

**RULES AND REGULATIONS**

**BOARD OF LICENSE COMMISSIONERS**

**OF**

**MONTGOMERY COUNTY, MARYLAND**

**Adopted by the Board of License Commissioners**

**July 20, 2006**

**As amended:**

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**Board Members**

**As of 10/6/2021**

Victoria Virador .....Chairperson  
Laurie Halverson .....Commissioner  
Susan Heltemes .....Commissioner  
Man Cho .....Commissioner  
Michelle Graham Hicks .....Commissioner

Kathryn Lloyd, General Counsel

Amy Samman, Division Chief of Licensure, Regulation and Education, ABS

Jocelyn Rawat, Licensure Manager, ABS

Ron Price, Compliance Manager, ABS

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Division of Licensure, Regulation and Education  
Alcohol Beverage Services  
Montgomery County, Maryland

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**All references are to the Alcoholic Beverages Article of the Annotated Code of Maryland**

## CHAPTER 1

### GENERAL PROVISIONS

#### **1.0 Authority Alcoholic Beverages Article, Section 25-206**

Pursuant to the authority granted by the Alcoholic Beverages Article of the Annotated Code of Maryland, the Board of License Commissioners for Montgomery County, Maryland, hereby adopts the following Rules and Regulations to enable the Board to effectively discharge the duties imposed upon the Board by the Alcoholic Beverages Article. These rules and regulations are subordinate to the Alcoholic Beverages Article of the Annotated Code of Maryland.

#### **1.1 Organization**

(a) The Board of License Commissioners (“the Board”) consists of five members appointed by the County Executive subject to confirmation by the County Council. The Board annually will elect one of its members as chairperson.

#### **Alcoholic Beverages Article, Section 25-202**

(b) Three members of the Board constitute a quorum for transacting business.

#### **Alcoholic Beverages Article, Section 25-204**

(c) A member of the Board may not have any interest in any license granted by the Board for the sale of beer, wine, and/or liquor. A member of the Board may not have any interest either directly or indirectly in premises where alcoholic beverages are manufactured or sold, or in any business devoted to the manufacture or sale of alcoholic beverages.



**Alcoholic Beverages Article, Section 25-202(c)**

(d) No member of the Board or county employee may solicit or receive directly or indirectly any commission, remuneration, or gift whatsoever from a licensee licensed under the Alcoholic Beverages Article, from any person engaged in the manufacture or sale of alcoholic beverages, or from an agent or employee of that person.

**Alcoholic Beverages Article, Section 25-202(c)**

**1.2 Powers**

(a) The Board may issue alcoholic beverage licenses authorized under the Alcoholic Beverages Article within Montgomery County.

**Alcoholic Beverages Article, Section 4-202(a)**

(b) The Board may suspend or revoke a license for any violation of the Alcoholic Beverages Article and/or these Rules and Regulations, or for any cause which, in the judgment of the Board, is necessary to promote the peace or safety of the community in which the place of business is situated. In lieu of suspending or revoking a license for a cause for which the Board is permitted but not required to suspend or revoke a license, the Board may impose a fine for the violation, if the Board determines that the public welfare and morals would not be impaired by allowing the licensee to operate during the suspension period and that payment of the fine will achieve the desired disciplinary purposes. The fine assessed by the Board may not exceed \$20,000 for each case.

**Alcoholic Beverages Article, Sections 4-604(a) and 25-2802**

(c) The Board may promulgate Rules and Regulations.

## **Alcoholic Beverages Article, Section 25-206**

(d) No license will be issued by the Board unless it is consistent with the restrictions contained in the Alcoholic Beverages Article of the Annotated Code of Maryland.

### **1.3 Licenses Are Not Property Alcoholic Beverages Article, Section 4-212**

Licenses issued by the Board under the provisions of the Alcoholic Beverages Article are not property, and do not confer property rights. All licenses are subject to the Alcoholic Beverages Article, and to these Rules and Regulations, and may be restricted, suspended or revoked.

### **1.4 County Attorney Alcoholic Beverages Article, Section 25-204(c)**

(a) The County Attorney for Montgomery County or the County Attorney's designee will serve as the legal advisor to the Board. The legal advisor will attend all meetings and hearings of the Board and provide legal advice to the chairperson and to all Board members as requested.

(b) In an appropriate case, the County Attorney or the County Attorney's designee may prosecute a case before the Board. However, at no time will the Board's legal advisor represent the County before the Board. In those cases where the County Attorney's designee prosecutes the case before the Board, there will be no contact nor discussion between the County Attorney's designee and the Board's legal advisor concerning the case at issue other than those contacts or discussions necessary to the orderly conduct of the case.

### **1.5 Legal Representation**

Any party, applicant, witness, or individual who files a protest or complaint, may be represented by an attorney. Where a notice is to be given under these Rules and Regulations to or by any party, applicant, witness, or individual who files a protest or complaint, the notice shall also be given by or to the person's attorney, so long as the attorney has entered his or her appearance in the matter to be considered by the Board.

#### **1.6 Time Periods**

In computing any period of time set forth in these Rules and Regulations, the method of computation provided for in Rule 1-203 of the Maryland Rules of Procedure, will govern, unless otherwise stated.

#### **1.7 Definitions**

(a) Alcohol Awareness Program means a program that: is approved and certified by the State Comptroller; has been issued an alcohol awareness program permit by the State Comptroller; includes instruction on how alcohol affects a person's body and behavior; provides education on the dangers of drinking and driving; defines effective methods for serving customers to minimize the chance of intoxication, includes instruction on ceasing service before customers become intoxicated; and instruction on determining if a customer is under 21 years of age.

#### **Alcoholic Beverages Article, Sections 4-505 and 25-1903**

(b) Alcoholic Beverages means a liquid, or compound, by whatever name called, that contains one-half of one percent or more of alcohol by volume, and is fit for beverage purposes.

#### **Alcoholic Beverages Article, Section 1-101(b)**

(c) Attorney means any attorney at law admitted to the Bar of the Court of Appeals of Maryland.

(d) Beer means any brewed alcoholic beverage and includes beer, ale, porter and stout.

**Alcoholic Beverages Article, Section 1-101(c)**

(e) Board means the Board of License Commissioners of Montgomery County.

(f) Country Club means any country club that has 100 or more bona fide members of whatever class; whose members pay an annual total amount of dues which averages at least \$50 for each member; and which maintains at the time of the application for the license a regular or championship golf course of nine holes or more and as further described in the Alcoholic Beverages Article, Section 25-1007.

(g) Club means an association, corporation, or other entity, organized and operated exclusively for educational, social, fraternal, patriotic, political, or athletic purposes, and not for profit. Alcoholic Beverages Article, Section 1-101(e). This definition does not apply to those clubs applying for a beer, wine, and liquor license under Alcoholic Beverages Article, Sections 25-1005, 25-1007, 25-1009, 25-1012, 25-1014 and 25-1105.

(h) Comptroller means the Comptroller of the Treasury of the State of Maryland.

**Alcoholic Beverages Article, Section 1-101(f)**

(i) County means Montgomery County, Maryland.

(j) Financial Interest means a legal or equitable interest in the licensed business entitling the owner thereof to receive a percentage of the profits derived from the sale of alcoholic beverages of the business. It does not include payments made to any employee, manager, mortgagor, landlord, creditor, or other individual who does not otherwise own an interest in the licensed business. The ownership of stock in a publicly traded corporation is not considered a financial interest for the purpose of these Rules and Regulations provided that the owner of such stock does not have any substantial degree of control or management of the corporation.

**Alcoholic Beverages Article, Section 4-109**

(k) Happy Hour means any time of the day specifically set aside by a licensee to offer patrons reduced prices on alcoholic beverages or a second alcoholic beverage free or at a reduced price after the patron's purchase of a regularly priced alcoholic beverage.

(l) Hotel means:

(1) In the case of an application for a class H-BW, the provisions of the Alcoholic Beverages Article, Section 1-101(k)(i) and (ii) apply.

(2) In the case of an application for a class B-BWL, the provisions of the Alcoholic Beverages Article, Sections 25-902 and 25-904 apply.

(m) Identification For purposes of purchasing alcoholic beverages, the following five forms of signed and valid identification are acceptable: a State driver's license with a picture, a military identification, a passport, an immigration card, and an identification card issued by a State Motor Vehicle Administration.

(n) Intoxicated means to be affected by the consumption of alcohol to a sufficient degree that a person's mental and physical functioning are substantially impaired, and the impairment is evident from noticeable signs such as, but not limited to, uncoordinated physical action or physical and or mental dysfunction that should have been obvious to a reasonable person.

(o) Keg means a container of beer with a capacity of at least 4 gallons, which is designed to dispense beer directly from the container.

(p) Licensed Premises means those premises that are specifically identified in the license issued by the Board, and may also include an approved outdoor cafe area.

(q) License Holder or Licensee means the holder of any license or permit issued under the provisions of the Alcoholic Beverages Article or any other law of the State of Maryland. The license holder may be either the entity on behalf of whom the alcoholic beverage license has been issued and/or the individuals whose names appear on the alcoholic beverage license.

**Alcoholic Beverages Article, Section 1-101(o)**

(r) Light Wine means any naturally fermented or fortified wine not in excess of 22 percent of alcohol by volume.

**Alcoholic Beverages Article, Section 1-101(dd) and General**

**Revisor's Note 25-1**

(s) Mixed Drink means a drink that includes as an ingredient one or more alcoholic beverages combined together or with non-alcoholic beverages and/or food stuffs.

(t) Person means a natural person, an association, a partnership, a corporation, a limited liability company, or any other legal entity.

(u) Renewal means the reissuance of an existing license for the exact premises, licensee(s), and type of license as was previously issued.

(v) Restaurant means any lunchroom, cafe, or other establishment located in a permanent building for the accommodation of the public, equipped with a kitchen with complete facilities and utensils for preparing and serving hot and/or cold meals to the public, and further equipped with a public dining room with tables and at least thirty (30) seats, utensils, and glassware to serve meals prepared in the kitchen. A restaurant must maintain a menu advertising the serving of a variety of hot and/or cold meals, and there must be sufficient food on the premises at all times to fill orders from the menu.

**Alcoholic Beverages Article, Section 1-101(w)(1)(i) and (ii) and (2)**

(w) Retail Dealer means a person who deals in or sells any alcoholic beverage to any person other than a license holder.

(x) State means the State of Maryland.

