

BE IT ENACTED, by the Board of Aldermen of the City of Melrose as follows:

“Prohibition against consumption of alcoholic beverages or drugs by minors on private property”

(a) Legislative Intent:

It is the purpose of this section to protect the public interest, welfare, health and safety within the City of Melrose by prohibiting the services to and consumption of alcoholic beverages and drugs by persons under the age of twenty-one (21) at private premises located within the City. The Board of Aldermen finds that the occurrence of social gatherings at private premises where alcoholic beverages or drugs are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health and safety. The Board of Aldermen finds further that persons under the age of twenty-one (21) often obtain alcoholic beverages or drugs at such gatherings and that persons who rent, own or otherwise control the premises at which such service and/or consumption is occurring will be more likely to ensure that alcoholic beverages and drugs are neither served to nor consumed by persons under the age of twenty-one (21) at these gatherings.

(b) Definitions:

For purposes of this section, the following terms shall be defined as follows:

“Alcoholic beverage” means any liquor, wine, beer, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person.

“Control” means the authority and ability to regulate, direct, or dominate.

“Drug” means any substances recognized as drugs in the official United States Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; or any substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or any substances, other than food, intended to affect the structure, or any function of the body of man and animals.

“Open House Party” means a social gathering at a residence or other private property with minors present.

“Person” means a human being, and where appropriate, a public or private corporation, an unincorporated association or a partnership.

“Premises” means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation. The term “premises” shall also include private functions held at public facilities within the City of Melrose.

(c) Prohibition:

Any person who owns, rents or otherwise controls any premises shall be responsible when an open house party takes place at said residence where any alcoholic beverage or drug is being unlawfully possessed, served to or consumed by persons under the age of twenty-one (21) at these gatherings at said premises.

(d) Exception:

The provisions of this section shall not apply to:

- (1) The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by any other applicable law;
- (2) The use of alcoholic beverages, which occurs exclusively between a person under the age of twenty-one (21) and his/her parent or legal guardian; and
- (3) The practice of legally recognized religious observances.

(e) Penalties:

Failure to comply with subsection (c) above shall constitute a violation of this ordinance punishable by a fine as outlined below:

(1) Fines.

- i. A first violation of this ordinance shall be punishable by a warning which shall be issued by the Chief of the Melrose Police Department.
- ii. A second violation of this ordinance at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of \$150.
- iii. A third or subsequent violation of this ordinance at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of \$300.

- (f) The fine schedule prescribed at subsection (e) is based upon a "rolling schedule" meaning that in calculating the fine payable the Police Chief or City Solicitor shall count backward starting from the date of the most recent violation of this ordinance to determine how many previous violations of said ordinance have taken place at the premises or been committed by the same person during the statutory twelve (12) month period. A warning given pursuant to this ordinance shall remain in effect for the premises until a full twelve (12) month period has elapsed during which there has been no response to the premises.

(g) Appeal:

Any person upon whom is imposed a fine/penalty pursuant to this ordinance shall have the right to appeal the imposition of such fine/penalty in a non-criminal proceeding by making a written request within 21 days to the Clerk Magistrate for the Malden District Court.

(h) Inconsistency with Other Laws:

- (1) If any part or provision of this section is inconsistent with any federal or state statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.
- (2) If any part or provision of this section or the applicability thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.