without staff assistance. This provision may be waived by the Liquor Commission upon a showing of good cause and only if a sign is posted by the bar stating that tap water is available upon request and free of charge.

D. Occupancy

Where required by the Commission, the Licensee shall delegate a staff member to keep and maintain an accurate count of all individuals occupying the premises to ensure compliance with building code occupancy limits.

E. Food Service

The Permittee shall ensure that food service is available to its patrons at all times that alcohol is served for on-premises consumption. The Permittee may satisfy this provision by (i) holding a Common Victualler's license and operating a full-service kitchen; (ii) arranging for food to be brought onto the premises by mobile food truck vendors; (iii) contracting with nearby restaurants; (iv) allowing patrons to have food delivered for consumption on the premises; or (v) such other arrangement as the Liquor Commission deems appropriate. The Permittee shall submit a plan for food service with its application.

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. 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.

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.

review as well as the review undertaken by the ad hoc committee that reviewed the regulations early in my term. For example, the current regulations do not make clear the differences between different types of licenses such as the one-day license versus other licenses. The regulations are not clear regarding whether club licensees must follow the same rules as other licensees. The current regulations reference an entertainment license, failing to account for the fact that the city has no process for issuing entertainment licenses. The current regulations even prohibit licensees from having open windows at their establishments, a rule that Rising Eagle and Giacomo's currently do not comply with on a seasonal basis, much to the delight of their patrons. These are just a few examples of areas the draft regulations address.

This is also a matter of competitive disadvantage. None of our four surrounding communities restricts the sale of alcoholic beverages in a similar fashion to Melrose. Medford does have some restrictions but explicitly exempts breweries from any food requirement. The hospitality sector is the lifeblood of our neighbors' successful local business districts, drawing in foot traffic that benefits existing businesses and draws in new ones. It also generates direct additional revenue for the city through growth in meals tax receipts.

Finally, it will come as no surprise that the revisions also include the elimination of the food ordering requirement. While having food available for purchase either onsite or offsite can make sense, a requirement that patrons order food is ineffective and essentially unenforceable. I am unaware of the Commission or the ABCC ever taking an enforcement action based on a violation of this rule. In addition, one-day licensees are not held to this standard as a matter of practice (though under the current regulations, it appears the rule does apply to one-day licensees).

The good news is that Melrose has enjoyed great success licensing events where food is available but ordering food is not required. Our events at Memorial Hall like Beer and Bites, Rotary events, the Bridge Trivia Bee and many others have been extremely well-attended without any incidents of concern. Hundreds of people enjoyed our two beer gardens (so far) at the Beebe Estate without incident. Temple Beth Shalom has also hosted many successful events using this model.

The Commission has always been at the forefront of careful reform of our regulations to protect public safety and allow our residents and others to enjoy the responsible consumption of beer, wine, and spirits. The community has already demonstrated that the proposed changes can accomplish both goals. It is time to move ahead with this comprehensive reform.

In closing, I want to thank City Solicitor Shannon Phillips, Economic Development Director Lauren Grymek and LCC Clerk Tanji Cifuni for their hard work on this important project. Thank you to them and again to you for your service to Melrose. I look forward to participating in this conversation as a civilian.

Sincerely,

Paul Brodeur

Enclosure

CC: Commissioner Michael Iudice

Commissioner Kevin Cronin

Mayor-elect Jennifer Grigoraitis

Tanji Cifuni, Clerk, LLC

Council President-elect Leila Miglorelli

Director of Economic Development Lauren Grymek

City Solicitor Shannon Phillips