(y) Wine means any fermented beverage, including light wines, and wines the alcoholic content of which has been fortified by the addition of alcohol, spirits, or other ingredients.

(z) Youth Center means any facility sponsored or conducted by a governmental agency for the use of minors.

**1.8 Severability**

If any rule or regulation of these Rules and Regulations is held to be unconstitutional, invalid, or inapplicable to any person or circumstance by the final decision of a court of competent jurisdiction, all other rules or regulations of these Rules and Regulations and their application to all other persons and circumstances shall be separable and shall not be affected by such decision.

## CHAPTER 2

### LICENSES

#### 2.0 **Beer Licenses**

(a) Class A (Off-Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and sell beer at retail for consumption off the premises only, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-601. The annual fee for this license is \$200.00.

(b) Class B (On-Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and sell beer at retail at any hotel or restaurant for consumption on the premises or elsewhere subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-602. The annual fee for this license is \$250.00.

(c) Class D (On/Off Sale): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell beer at retail for consumption on the premises or elsewhere, subject to



the provisions and restrictions of the Alcoholic Beverages Article, Section 25-604.

The annual fee for this license is \$250.00.

(d) Class H (On-Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell beer at retail at any hotel, restaurant, or bowling alley for consumption on the premises, subject to the provisions of the Alcoholic Beverages Article, Section 25-605. The annual fee for this license is \$400.00.

## **2.1 Light Wine Licenses**

Class A (Off-Sale Only): A license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell light wines on the premises, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-701. The annual fee for this license is \$100.00.

## **2.2 Beer and Light Wine Licenses**

(a) Class A - (Off Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell beer and light wines at retail for consumption off the premises only, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-801. The annual fee for the license is \$250.00.

(b) Class B (On and Off Sale): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell beer and light wines at retail at any hotel or restaurant for consumption on

the premises or elsewhere, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-802. The annual fee for this license is \$400.00.

(c) Class H (On Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell beer and light wines at retail at any hotel or restaurant for consumption on the premises, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-805. The annual fee for this license is \$400.00.

### **2.3 Beer, Wine & Liquor Licenses**

(a) Class B - BWL - (H-R) (On Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell beer, wine, and liquor at retail for consumption on the premises only, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-902. The annual fee for this license is \$2,500.00.

In the town of Laytonsville and Damascus (12<sup>th</sup> election district), alcoholic beverages served by a licensee may be consumed by a patron only while the patron is seated.

#### **Alcoholic Beverages Article, Sections 25-1603 and 25-1605**

(b) Class BD-BWL (Beer and Wine On/Off Sale; Liquor On Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and sell beer and wine for consumption on or off the licensed premises; and liquor for consumption only on the licensed premises, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-903. The annual fee for the license is \$3,500.

(c) Catering Extension

**Alcoholic Beverages Article, Section 25-1202**

(1) The holder of a license with a catering extension must meet all the requirements set forth in the Alcoholic Beverages Article, Section 25-1202. Fourteen (14) days before each event, the holder of the catering extension must provide the Board with written notification of the location, date and time of the catered event, as well as a list of the food and alcoholic beverages to be provided, the number of guests expected to be in attendance, whether the event will take place indoors or outdoors, and the nature of the security to be provided.

(2) This section shall not be construed as authorizing retail delivery services as set forth in Alcoholic Beverages Article, Section 25-1904. The holder of the catering extension cannot provide only alcohol; the holder must provide and serve food as well as alcoholic beverages at the catered event.

(d) Class B – BWL - (H-M) (On Sale Only): a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and to sell beer, wine, and liquor at retail for consumption on the premises only, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-904. The annual fee for this license is \$2,500.00.

**2.4 Sampling and Tasting Licenses**

a license issued by the Board of License Commissioners for Montgomery County to a holder of a Class A beer and wine, Class A beer, or Class A wine license to hold tastings or samplings of beer or wine subject to the provisions and

restrictions of the Alcoholic Beverage Article, Section 25-1306. The annual fee for this license is \$200.00.

## **2.5 Temporary Licenses**

(a) Class C, Beer License – One to Seven days: a beer license issued by the Board of License Commissioners for Montgomery County, that entitles the licensee to exercise any of the privileges conferred by a Class C license for the sale of beer subject to the provisions and restrictions of the Alcoholic Beverages Article, Sections 4-1203 and 25-1311. The fee for this license is \$30.00 per day.

(b) Class C, Beer and Wine License – One to Seven days: a beer and wine license issued by the Board of License Commissioners for Montgomery County, that entitles the licensee to exercise any of the privileges conferred by a Class C license for the sale of beer and wine subject to the provisions and restrictions of the Alcoholic Beverages Article, Sections 4-1203 and 25-1311. The fee for this license is \$30.00 per day.

(c) Class C, Beer, Wine and Liquor License – One to Seven days: a beer, wine, and liquor license issued by the Board of License Commissioners for Montgomery County, that entitles the licensee to exercise any of the privileges conferred by a Class C license for the sale of beer, wine, and liquor subject to the provisions and restrictions of the Alcoholic Beverages Article, Sections 4-1202 and 25-1311. The fee for this license is \$60.00 per day.

(d) Beer Festival License: a license issued by the Board of License Commissioners for Montgomery County, that entitles the licensee to exercise any of the privileges conferred by a Beer Festival license for the sale of beer subject to the

provisions and restrictions of the Alcoholic Beverages Article, Section 25-1304. The fee for this license is \$30.00 per day.

(e) Wine Festival License: a license issued by the Board of License Commissioners for Montgomery County, that entitles the licensee to exercise any of the privileges conferred by a Wine Festival license for the sale of wine subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1305. The fee for this license is \$30.00 per day.

(f) Any temporary license issued under this section includes the entire grounds for an outdoor function for which the license is granted.

(g) Temporary licenses may only be issued to a club, society, or association, as defined in the Alcoholic Beverages Article, Section 1-101(e).

(h) Community Swimming Pool Clubs may obtain One Day Class C licenses in accordance with the Alcoholic Beverages Article, Sections 25-1310 and 25-1311.

(i) Temporary licenses are approved by the Board. The Board delegates this authority to approve or deny temporary licenses to its staff when timing makes advance Board approval impractical. Staff is required to report such actions to the full Board at its next meeting.

## **2.6 Licenses for Specific Types of Organizations and Venues**

(a) Theater License (Beer and Wine, On Sale Only):

a license issued by the Board of License Commissioners for Montgomery County that authorizes the holder to keep for sale and sell beer and wine at retail for consumption on the premises, subject to the provisions and restrictions of the

Alcoholic Beverages Article, Section 25-1013. The annual fee for this license is \$100.00.

(b) Class B, Corporate training Center License (Beer, Wine and Liquor, On-Sale Only):

a license issued by the Board of License Commissioners for Montgomery County that authorizes the holder to keep for sale and sell beer, wine and liquor for consumption on the premises, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1006. The annual fee for the license is \$2,500.00.

(c) Culinary School License (Beer and Wine, On Premise):

a license issued by the Board of License Commissioners for Montgomery County that authorizes the holder to allow for the consumption of beer and wine for use on the premises, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1008. The annual fee for this license is \$400.00.

(d) Art Gallery License (Beer and Wine, On Premise):

a license issued by the Board of License Commissioners for Montgomery County that authorizes the holder to sell or serve beer and wine at retail for consumption on the premises, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1001. The annual license fee is \$100.00.

(e) Beauty Salon License (Beer and Wine, On Premise):

a license issued by the Board of License Commissioners for Montgomery County, that authorizes the holder to keep and provide beer and light wine by the glass for consumption on the premises subject to the provisions and restrictions of

the Alcoholic Beverages Article, Section 25-1002. . The annual fee for this license is \$100.00.

(f) Class B, Club House / Lodge (Beer and Wine On/Off Premise, Liquor On Premise Only)

a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and sell beer and wine for off-premise consumption; and beer, wine and liquor for consumption on the premises, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1003. The annual license fee is \$1,000.

(g) Community Performing Arts Facility (Beer, Wine and Liquor, On Sale Only):

(1) a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and sell beer, wine and liquor at retail for consumption on the premises only, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1004. The annual fee for the license is \$750.

(2) The Board of License Commissioners may issue the license holder a Community Performing Arts Special Events permit. The permit authorizes the holder to sell beer, wine or liquor for consumption on the premises of the special event as provided in the Alcoholic Beverages Article 25-1004.

(h) Class B-BWL, Large Performing Arts Facility (Beer, Wine and Liquor, On Sale Only):

a license issued by the Board of License Commissioners for Montgomery County that authorizes the licensee to keep for sale and sell beer, wine and liquor at retail for consumption on the premises only, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1010. The annual fee for the license is \$1,000.

(i) Sports Stadium License (Beer and Wine, On Sale Only):

a license issued by the Board of License Commissioners for Montgomery County, that authorizes the holder to sell beer and wine for on-premises consumption during a professional sports event or other event held at the stadium subject to the provisions and restrictions of the Alcoholic Beverage Article, Section 25-1011.1. The annual fee for the license is \$2,000.

(j) Continuing Care Retirement Community License (Beer, Wine and Liquor, On Sale Only):

a license issued by the Board of License Commissioners for Montgomery County, that authorizes the holder to sell, at retail, beer, wine, and liquor for on-premises consumption to a member or a guest accompanied by a member subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1005. The annual fee for the license is \$500.

(k) Country Club License (Beer, Wine and Liquor, On Sale Only):

a license issued by the Board of License Commissioners for Montgomery County, that authorizes the holder to sell beer, wine, and liquor for on premise consumption to a country club member, a member of the immediate family of a country club member, an individual residing temporarily in the clubhouse of the



country club, or a guest of the country club member subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1007. The annual fee for the license is \$2,000.

(l) Fraternal/Sororal/Service Organization License (Beer, Wine and Liquor, On Sale Only):

a license issued by the Board of License Commissioners for Montgomery County, that authorizes the holder to sell beer, wine, or liquor to its members and their guests when accompanied by members for on-premises consumption subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1009. The annual fee for the license is \$1,000.

(m) Veteran's Organization or Club License (Beer, Wine and Liquor, On Sale Only):

a license issued by the Board of License Commissioners for Montgomery County, that authorizes the holder to keep for sale and to sell beer, wine, and liquor at retail at any club for consumption on the premises only, to any member of the club or bona fide guest(s) of a member subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1014. The annual fee for this license is \$1,000.

(n) Class C Club License (Beer, On Sale Only) and Class C Club License (Beer and Wine, On Sale Only):

i. a license issued by the Board of License Commissioners for Montgomery County that authorizes the holder to sell beer, at retail, to a member of a club and guests of members for on-premises consumption

subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-603. The annual fee for this license is \$50.

ii. a license issued by the Board of License Commissioners for Montgomery County that authorizes the holder to sell beer and wine, at retail, to a member of a club and guests of members for on-premises consumption subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-803. The annual fee for this license is \$120.

(o) Public Golf Course License (Class H Beer, On Sale Only; Class H Beer and Wine, On Sale Only; and Class B-BWL Clubhouse/Lodge (Beer and Wine On/Off Premise, Liquor On Sale Only)

i. a Class H Beer, Class H Beer and Wine, or Class B-BWL Clubhouse/Lodge license issued by the Board of License Commissioners for Montgomery County for the limited use of a public golf course under the jurisdiction of the Montgomery County Revenue Authority.

ii. A Class H Beer and Class H Beer and Wine License issued by the Board of License Commissioners for Montgomery County for the limited use of a public golf course under the jurisdiction of the Maryland-National Capital Park and Planning Commission.

Public Golf Course Licenses are subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1011. The annual fee for a Class H Beer license is \$400. The annual fee for a Class B-BWL Clubhouse/Lodge license is \$1,000.

(p) Market Place License (Consumption Only, Beer, Wine and Liquor)

A license issued by the Board of License Commissioners for Montgomery County that authorizes the consumption of alcoholic beverages in a designated area, subject to the provisions and restrictions of the Alcoholic Beverages Article, Section 25-1004.1.

## **2.7 Refillable Container Permit**

The Board of License Commissioners for Montgomery County may issue a refillable container permit (commonly referred to as a beer or wine growler) that authorizes a licensee to sell beer or wine in a refillable container for off premise consumption, subject to the restrictions and provisions of the Alcoholic Beverages Article, Sections 25-1103, 25-1104, 4-1104, and 4-1105. Refillable beer or wine container permits may only be issued to holders of a Class B or D license that entitles the holder to sell beer or wine for off-premises consumption.

## **2.8 Country Club Off-Sale Permit Alcoholic Beverages Article, Section 25-1007(h)**

The Board of License Commissioners for Montgomery County may issue a country club off-sale permit to a holder of a country club license to sell wine by the bottle for off-premises consumption only at tasting events not to exceed twelve (12) events per year nor two (2) events per month. The fee for this permit is \$200 in addition to the annual license fee.

### **CHAPTER 3**

### **APPLICATIONS**

### **3.0 Applications for Licenses**

(a) Any application for an alcoholic beverage license, transfer of a license, or renewal of a license must be made to the Board upon standard forms obtained from the Board. All applications must be legible, and printed in blue or black ink, so as to be easily read and reproduced.

(b) All applications must be made under oath subject to the penalties of perjury.

(c) All applications must be fully completed before submission to the Board. A hearing date will not be scheduled until the Board receives a completed application.

(d) Every applicant, except those applicants applying for a temporary license issued under the Alcoholic Beverages Article, Sections 4-1203 and 4-1204, must have his or her fingerprints taken, and must pay to the Board the processing cost charged for the required fingerprints.

#### **Alcoholic Beverages Article, Sections 25-1402 and 25-1409**

(e) Filing fee. A fee of \$600.00 to cover the cost of providing notice of the application and associated administrative costs must accompany each application for an alcoholic beverage license.

#### **Alcoholic Beverages Article, Section 4-106**

### **3.1 Notice**

#### **Alcoholic Beverages Article, Section 25-1506**

(a) Publication:



change of address, death of a licensee, dissolution of a corporation, election or change of an officer or authorized person who is listed as an applicant or licensee.

(1) Any change on a licensee's application concerning the removal, addition, or substitution of a licensee must be accompanied by a \$20 processing fee. Any change concerning a corporate or limited liability company application also requires:

(i) an affidavit from a license holder that explains the substitution of corporate officers or authorized persons and includes a statement that the ownership of the limited liability company or corporation has not changed, or if there are changes in ownership, an explanation of those changes.

(ii) a signed, notarized letter of resignation from the outgoing corporate official(s) or authorized person(s); and

(iii) for each new license holder, contact information, fingerprints, a copy of driver's license, and a passport-size photo.

(b) The Board's administrative staff may interview and conditionally approve any person who is proposed by the licensee as the new resident applicant on an existing license, subject to final approval by the Board at its next regularly scheduled meeting.

**3.3 Applications by Sole Owners                      Alcoholic Beverages Article,  
Section 25-1407**

A person who applies for an alcoholic beverage license or transfer of license as a sole owner must reside in the State of Maryland at the time of the application

for the license, and must continue to reside in the State for the duration of the alcoholic beverage license.

**3.4 Applications by Partnerships Alcoholic Beverages**

**Article, Section 25-1404**

If an application is made for a partnership, the license must be applied for by and issued to at least two (2) general partners as individuals, at least one (1) of whom must reside in the State of Maryland at the time of the application, and must continue to reside in the State as long as the licensee holds the alcoholic beverage license. If there is only one (1) general partner, the license shall be issued to that partner as an individual, if that individual has resided in the State of Maryland for at least two (2) years prior to the application for the license, and continues to reside in the State as long as the licensee holds the alcoholic beverage license.

**3.5 Applications by Corporations or Clubs Alcoholic Beverages Article,  
Section 25-1405**

If an application is made for a corporation, or a club, whether incorporated or unincorporated, the license must be applied for by, and be issued to, three (3) of the officers of that corporation or club, as individuals, for the use of the corporation or club, and at least one (1) of the individuals must reside in the State of Maryland at the time of the application, and must continue to reside in the State as long as the licensee holds the alcoholic beverage license. The application must set forth the names and addresses of all officers of the corporation or club, and must be signed by the president or vice-president as well as by the three (3) officers to whom the license will be issued. In the case of a corporation where there are less than three

(3) officers or directors of the corporation, all officers or directors must make the application as provided in this section. In the event that there are no officers or directors of a closed corporation, at least one (1) stockholder may make the application as provided in this section, if there is an affirmative vote of the stockholders holding a majority of the stock.

**3.6 Applications by Limited Liability Companies                      Alcoholic Beverages Article, Section 25-1406**

If an application is made for a limited liability company, the license must be applied for by, and issued to, three of the authorized persons of that limited liability company, as individuals, and at least one of these authorized persons must reside in the State of Maryland at the time of the application, and must continue to reside in the State as long as the licensee holds the alcoholic beverage license. If the limited liability company has less than three authorized persons, then all of the authorized persons must make the application.

**3.7 Interest in More than One License                      Alcoholic Beverages Article, Sections 25-1613, 25-1614, and 25-1615**

A licensee holding a Class B (on sale - hotels/restaurants or hotels/motels) beer, wine, and liquor license may apply for an additional license or licenses subject to the provisions and limitations set forth in the Alcoholic Beverages Article, Sections 25-1614 and 25-1615. When a Class B-BWL license holder applies for more than one license under this provision, one of the multiple licenses may be a Class BD-BWL license.



### **3.8 Issuance of a License**

### **Alcoholic Beverages**

#### **Article, Section 3-301 and 4-304**

Before any new license, transfer of an existing license, extension of the premises of an existing licensed premise, or renewal of an existing license is issued, the licensee(s) must comply with:

- (i) the requirements of the Alcoholic Beverages Article of the Annotated Code of Maryland, including obtaining a Bulk Transfer Permit and paying all personal property, retail sales, and withholding taxes, if required;
- (ii) the Rules and Regulations of all State and County agencies; and
- (iii) any other conditions or restrictions placed upon the issuance of the license by the Board.

### **3.9 Renewal of a License**

### **Alcoholic Beverages Article, Section 25-1801**

#### **and 25-1802**

License renewals will be handled in accordance with the provisions of the Alcoholic Beverages Article, Section 25-1801 and 25-1802, and as described in this section.

- (a) Applications
  - (1) Applications for renewal of licenses must be filed between February 1 and March 31 of each year on forms provided by the Board. The Board may receive late applications during April, and may fine the licensee in an amount not to exceed \$50.00 for each day the application is late.
  - (2) If an expiring license is subject to any restriction or suspension, the new license will be issued subject to the same restriction or suspension.

(3) A fee of \$100.00 must be paid at the time a renewal application is submitted to cover the cost of processing the application.

(b) Renewal Hearings

(1) A hearing on the renewal application will not be scheduled unless:

(i) a protest against the granting of the renewal is filed no more than ninety (90) days and at least thirty (30) days before the expiration of the license for which renewal is sought, and includes the name and location of the facility, the reason(s) for the protest, the printed name and address of each person signing the protest, the signature and date of each person signing the protest, and is signed by at least ten (10) residents or real estate owners in the immediate vicinity in which the licensee's place of business is located; or

(ii) the Board in its own discretion deems such a hearing is necessary.

(2) All renewal hearings will be heard and determined in the same manner as a case for an original application for a license.

(c) If the Board finds that a licensee is not qualified to obtain a renewal of the expiring license, the Board will not renew the expiring license, but may issue instead a renewal of the class or type of license for which the Board finds the licensee to be qualified.

(d) Criminal Convictions

(1) The Board will not renew the license of any person who during the license year has been convicted of any offense against the laws of a State or the

United States which in the judgment of the Board is of such a nature as to render the licensee unfit or unqualified to obtain a renewal of the license.

(2) In all cases where a renewal may be denied on the basis of a criminal conviction, the Board will hold a public hearing at which all relevant facts and circumstances of the offense may be inquired into, before the Board renders a decision regarding renewal.

(e) Any licensee who fails to have the renewed license on the licensed premises by opening of business on May 1st may be charged with a violation of the provision regarding display of licenses.

#### **Alcoholic Beverages Article, Section 3-507**

#### **3.10 Transfer of a License Alcoholic Beverages Article, Section 25-1701**

(a) If holder(s) of a license transfer less than 51% of the ownership interest in the licensed premises, the holder(s) must notify the Board of the change in ownership interest.

(b) Holder(s) of a license may transfer 51% or more of the ownership interest in the licensed premises only if:

(1) a completed written alcoholic beverage license transfer application is filed with the Board before the proposed transferee begins operation of the business. With the completed transfer application, the holder(s) must file a Transfer Permission Form which must be signed by all current licensees of record.

(2) All state taxes and local taxes owed by the transferor have been paid. No transfer of any license under the jurisdiction of the Board will be issued while there is outstanding any monies owed by the transferor to Montgomery

County, the Alcohol Beverage Services, the Board of License Commissioners, or the Comptroller's Office of the State of Maryland; however, where the transferee gives the Board written certification, under oath subject to penalties of perjury, and attested to by a Notary Republic, that he or she assumes the debt of the transferor, the Board may approve the transfer application contingent upon payment of the debt on or before a date that the Board deems appropriate.

(3) The Board approves the transfer application after public notice and hearing using the same criteria as used in a case of a new application.

(c) No application for a transfer of license which is to become effective prior to May 1st of the year in which the transfer is to take place will be processed by the Board after April 1st of that year.

(d) Upon receipt of notice of the Board's approval of a transfer of license, the transferee must within thirty (30) days of the date of said notice:

- (1) obtain a State food license;
- (2) obtain a valid use and occupancy permit;
- (3) obtain an approved bulk transfer permit;
- (4) have all State taxes transferred to the transferee's name; and
- (5) have the alcoholic beverage license transferred to the

transferee's name.

(e) In the event a transfer application is denied, the existing license must immediately be returned to the Board, and the licensee and transferee must make arrangements for the removal of all alcoholic beverages from the premises, unless the licensee agrees to resume operations within ten (10) days after the denial.

(f) If the transferee, while operating the licensed premises under the transferor's alcoholic beverage license, fails to file a completed alcoholic beverage transfer application with the Board, a 48-hour notice to file a transfer application may be issued. If the completed transfer application is not filed within the 48-hour time period, a cease alcoholic beverage sales order may be issued to the facility. The cease sales order will remain in effect until a completed transfer application is filed.

(g) If a licensee is charged with a violation during the transfer interim period (after a new owner/transferee has taken over the business but before the scheduled date for the hearing on the transfer application), a cease alcoholic beverage sales order may be issued by the Board to remain in effect until a show cause hearing on the violation is held, the transfer hearing is held, or the Board rescinds the cease sales order.

### **3.11 Construction, Expansion, or Alteration of Premises**

(a) A license issued contingent upon the construction of a facility in which the license is to be used will expire twenty-four (24) months after the date of approval, unless the license is issued, or an extension is approved by the Board.

(b) A licensee must not make any installation or structural alteration or addition, other than cosmetic changes such as paint, wallpaper, furnishings, carpet, etc., to the licensed premises, or change the manner in which alcoholic beverages are dispensed, without first obtaining permission from the Board.

(c) A licensee must not make any such installations, alterations, or additions to the licensed premises until the appropriate public authorities of the State of Maryland, Montgomery County, or local government have issued the required

permits or approval necessary to make the installations or alterations. This section requires that licensees first obtain a building permit from the Montgomery County Department of Environmental Protection, and secure approval from the Montgomery County Department of Health and Department of Fire and Rescue Services, where such approval is required.

(d) All installations, alterations, and additions approved by the Board must be completed by the licensee within the time period directed by the Board, not to exceed twenty-four (24) months from the date of approval, unless an extension of time is approved by the Board. Failure to do so may cause the Board to rescind the approval previously granted.

(e) Every licensed premise is required to have at least one plain/clear window or door so as to allow a person standing outside of the licensed premise a clear view inside to observe the interior of the premise at all hours. Further, no curtain, blind, screen, advertising material, tinting (no more than 15%) or other obstruction shall be permitted before or on such window or door.

Licensees faced with extenuating conditions may petition the Board in writing for a waiver. The Board will respond in writing to the licensee either granting or denying the waiver.

**3.12 Administrative Fees                      Alcoholic Beverages Article, Sections 4-213, 4-305, and 25-1701**

An administrative fee of \$20 will be charged for issuing the alcoholic beverage license for a transfer, transfer of location, reclassification, or any other change on the license. The administrative fee to replace a lost license is one dollar.

### **3.13 Drive - Through Sales**

The Board will not issue, transfer, or approve any application for an off-sale alcoholic beverage license of any class for use in a business that is intended to be operated as a drive-through purchase facility where alcoholic beverages are to be sold at retail and dispensed through a window or door to a purchaser in or on a motor vehicle for off premises consumption.

### **3.14 Exception - License Issued to an Operator**

In an application for a Class B Beer, Wine and Liquor License for a hotel or restaurant, the Board of License Commissioners for Montgomery County, may issue the license to an owner or operator.

**Alcoholic Beverages Article, Section 25-902**

### **3.15 Refund of License Fee**

If a license holder voluntarily surrenders the license at least six (6) months before the license expiration date, the license holder is entitled to a refund of the unearned portion of the license fee.

**Alcoholic Beverages Article, Section 25-1411**

## **CHAPTER 4**

### **HEARINGS AND RULES OF PROCEDURE**

#### **4.0 Hearings**

The Board must hold hearings concerning the applications for licenses, renewals of licenses, transfers of licenses, and show cause hearings authorized under the Alcoholic Beverages Article of the Annotated Code of Maryland. At all

such hearings, at least three (3) members of the Board must be present to constitute a quorum for the transaction of the Board's business.

#### **4.1 Definitions**

(a) Board: The Montgomery County Board of License Commissioners.

(b) License hearing: A hearing held before the Board pursuant to the Alcoholic Beverages Article, Sections 4-209, 4-210 and 25-1501 of the Annotated Code of Maryland, for the purpose of deciding whether to issue, deny, renew, reclassify, or transfer the license of an applicant.

(c) Show cause hearing: A hearing held before the Board pursuant to the Alcoholic Beverages Article of the Annotated Code of Maryland and/or these Rules and Regulations for the purpose of deciding whether to suspend or revoke the license of a licensee, or to impose a fine in lieu of suspension or revocation.

#### **4.2 Notice of Hearing**

(a) New, transfer, transfer of location, or reclassification of license applications.

(1) Publication - Before the Board will approve any new, transfer, transfer of location, or reclassification license application, it must publish a notice of such application two (2) times in two (2) successive weeks in each of two (2) newspapers of general circulation in the County. The notice must specify the name of each applicant for the license, the kind of license applied for, the location of the place of business proposed to be licensed, and the time and place fixed by the Board for hearing on the application. The hearing on the application must take place not less than 7 nor more than 30 days after the last date of publication.



**Alcoholic Beverages Article, § 4-208**

(2) The Board may fulfill the publication notice requirement by posting online a completed application at least 14 days before the hearing date.

**Alcoholic Beverages Article, § 25-1506**

(3) Posting - In addition to the publication requirement of Section 4.2(a)(1) or (a)(2), the Board requires for all new, transfer, transfer of location, or reclassification licensure applications that a suitable sign or notice be posted at least 30 days before the hearing. This notice must be posted in a conspicuous place on the premises described in the application. The notice must specify the class of the license applied for and the time and place fixed for a hearing on the application.

(b) Show cause hearing - The Board must notify a licensee at least ten (10) days before the date of a show cause hearing where the licensee is required by law to show cause why the license should not be suspended or revoked. The notice must specify the charges against the licensee and the time and place of the hearing. The notice must be in writing and may be:

(1) hand-delivered; or

(2) sent by both email and, and first class mail, postage prepaid to the licensee and the licensed establishment.

**4.3 Rules of Procedure**

The Board shall adopt rules of procedure, subject to the approval of the County Council, under the Alcoholic Beverages Article, § 25-1502(c).

Rule 1: Time and place

Hearings before the Board must be held at the time and place as designated in the notice, except for hearings which are continued. All hearings are open to the public, in accordance with the open meetings law.

Rule 2: Official record

The Board must prepare, maintain, and supervise the custody of an official record in each case which must include a verbatim transcript, if one is prepared, and exhibits, if any, which have been submitted during the hearing and at such time as the record may be open for such purposes. Documentary evidence may be received in the form of copies, excerpts, photographic reproductions or by incorporation by reference.

Rule 3: Ex parte communication

(a) This Rule applies to any ex parte or private communication, written or oral, received by a member of the Board, if:

(1) The communication relates to a contested matter before the Board;

(2) All appellate rights regarding the contested matter have not been exhausted; and

(3) The Board is required by law to make a decision on the matter based on the record before it.

(b) This Rule does not apply to:

(1) legal advice from its attorney or technical advice rendered by an employee of the Board at the Board's request, or

(2) any communication about the status or procedure of a pending matter.

(c) If a member of the Board receives an oral ex parte or private communication, that member must reduce the substance of the communication to writing within reasonable time after receipt of the communication.

(d) The Board must send a written notice to all parties that:

(1) discloses the content of the ex parte or private communication, and

(2) tells whether the Board will consider the ex parte or private communication as a basis for its decision, in accordance with paragraphs (e)(1) and (e)(2).

(e) The Board must include the ex parte or private communication in the record and may:

(1) consider the communication as a basis for its decision after giving all parties an opportunity to respond to the communication; or

(2) decide the matter if the Board expressly finds that it has not considered the communication as a basis for its decision.

Rule 4: Evidence

The Board may admit and give appropriate weight to evidence which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs, including hearsay evidence which appears to be reliable in nature. The Board may exclude incompetent, unreliable, irrelevant, or unduly repetitious evidence, or produce evidence at its own request. The Board may

take official notice of commonly cognizable facts, facts within its particular realm of administrative expertise, and documents or matters of public record.

Rule 5: Cross-examination

Each party has the right of reasonable cross-examination of witnesses who testify, and may submit rebuttal evidence. Repetitious questions and examination on irrelevant matters is not permitted. Cross-examination is subject to reasonable regulation by the Board including designation of specific persons to conduct cross-examination on behalf of other individuals.

Rule 6: Right to counsel

In any case governed by these procedures, all parties have the right to be represented by themselves or by an attorney of their choice. Within 48 hours after being retained by a party, counsel must file a written notice of appearance with the Board and send copies of the notice to all other parties of record.

Rule 7: Powers of the Board in conducting a hearing

In addition to any of the powers granted to the Board by the Alcoholic Beverages Article of the Annotated Code of Maryland, the Board is empowered to:

- (a) Require witnesses to be sworn;
- (b) Rule upon motions, offers of proof and receive relevant and probative evidence, exclude incompetent, irrelevant, immaterial or unduly repetitious evidence and give effect to the rules of privilege recognized by law;
- (c) Regulate the course of the hearing and allow the record in hearings to remain open;

- (d) Dispose of procedural requests or similar matters, including requests for a continuance;
- (e) Call, examine, and cross-examine witnesses and obtain and introduce into the record documentary or other evidence;
- (f) Request the parties at any time during the hearing to state their respective positions or theory concerning any issues in the case;
- (g) Take any action authorized by law or necessary to a fair disposition of a case;
- (h) Accept evidence by stipulation of facts;
- (i) Schedule, suspend, or continue hearings to a time and date certain with notification to all parties;
- (j) Upon its own motion or at the request of an affected party, order that witnesses other than a party be excluded from the hearing room until called to testify; and
- (k) Permit additional parties to participate in a hearing as justice may require.

Rule 8: Offer and compromise

When a licensee is notified to appear before the Board for a show cause hearing, the Board or the Board through its staff, may make an offer and recommendation or compromise by which the licensee voluntarily waives the right to the show cause hearing, admits the violation as charged, and agrees to pay a monetary fine, or elects to have its alcoholic beverage license suspended for a

specified period, as determined by the Board. All such agreements of offer and compromise must be recorded on a form provided by the Board.

Rule 9: Conduct of show cause hearing

Unless otherwise provided by law, the ordinary but not mandatory protocol for the conduct of a show cause hearing before the Board is as follows:

- (a) Disposition of all outstanding preliminary motions and matters;
- (b) Opening statements of the parties;
- (c) Presentation of factual case of the complaining party; cross-examination of all witnesses;
- (d) Presentation of factual case of the responding party; cross-examination of all witnesses;
- (e) Presentation of factual case of any other interested party; cross-examination of all witnesses;
- (f) Rebuttal evidence of the complaining party; cross-examination of all witnesses;
- (g) Surrebuttal evidence of the responding party; cross-examination of all witnesses;
- (h) Closing arguments.

Any decision by the Board to follow a protocol other than the ordinary protocol must be given to all parties to the show cause hearing at least 2 weeks before the date of the hearing.

Rule 10: Failure to appear

Upon the failure or refusal of a responding party to appear at a hearing, and upon finding that such party had timely legal or actual notice of the hearing, the Board may receive evidence from the complaining party and decide the case as if all parties were present.

Rule 11: Decisions

(a) The decision of the Board must be made on the basis of all evidence of record. The Board must prepare and issue a written resolution which contains a detailed statement of the grounds and findings forming the basis for the decision and conclusions of law, and the vote of each member of the Board on the decision.

(b) A copy of the resolution must be forwarded to the applicant or licensee and to all persons who request one in writing or on the record. The resolution will be hand-delivered; or sent by both certified mail, return receipt requested, and first class mail, postage prepaid. In the case of a denial, suspension or revocation, or fine in lieu of suspension or revocation, of a license, the Board must inform the applicant or licensee in writing of the procedures for an appeal.

Rule 12: Suspension/Revocation Notices, Posting Of - Other Closing Notices Prohibited

If the Board suspends or revokes the license of any retail licensee, the Board must post a notice on the date the suspension or revocation takes effect in a conspicuous place on the licensed premises in a form prescribed by the Board. The notice must indicate that the license has been suspended or revoked by order of the Board, and must include any specific violation of the Maryland State Alcoholic

Beverage Laws, and Rules and Regulations of the Board of License Commissioners.

A person must not remove or alter the notice until the suspension period has expired, nor shall any notice of any kind be placed in, or about the premises indicating that the same has been closed for any other reason. The Board must have the premises inspected regularly during the suspension period for compliance with this regulation.

Rule 13: Fine in lieu of suspension or revocation

(a) In lieu of suspending or revoking an alcoholic beverage license for any cause for which the Board is permitted but not required to suspend or revoke a license pursuant to the provisions of the Alcoholic Beverages Article, Section 4-604 of the Annotated Code of Maryland, the Board may impose a fine for any such violation, subject to the following conditions:

(1) The Board determines that the public welfare and morals would not be impaired by allowing the licensee to operate during the suspension period, and that the payment of the fine will achieve the desired disciplinary purposes;

(2) The fine assessed does not exceed \$20,000.00 as allowed by the Alcoholic Beverages Article, Section 25-2802, for each case; and

(3) All fines collected under this provision must be deposited into the Montgomery County general fund.

(b) The Board, when it acts to impose a fine on the licensee, must prepare and issue a written resolution which must contain a statement of the facts and findings forming the basis for the decision, the vote of each member of the



Board on the decision, and information on how to appeal the decision. A copy of the resolution must be hand-delivered; or sent by both certified mail, return receipt requested, and first class mail, postage prepaid to the licensee.

(c) The Board must issue a notice to stop selling alcoholic beverages to any licensed facility which does not pay the fine assessed by the due date in the show cause resolution. This notice remains in effect until the fine is paid in full or, at the Board's discretion, the notice is rescinded.

Rule 14: Motion for reconsideration

(a) Within ten (10) days after the Board issues a written decision on an application for an alcoholic beverage license or on a matter concerning a licensed premises, an applicant or a licensee may file a motion for reconsideration with the Board.

(b) The Board must at its next session decide by majority vote whether to grant or deny the motion for reconsideration.

(1) If the Board denies the motion for reconsideration, the Board's original decision remains in effect.

(2) If the Board grants the motion for reconsideration, the case is reopened and the Board may:

(i) order that another hearing on the case be scheduled;

(ii) issue a new decision amending its prior decision;

or

(iii) retain its original decision.

(c) The filer of the motion for reconsideration must mail or otherwise deliver a copy of the motion to all parties of record.

(d) A motion for reconsideration does not stay the effect of the Board's decision unless the Board orders otherwise.

Rule 15: Appeals

A final decision by the Board on an application for an alcoholic beverage license or on a matter concerning a licensed premises may be appealed to the Circuit Court for Montgomery County, under the applicable Maryland Rules of Procedure governing administrative appeals. An appeal does not stay the effect of the Board's decision.

Rule 16: Stay pending appeal

(a) Upon the filing of an appeal and where there would be no immediate danger to the public health, safety, or welfare, the Board may stay the effect of its decision pending a final determination on appeal.

(b) A written application for a stay of the Board's decision must be filed, by the licensee, no later than 10 days after the date of the decision.

(1) The Board must take up a timely filed written application for a stay of the Board's decision at its next regularly scheduled meeting and issue its decision on the stay in writing within 5 business days thereafter. Notice of the Board's decision must be either hand-delivered or sent by both certified mail, return receipt requested, and first class mail, postage prepaid to the licensee.

**4.4 Open Meetings**

(a) Notice of Meetings: The Board must give reasonable advance notice of meetings that are subject to the Open Meetings Law pursuant to the provisions of that law (General Provisions Article, §§ 3-201 to 3-206, Annotated Code of Maryland). All advance notice must comply with the sign posting and advertising requirements of the Alcoholic Beverages Article, Section 25-1506 of the Annotated Code of Maryland.

(b) Public Attendance:

(1) At any open session of the Board of License Commissioners, the general public may attend and observe.

(2) Except when the Board expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law, no member of the public attending an open session may participate in the session.

(c) Disruptive Conduct:

(1) A person attending an open session of the Board must not engage in any conduct, including visual demonstrations such as the waving of placards, signs, or banners that disrupts the session or that interferes with the right of members of the public to attend and observe the session.

(2) The presiding officer may order any person who persists in conduct prohibited by subsection (a) or who violates any other regulation concerning the conduct of the open session to be removed from the session, and may request police assistance to restore order. The presiding officer may recess the session until order is restored.

(d) Recording, Photographing, and Broadcasting of Open Sessions.

(1) A member of the public including any representative of the news media, may record discussions of the Board of License Commissioners at an open session by means of a tape recorder or any other recording device if the device does not create an excessive noise which disturbs members of the Board or other persons attending the session.

(2) A member of the public, including any representative of the news media, may photograph or videotape the proceedings of the Board at an open session by means of any type of camera if the camera:

(i) is operated without excessively bright artificial light which disturbs members of the Board or other persons attending the session;

(ii) does not create an excessive noise which disturbs members of the Board or other persons attending the session.

(3) A representative of the news media may broadcast or televise the proceedings of the Board at an open session if the equipment used:

(i) is operated without excessively bright artificial light which disturbs members of the Board or other persons attending the session;

(ii) does not create an excessive noise which disturbs members of the Board or other persons attending the session.

(4) The presiding officer may restrict the movement of a person who is using a recording device, camera, or broadcasting or televising equipment, if that restriction is necessary to maintain the orderly conduct of the session.

(e) Recordings Not Part of Record: A recording of an open session made by a representative of the news media or other member of the public, or any transcript derived from such a recording, must not be deemed a part of the record of any proceeding of the Board.

(f) Closed Meetings:

(1) The Board may hold closed meetings as allowed by the Maryland Annotated Code, General Provisions Article, Section 3-305. The Board must approve the closed meeting by a majority vote. The Board must take the vote before the closed meeting and must make a written statement of the reason for the closed meeting, including a citation of the authority under State law that justifies closing the meeting. If a person objects to the closed meeting, the Board must send a copy of the written statement to the Open Meetings Compliance Board.

(2) Minutes must be taken of the closed meeting that include a list of the topics discussed, the persons present, and each action taken during the closed meeting. The minutes must be carefully worded to avoid disclosing information that would negate the purpose of closing the meeting.

## **CHAPTER 5**

### **STANDARDS OF OPERATIONS**

#### **5.0 Compliance with Laws and Regulations**

Licensees must operate their establishments at all times in accordance with the requirements of all federal, state, and local laws, and the Board's Rules and Regulations.

**5.1 Licensee's Responsibility**

Each licensee is personally responsible for the operation of the licensed premises, and is responsible for any violation of the Alcoholic Beverages Article of the Annotated Code of Maryland and/or these Rules and Regulations committed not only by the licensee but also by any other licensees, and by the licensees' agents, employees, and operators.

**5.2 Changes in Licensing Information**

Before making any changes to the licensing information as reflected in the licensee's original license application or in any renewal thereof, the licensee must first notify the Board in writing.

**5.3 Inspections                      **Alcoholic Beverages Article, Sections 25-902, 25-903, and 25-906****

(a) All licensed facilities will be inspected at least twice during each fiscal year.

(b) All newly issued or transferred licenses will be subject to at least quarterly inspections and/or audits during the first year of operation after issuance of the license.

**5.4 Alcohol Awareness Certification                      **Alcoholic Beverages Article, Section 25-1903****

(a) A holder of any class of retail alcoholic beverage license or an employee designated by the holder must complete training in an approved alcohol awareness program. The training should be valid for a period of 4 years, and the holder must complete retraining in an approved program for each successive 4-year period.

(b) Approved alcohol awareness programs are programs that are approved and certified by the State Comptroller and have been issued an alcohol awareness program permit by the State Comptroller. These programs must include instruction on how alcohol affects a person's body and behavior; provide education on the dangers of drinking and driving; define effective methods for serving customers to minimize the chance of intoxication, include instruction on ceasing service before customers become intoxicated; and instruction on determining if a customer is under 21 years of age.

(c) A person who is certified by an approved alcohol awareness program must be present on the licensed premises, during the hours in which alcohol may be sold. This person may be either the licensee or a person who is employed by the licensee in a supervisory capacity.

(d) An up-to-date valid certificate from an approved alcohol awareness program must be presented to the proper authority upon request.

(e) The penalty imposed for failure to have a person who has been certified by an approved alcohol awareness program on the licensed premises during the hours in which alcohol may be sold is as follows: First offense \$100 fine;

for each subsequent offense, a fine not to exceed \$500 or a suspension or revocation of the license, or both.

**5.5 Records Alcoholic Beverages Article, Section 1-408**

(a) Alcoholic Beverage Purchases. Licensees must keep accurate records of all purchases of alcoholic beverages for a period of two (2) years from the date of each purchase. These records must include the date of each purchase, the quantity purchased, and the name and address of the seller. These records must be maintained on the licensed premises and must be available for inspection and produced upon request at all times by all duly authorized representatives of the Board. Records maintained may be in paper or electronic format.

(b) Current and Past Employees. Licensees must keep on their licensed premises records either in paper format or digitally, containing the legal names, addresses, contact information including phone and e-mail address and dates of birth of all persons currently employed by the licensee on the licensee's establishment, and of all persons so employed in the preceding twelve (12) month period. Records for current employees must be available at all times for inspection by a duly authorized representative of the Board or a sworn police officer. All records on former employees must be made available, upon request, within a reasonable period of time. Licensees with multiple locations may maintain such records in a central location, but must still produce such records on demand by copy or in electronic format.

**5.6 Ratio Accounting Procedures Alcoholic Beverages Article, Sections 25-902, 25-903, and 25-906.**



(a) Licensees holding a Class B, BWL license (on-sale) and Class BK, BWL (on sale), must ensure that the gross receipts from food sales are at least 40% of the gross receipts from the sale of food and alcoholic beverages. In the case of a class D, BWL (on-sale) and a Class BD, BWL (beer and wine on/off sale; liquor on sale only), the ratio of food to alcohol applies only to sales prior to 9 PM seven days a week. In the case of a Class BD, BWL license, the ratio of food to alcohol applies only to sales of alcoholic beverages for on premise consumption.

(b) Receipts from Sale of Food – In calculating the gross receipts from the sale of food, any food stuff, soft drink or other non-alcoholic beverage contained in any mixed drink must not be included in the calculation. The entire price of a mixed drink must be contained in the licensee's calculation of the gross receipts from the sale of alcohol.

(c) A cover charge cannot be used in calculating food or alcohol ratios. For purposes of this section, a cover charge means any charge that a licensee requires a patron to pay before the patron will be admitted to the licensed premises which does not include an identified alcoholic beverage or item of food to be served to the patron.

(d) Licensees holding a Class BD, BWL (beer and wine on/off sale; liquor on sale only) and a Class D, BWL (on sale) must ensure that food will be available for sale for on-premises consumption during the hours that alcoholic beverages are permitted to be served.

(e) The Board may conduct, as needed, an audit of the licensee's records to determine the ratio of gross receipts from the sale of food to gross receipts from

the sale of alcoholic beverages. The Board may require any licensee to provide supporting data which the Board, in its discretion, deems necessary to establish that the ratio requirements have been met.

(f) In the event that a licensee fails to maintain the sales ratio requirement, the Board may, in its discretion, revoke the license.

**5.7 Display of Licenses Alcoholic Beverages Article, Section 3-507**

Each licensee must place the alcoholic beverage license issued by the Board in a frame, under glass, and must place the license so that it is clearly visible and easily read in the licensee's place of business.

**5.8 Availability of Food**

All Class B and H, on sale, or on/off sale, and class D beer, wine and liquor on sale, and Class BD BWL on sale BWL, AND off sale BW, licensed establishments must have food for sale during all hours in which alcoholic beverages may be offered for sale. Food must consist of a variety of hot and cold meals that are offered on a printed menu and are available to patrons. It is permissible to offer a limited "late night" menu offering such items as soup, salad, sandwiches, appetizers, etc. Items not permitted include but are not limited to peanuts, nuts, popcorn, potato chips, corn chips, pretzels, trail mix, cookies, crackers, breadsticks, protein bars, dessert bars, goldfish cheddar crackers, beef/animal jerky, Slim Jims, donuts, and any traditional snack food items, do not meet the availability of food requirement of this section.

**5.9 Retail Delivery (off premises)      Alcoholic Beverages Article, Section 25-1904**

(a) Retail deliveries are only permitted if the licensee obtains a letter of authorization from the Board of License Commissioners to make deliveries, and complies with all the provisions regarding delivery contained in this regulation.

(b) Licensees are prohibited from contracting out for the off-premises delivery of alcoholic beverages to an independent delivery or courier service.

(c) The delivery must be made from the licensed premises and may only be made within Montgomery County.

(d) The licensee or the licensee's agent making the delivery must be twenty-one years old; or eighteen (18) years of age and accompanied by a supervisor who is at least 21 years old.

(e) The licensee or the licensee's agent making the delivery can only deliver the alcoholic beverages to an individual who is twenty-one (21) years of age or older, after the person taking possession of the alcohol presents the deliverer with a valid identification showing the individual's photograph and date of birth.

(f) The person taking possession of the alcoholic beverages must sign a written certification as set forth in the Alcoholic Beverages Article, Section 4-506, detailing the valid form of identification presented to the deliverer.

(g) The licensee must retain all written certifications on the licensed premises for at least one (1) year, and must make the certifications available for inspection by an authorized representative of the Board of License Commissioners during regular business hours.

(h) Restaurants, bars, or taverns and others holding BWL licenses are subject to the same Retail Delivery requirements as off-premises retail license holders and are subject to the following:

(1) No more than one (1) six-pack of beer, two bottles of wine, or two mixed drinks or cocktails may be sold to an individual along with prepared food for each individual transaction.

(2) Sales and retail delivery to a resident only in Montgomery County, carryout and curbside must occur no later than 11:00 p.m. daily.

(3) Draft beer sold to an individual along with prepared food for off-premises consumption must be in a sealed, tamper-proof container no larger than 16 fluid ounces per transaction.

(4) Wine sold to an individual along with prepared food for off-premises consumption must be in a sealed, tamper-proof container no larger than 8 fluid ounces per transaction.

(5) Mixed drinks or cocktails sold to an individual along with prepared food for off-premises consumption must be in a sealed, tamper-proof container and must contain no more than 2 ounces of spirits per container per transaction.

(6) Growlers may not be sold to an individual along with prepared food for off-premises consumption.

(7) Sealed bottles of spirits may not be sold for off-premises consumption.

(8) All of the above specified container sizes must comply with the Board of License Commissioner' Regulation 5.10 Dispensing of Liquor, "sold by the drink."

(9) Prepared food is defined under Regulation 5.8 of the Board of License Commissioners' Rules and Regulations and must be more substantial than snack food items such as peanuts, popcorn, and potato chips. A limited "late night" menu offering, for example soup, salad, sandwiches, appetizers, etc., is permitted.

(10) License holders must comply with additional regulations contained in SB 205. In addition, license holders are subject to all alcoholic beverage laws, rules and regulations, including but not limited to legal sales hours, minimum age to purchase alcoholic beverages, and sales to intoxicated persons.

#### **5.10 Dispensing of Liquor**

A licensee, his or her agent(s) and/or employee(s) must not sell, serve, or furnish any Liquor/Spirits by the bottle for consumption on the premises.

Liquor/Spirits must be sold by the drink except Class B BWL, Class BK BWL, Class BD BWL, Class D BWL, and Class C BWL licenses serving alcoholic beverages to patrons in rented or leased private rooms. Liquor/Spirits bottled miniatures are permitted for consumption on the licensed premises for facilities licensed to sell and serve Beer, Wine and Liquor. Bottled beer and wine are permitted for consumption on the licensed premises for facilities licensed to sell and serve beer and wine.

A Rented room and/or Leased room is defined as a signed, dated written agreement made in advance between the license holder and consumer where a documented payment is made for the legal temporary use of a room on the licensed

premises not to exceed 8 hours on any given day. The rental or lease agreement and method of payment must be maintained on the licensed premises, and must be available for inspection and produced upon request at all times by a duly authorized representative of the Board of License Commissioners and the police.

Generally, rooms are rented or leased to accommodate such private events as wedding receptions, birthday parties, anniversary parties, business luncheons, meetings, etc., and are closed to the public. However, license holders that rent or lease their entire restaurant for private events must realize the alcoholic beverage license granted by the Board and issued to their business is a public license; and as such the licensed premises may not be closed to the public.

A room is defined as a space that can be occupied or where something can be done; a part or division of the licensed premises enclosed by four walls floor to ceiling, a door and adequate lighting. A sectioned off area with a temporary barrier commonly referred to as a VIP section is not considered a room.

The room must allow an individual standing outside the room a clear view inside to observe the interior of the room at all hours the room is rented or leased. No curtain, blind, screen, advertising material, tinting or other obstruction shall be permitted on the window.

For the purpose of this regulation a roof top or second floor of the licensed premises, or a mezzanine, can be considered rented rooms as long as they are covered by the rental agreement in their entirety.

Adequate wait staff must be assigned to the room for the duration of the rental or lease agreement to ensure responsible sales and service of alcoholic beverages and food during legal sales hours.

A room must comply with all County and State building codes, regulations, and occupancy requirements.

**5.11 Beverages from Faucets, Spigots, etc./Labeling Alcoholic Beverages**  
**Article, Section 6-315**

A licensee, his or her agent(s) must not furnish or serve any beer, wine or liquor from any bottle, faucet, spigot, container, or other dispensing apparatus unless the trade name or the brand name of the products served appears in full sight of the customer in legible lettering upon the bottle, container, or dispensing device.

- (a) Premixes/Infusions – A container may be used to mix edible ingredients to include food items such as fruit with legal alcoholic beverages for immediate consumption, but in no instance shall the premix be served more than 5 days after it is mixed.
- (b) The container used to prepare premixes/infusions shall not exceed 20 liters/5.28 gallons.
- (c) The container will be labeled with the name of the premixed drink or infusion, the date prepared, the legal brand of spirits used, the amount of legal spirits used, and the expiration date.
- (d) Upon expiration, any remaining contents of the premix or infusion must be discarded, and not reused.

- (e) Mixed Drinks – A drinking glass or other similar open container may be used to mix edible ingredients with legal alcoholic beverages, and served to an individual for immediate consumption.
- (f) Licensees premising or infusing legal distilled spirits shall comply with all applicable county, state, and federal food safety regulations.

**5.12 Beer Keg Registration Alcoholic Beverage Article, Section 5-303**

Any licensee who sells or offers for sale kegs or other containers holding 4 gallons or more of beer to consumers for off-premises consumption must require the purchaser to:

- (a) provide a valid form of identification as defined in §1.7 of the Rules and Regulations of the Board of License Commissioners;

- (b) complete and sign a keg registration form.

- (1) The keg registration form provided and distributed by the State Comptroller's Office must be properly completed by both the licensee and purchaser, and be affixed to the keg by the licensee before the keg is taken off the licensed premises.

- (2) The purchaser must provide on the keg registration form the purchaser's name, address, and signature.

- (3) Where the purchaser obtains more than one keg for off-premises consumption a separate keg registration form must be completed and affixed to each keg purchased.

- (4) The licensee must print on the keg registration form the name of the licensed facility, city or town where located, purchase date, date of birth of



purchaser, type and number of ID shown, clerk's name, and whether the keg container is disposable.

(5) The licensee must keep a copy of the completed registration form for 30 days on the licensed premises.

(6) The licensees may charge a keg registration fee to the purchaser.

(7) Upon return of a registered keg from the purchaser, the licensee must remove or obliterate the keg registration form affixed to the keg, and that removal and the date of that removal on the copy of the keg registration form must be retained by the licensee on the licensed premises.

(8) If a keg is made of disposable packaging that does not have to be returned to the licensee, the licensee must indicate on the keg registration form that the keg is disposable.

(9) Disposal of empty kegs made of disposable packaging does not constitute obliteration of the keg registration form.

(10) The existence of a completed keg registration form on the licensed premises, signed by the purchaser, creates a presumption that the licensee has complied with the requirements of this section.

(11) Keg registration forms are not transferable and may only be issued from the licensed establishment to which the keg registration forms were assigned. The keg registration forms are assigned by the Maryland State Comptroller's Office.

(c) A licensee who violates any provision of this section is subject to a fine not to exceed \$100 or a suspension or revocation of the alcoholic beverage license; both a fine and suspension or revocation may be imposed.

### **5.13 Special Class C Licenses – Kegs**

All alcoholic beverages purchased for consumption at events that have been issued a Special Class C temporary alcoholic beverage license must be purchased directly from a Montgomery County retail dealer licensed to sell alcoholic beverages for off-premises consumption, a manufacturer with a self-distribution license, a Montgomery County Alcohol Beverage Services dispensary, or from the Montgomery County Alcohol Beverage Services warehouse.

### **5.14 Outdoor Cafes**

(a) Licensees may operate an outdoor cafe as part of the licensed premises only with the express approval of the Board. The Board may modify, suspend, or revoke the outdoor cafe privilege.

(b) Outdoor cafes approved by the Board must:

(1) be contiguous to the licensed premises, enclosed in a clearly delineated area, and surrounded by a continuous barrier at least 36 inches high at its lowest point with a controlled point of ingress and egress; and

(2) not be on public property or on a public right-of-way, without the express written approval of the appropriate State, County, or local government authority.

(c) Notwithstanding the provisions of subsection (b)(1) above, a licensee may operate an outdoor cafe that is non-contiguous to the licensed premises as part

of the licensed premises, if the non-contiguous outdoor cafe meets the requirements of subsection (b)(2) above and;

(1) is on the same side of the street and extends no more than a combined total of fifty (50) feet beyond the width of the store front of the licensed premises in either direction. "Store front" is defined as that part of the outer wall of any premises which is contiguous to a public sidewalk or right-of-way. If the cafe extends beyond the width of the storefront of the licensed premises, the licensee must obtain written permission to operate the extended portion of the cafe from all adjoining property owners within the extended cafe area. If the Board is notified in writing that permission is rescinded based upon a change of ownership or otherwise, the Board will suspend the extended cafe privilege until written permission is obtained. In addition, the distance between the store front of the licensed premises and the closest point of the cafe area must be no more than twenty-five (25) feet.

(2) is enclosed in a clearly delineated area, and surrounded by a continuous barrier at least 36 inches high at its lowest point with controlled point(s) of ingress and egress.

(3) has wait service.

(d) When a licensed facility is located within a Town Center and the facility has leased space in the Town Center that is non contiguous to the licensed premises and existing outdoor café; and otherwise meets the requirements of this section, the licensees may use this space as an outdoor café area for one-time Town Center events held in the Town Center. A business modification form is required at least 14 days prior to the event.

**5.15 Closing of Licensed Establishments     Alcoholic Beverages Article,  
Sections 4-802, 4-803, and 4-702**

(a) If a licensee closes the licensed premises for ten days or more, the licensee must inform the Board in writing immediately upon closing, giving the reason for closing, the estimated time the premises will not be operated, and the licensee's future intentions as to the use of the license.

(b) On the tenth day after a licensee has, in the opinion of the Board, ceased operations without notifying the Board that the licensed premises would be closed, or been evicted from the premises for which the license was issued, the license shall expire unless an application for approval of a transfer of the license to another location, or to another person, or, following the death of a licensee, an application for a certificate of permission to continue the business for up to 18 months, has been approved or is pending. However, in order to avoid undue hardship, the Board may, in its discretion, postpone the expiration for an additional period not exceeding twenty (20) days.

(c) In the event that an emergency situation or other exigent circumstances relating to the public health, safety, or welfare is determined to exist at or in the vicinity of a licensed premises, in which, in the opinion of any federal, state, county, or local municipality, the continued operation of the licensed premises would pose an immediate threat to the peace, safety, or general welfare of the community, the said governmental agency, through its duly authorized representative, will be entitled to order the closure of the licensed premises for the hours remaining prior to legal closing.

### **5.16 Lighting**

Licensees must insure that every portion of the licensed premises which is open to the public is illuminated by sufficient natural or artificial light to insure clear visibility and to allow patrons to read a menu or other printed materials.

### **5.17 Restroom Facilities**

Every holder of an "On-Sale" license shall provide on the licensed premises adequate and sanitary restroom facilities for all patrons, and shall be in compliance with all applicable State, County, and local Department of Health Laws, Rules, and Regulations.

### **5.18 Washing Containers**

(a) Licensees must thoroughly wash all containers used for dispensing drinks in a manner that conforms to the regulations of the Montgomery County Department of Health.

(b) When a refillable container is brought in for refill to a licensee with a refillable container permit, the cleaning of the container is the responsibility of the consumer.

## **Alcoholic Beverages Article, Section 4-1104 and 4-1105**

### **5.19 Legal Hours Consumption May Occur**

(a) An individual of legal age may consume an alcoholic beverage on a licensed premises only during the hours of sale permitted under the license covering the premises.

(b) A license holder shall remove all containers of alcoholic beverages from the tables and bar service area on the licensed premises at the end of the license holder's permitted hours of sale.

**Alcoholic Beverages Article, Section 25-2001**

**CHAPTER 6**

**PROHIBITED PRACTICES**

**6.0 Acts Contrary to Law**

A licensee, his or her agent(s) and/or employee(s) must not commit or allow the commission on the licensed premises of any act contrary to any federal, state, county or local law, statute, ordinance, rule or regulation, or of any act against the public peace, safety, health or welfare.

**6.1 Sales or Service to Minors/Consumption or Possession by Minors**

**Alcoholic Beverages Article, Sections 3-505 and 25-2702**

(a) A licensee, his or her agent(s) and/or employee(s) must not sell or serve any alcoholic beverage to anyone under the age of 21. A licensee, his or her agent(s) and/or employee(s) must not permit anyone under the age of 21 to consume or possess any alcoholic beverage on the licensed premises. The licensee, his or her agent(s) and/or employee(s), must determine that the person to whom the sale or service is made, or who is consuming or possessing an alcoholic beverage on the licensed premises, is at least twenty-one (21) years of age prior to the sale, service, possession, or consumption of any alcoholic beverage. The licensee is responsible for any violation of this section.

(b) Every licensee may keep on the licensed premises and make available for inspection to the Board's duly authorized agent, a book containing the signature of any person who has presented questionable identification in connection with the purchase of alcoholic beverages and who has presented documentary proof to substantiate his or her age. The book may contain copies of the form prescribed by the Alcoholic Beverages Article, Section 3-505 of the Annotated Code of Maryland.

(c) If licensee(s) or their employee(s) are found guilty by the Board of furnishing alcoholic beverages to a minor, and if the license of the licensee(s) is not revoked, the Board, in its discretion, may require the licensee(s), or their employee(s) to take an approved alcohol awareness certification course or the Alcohol Beverage Services Alcohol Law Education and Regulatory Training (ALERT) within 60 days of the date of the Board resolution in which the licensee was found guilty. In the event that there is an appeal of the resolution, the course must be taken within 60 days of the date of final determination of the appeal.

**6.2 Sales or Service to Intoxicated Persons/Consumption or Possession by Intoxicated Persons Alcoholic Beverages Article, Section 6-307 and 25-2703**

(a) A licensee, his or her agent(s) and/or employee(s) must not sell or serve any alcoholic beverage to any intoxicated person, or to any person who appears to be under the influence of alcohol and/or drugs, or who is acting in a disorderly manner. A licensee, his or her agent(s) and/or employee(s) must not permit any intoxicated person, or any person who appears to be under the influence of alcohol and/or drugs, or who is acting in a disorderly manner, to consume or

possess any alcoholic beverage on the licensed premises. The licensee, his or her agent(s), and/or employee(s) must determine that the person to whom the sale or service is made, or who is consuming or possessing an alcoholic beverage on the licensed premises, is not intoxicated, under the influence of alcohol and/or drugs, or acting in a disorderly manner prior to the sale, service, possession or consumption of any alcoholic beverage.

(b) If licensee(s) or their employee(s) are found guilty by the Board of furnishing alcoholic beverages to an intoxicated person, or to a person who appears to be under the influence of alcohol and/or drugs, or who is acting in a disorderly manner, and if the license of the licensee(s) is not revoked, the Board, in its discretion, may require the licensee(s), or their employee(s) to take an approved alcohol awareness certification course within 60 days of the date of the Board resolution in which the licensee was found guilty. In the event that there is an appeal of the resolution, the course must be taken within 60 days of the date of final determination of the appeal.

**6.3 Age of Employees Alcoholic Beverages Article, Section 4-504**

(a) Only individuals eighteen (18) years or older are permitted to sell or handle alcoholic beverages.

(b) This rule will not prohibit the licensee from employing anyone under the age of eighteen (18) for any purpose except the sale or handling of alcoholic beverages. Bussing tables is not considered handling of alcoholic beverages.

**6.4 Consumption, Possession, or Sale During Prohibited Hours  
Alcoholic Beverages Article, Sections 25-2007**



No alcoholic beverages may be served, dispensed, consumed, furnished or given away by a licensee, his or her agent(s) and/or employee(s) to anyone on any part of the licensed premises during the hours prohibited by law.

#### **6.5 Gambling**

Except when specifically authorized by law, a licensee, his or her agent(s) and/or employee(s) must not allow the licensed premises to be used for the purpose of bookmaking or gambling in any form.

#### **6.6 Narcotic Drugs**

(a) A licensee, his or her agent(s) and/or employee(s) must not permit the licensed premises to be used for the sale, transfer, accommodation for the sale or transfer, or possession of any controlled dangerous substance as defined by the Annotated Code of Maryland.

(b) A licensee, his or her agent(s) and/or employee(s) must not use, possess, sell or allow to be used, dispensed, or sold on the licensed premises any type of illegal drugs or narcotics.

#### **6.7 Free Food, Merchandise and Prizes      **Alcoholic Beverages Article, Section 6-310****

License holders must not offer free merchandise to encourage the sale of alcoholic beverages. No alcoholic beverages may be sold or given away as prizes in connection with the playing of any claw, pinball, slot machine, or other similar devices such as punch cards, etc., provided, however, that all persons holding "on-sale" licenses may offer any of the following free of charge in connection with the

consumption of alcoholic beverages on the premises such as: pretzels, potato chips, peanuts, cheese, crackers, hors d'oeuvres.

**6.8 Alcoholic Beverage Containers - Refilling/Tampering Alcoholic Beverages Article, Section 6-313**

(a) A licensee, his or her agent(s) and/or employee(s) must not re-use or refill any bottle or other container of alcoholic beverages.

(b) License holders with a refillable container permit may refill containers as authorized under the Alcoholic Beverages Article, Sections 25-1103 and 25-1104.

(c) A licensee, his or her agent(s) and/or employee(s) must not tamper with the contents of any bottle or container of alcoholic beverages, by, for example, adulterating, diluting, fortifying or in any other way changing the contents of the container in any manner.

**6.9 Storage Alcoholic Beverages Article, Sections 1-401, 3-501, 4-502, 25-1905, and 25-307**

(a) License holders must not sell, store, or keep any alcoholic beverages on the licensed premises other than those purchased from the Montgomery County Alcohol Beverage Services. License holders may purchase, store and sell beer and wine as authorized under the Alcoholic Beverages Article, Section 25-307, which authorizes the purchase of wine from either a State class 6 limited wine wholesaler's license or a State non-resident winery permit; or beer from either a State class 7 limited beer wholesaler's license or State non-resident brewery permit. License holders authorized to sell liquor may also purchase liquor directly from a holder of a non-resident distillery permit or a holder of a class 8 liquor wholesaler's license.

(b) It is unlawful for any licensee to store or keep any alcoholic beverages on the licensed premises other than those permitted under the licensee's license.

(c) A licensee may only store alcoholic beverages on the licensed premises, or at a public or government controlled warehouse for which a permit has been issued under the provisions of the Alcoholic Beverages Article of the Annotated Code of Maryland.

#### **6.10 Limits on Licensed Premises**

(a) A licensee, his or her agent(s) and/or employee(s) must not permit alcoholic beverages to be sold, served, or consumed on any part of the premises that is not specifically licensed for such uses by the Board.

(b) The Board of License Commissioners for Montgomery County may issue a permit allowing a restaurant, club or hotel that operates under a class B, class C, or a class H license, authorizing a consumer to bring their own personal wine onto the licensed premise as authorized under the provisions of the Alcoholic Beverages Article, Section 4-1102 and 25-1102.

#### **6.11 Illegal Consumption Alcoholic Beverages Article, Section 6-308**

(a) Except in the case of a permanent Class C consumption license and a Consumption Only Market Place License, issued by the Board of License Commissioners for Montgomery County, it is unlawful for any person to consume on the licensed premises of any licensee any alcoholic beverages not purchased from the licensee on the said premises. It is also unlawful for any licensee to permit any person to consume any alcoholic beverage not purchased from the licensee on the

premises covered by the license and not permitted by the law to be consumed on the premises.

(b) A Class A, off-sale licensee, his or her agent(s) and/or employee(s) must not permit any person to consume or open any alcoholic beverage on the licensed premises.

(c) A class A, off sale licensee, with a beer and wine sampling or tasting license allows the licensee to provide samples of beer or wine for consumption on the premise as provided in the Alcoholic Beverages Article, Section 25-1306.

#### **6.12 Open Containers**

(a) A licensee, his or her agent(s) and/or employee(s) must not permit any person(s) to leave the licensed premises with an alcoholic beverage in an open container.

(b) A licensee may permit a patron who has purchased a meal and a bottle of wine and who has partially consumed the bottle of wine with the meal, to leave the licensed premises with the partially consumed bottle of wine, if the bottle has been corked or capped by the licensee or an employee of the licensee.

#### **Alcoholic Beverage Article, Section 4-1103**

#### **6.13 Solicitations**

(a) A licensee, his or her agent(s) and/or employee(s) is not permitted to employ any solicitor or salesman for the purposes of soliciting orders for the sale of alcoholic beverages outside of the licensed premises.

(b) A licensee, his or her agent(s) and/or employee(s) is not permitted to employ or use any loud speaker or any other sound making or amplifying device that

projects sound outside the licensed premises for the purpose of soliciting orders for the sale of alcoholic beverages.

#### **6.14 Dancing**

Dancing is not permitted within licensed premises unless:

- (a) the licensee obtains an “Enterprise License” where required;
- (b) the licensee keeps available for patrons all of the tables and seats

required for the licensee to meet the definition of a restaurant.

#### **6.15 Nudity and Sexual Displays**

##### **(a) Sexual Practices and Nude Dancing**

(1) A licensee, a licensee's agent(s) and employee(s) must not permit or allow the licensed premises to be used for any sexual activity prohibited by the Criminal Law Article and the Alcoholic Beverages Article of the Annotated Code of Maryland. A licensee, a licensee's agent(s) and employee(s) must not permit or allow any employee, patron, or other person present in the licensed premises to solicit any person for the purposes of prostitution, lewdness, or other acts prohibited by the Criminal Law Article of the Annotated Code of Maryland.

(2) A licensee, a licensee's agent(s) and employee(s) must not permit or allow any person to appear in any act or other performance who is nude or is in any clothing exposing to view the female breast below the top of the areola or any portion of the pubic hair, anus, buttocks or genitals. This provision shall not apply to actors and actresses performing on a stage at a theater, including a dinner theater.

(3) A licensee, a licensee's agent(s) and employee(s) must not knowingly permit or allow the premises to be used for the conduct, exhibition, or performance of any act which simulates or depicts any sexual acts prohibited by the Alcoholic Beverages Article, Section 4-605 of the Annotated Code of Maryland.

(4) A licensee, a licensee's agent(s) and employee(s) must not permit any patron of the licensed establishment to place any money or gratuity on or in the costume or clothing of, or on or about the person of any performer, entertainer.

(b) Attire and Conduct of Employees

A licensee must not employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises who is nude or is in any clothing exposing to view the female breast below the top of the areola or any portion of the pubic hair, anus, buttocks, or genitals.

(c) Exhibiting Sexually Explicit/Nude Dancing Films or Pictures

A licensee must not allow the exhibition or showing on the licensed premises of any motion picture film, still pictures, electronic reproduction or other visual reproductions that displays nude dancing or any sexually explicit performance, act, or show.

**6.16 False Statement                      Alcoholic Beverages Article, Sections 4-604**

Neither an applicant for a license, nor a licensee is permitted to make any false statement, material or otherwise, in any original application for an alcoholic beverage license, renewal application, letter or written statement, in testimony

before the Board or to any other representative of the Board who may be conducting an official investigation.

**6.17 Discrimination**

A licensee, his/her agent(s) and/or employee(s) may not directly or indirectly refuse, withdraw from, or deny to any person the services, accommodations, advantages, facilities and privileges offered on said licensee's premises on the grounds of race, creed, religion, physical or mental handicap, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation, or personal appearance, except that dress codes may be utilized where posted notice is given.

**6.18 Gifts**

A licensee, his/her agent(s) and/or employee(s) must not give or otherwise transfer to any member of the Board or any of its agents or employees, directly or indirectly, any commission, remuneration, or gift except as provided by the Ethics Law, Chapter 19A of the Montgomery County Code.

**6.19 Noise/Sound/Disturbance of the Neighborhood**

(a) All licensees must operate their establishments in such a manner that will not disturb the peace and safety of the neighborhood.

(b) Unnecessary noise/sound emanating from the licensed premises is prohibited during hours of operation.

(c) The intent of this rule is that licensee's operations will not adversely impact the surrounding neighborhood in terms of noise/sound and/or anti-social, illegal, boisterous and/or unsafe activities.

**6.20 Disorderly House**

**Alcoholic Beverages Article, Sections 6-210**

**and 6-320(a)**

A licensee, his/her agent(s) and/or employee(s) must not permit any person(s) on the licensed premises to:

- (a) be intoxicated and endanger the safety of another person or property, or
- (b) be intoxicated or drink any alcoholic beverage and cause a public disturbance.