

Rules and Regulations Relating to Alcoholic Beverages in Calvert County

A. HEARINGS.

1. SCHEDULING

(a) The Board of License Commissioners for Calvert County (hereinafter “Board”) shall hold regularly scheduled public hearings in accordance with Article 2B, Section 10-202 of the Annotated Code of Maryland. The Board shall handle all scheduling and shall schedule special meetings as necessary. Regularly scheduled public hearings shall be held on the fourth Thursday of each month, except for November and December of each year, during which time at least one public hearing will be held by the Board, and all public hearings will be published in a newspaper of general circulation once per week for two consecutive weeks prior to the hearing. Scheduling decisions, including postponements and continuances, shall be made at the discretion of the board

(b) All requests for postponements should be addressed to the Board’s Administrator, and should specify the reason for the request, including details regarding any conflict and should be received by the Board at least one week prior to the scheduled hearing date.

2. NOTICE

(a) The Board shall notify applicants and alleged violators of the time and place fixed for their hearing by certified mail or personal delivery to the address stated in the application or to the licensed premises.

(b) Said notice shall include reference to the Board’s power to summons witnesses and, in the case of alleged violations, shall include notice that representation by an attorney is permitted and shall generally inform the licensee of the nature of the violation alleged and shall state that the licensee or his/her attorney is permitted to inspect the Board’s file during normal business hours.

3. FAILURE OF APPLICANT OR ALLEGED VIOLATOR TO APPEAR

(a) If an applicant who has been duly notified fails to appear at a hearing, the Board may refuse to issue the license for that reason, or, in the case of an alleged violation, may take action based upon evidence presented to it.

(b) Notwithstanding the provisions of subsection (a), the Board shall not deny an application or take action on an alleged violation based upon a failure to appear until ten (10) days from the scheduled hearing have elapsed, and provided further, that during that time the

applicant shall have an opportunity to show cause why he or she did not appear by submitting an affidavit (as defined in Maryland Rule 5(c)). The sufficiency of the cause shall be decided by the Board based upon this affidavit. If the Board desires additional evidence in these matters, it shall procure it by any lawful means.

4. DECISIONS

The Board's decision on any application or alleged violation shall be in writing and shall be rendered within forty-five (45) days from the date of the hearing unless such forty-five (45) day period is extended by the Board by written order, mailed by first class postage to the parties.

B. LICENSING PROCEDURES.

5. RENEWAL OF EXISTING LICENSES

(a) Applications for renewal of licenses other than special and temporary licenses shall be filed with the Board by June 1st for each licensed year commencing July 1. Failure to submit the application by June 1st shall result in a fine of \$50.00 for each day the renewal application is late, with a maximum fine of \$500.00.

(b) Applications for renewal shall be on forms furnished by the Board.

(c) Renewal applications shall be accompanied by a statement noting the hours of operation and name of manager, a copy of a current statement for the licensed business showing all applicable taxes are current, and in the case of Class B license holders, by a statement indicating average monthly sales of food and alcoholic beverages.

(d) Licensees who operate under the corporate form or as a limited liability company shall comply with Regulation (14) herein as it pertains to renewal applications.

(e) Subject to the provisions of Section 8 below, as part of the renewal process, the Board may inquire as to written certification from the State Fire Marshal, the Calvert County Health Department, the Calvert County Department of Community Planning and Building, and the Department of Inspections and Permits that the licensed premises meets the requirements of all local, state and federal laws, regulations and/or ordinances, and that there are outstanding adjudicated violations or other sanctions imposed on the licenses premises.

(f) No hearing shall be required on a renewal unless:

(1) A protest against the granting of the renewal is filed at least thirty days before the expiration of the license for which renewal is sought and signed by at least ten residents or real estate owners in the voting district in which the licensed premises is located.

(2) The Board in its discretion deems it necessary.

(3) In the event that a hearing is deemed necessary by the Board, the Board, in its discretion, may determine its own rules and regulations for the orderly conduct of the hearing.

6. SPECIAL AND TEMPORARY LICENSES

(a) Special and temporary licenses must be applied for at least three (3) business days prior to the date that the event applied for will begin.

(b) Any Calvert County resident may apply for a special Class C beer, beer and wine, or beer, wine and liquor license if that person is holding a bona fide entertainment conducted by any "club", defined in Article 2B of the Code under §1-102. Definitions in (4)(i) "club" means an association or corporation which is organized and operated exclusively for educational, social, fraternal, patriotic, political, or athletic purposes and not for profit. A "society" is any organized group of people joined together because of common interests, work, etc. An "association" is an organization of persons having common interests, purposes, etc. The Calvert County resident must be associated with a club, a society, or an association. The place the license shall be used must be described in the license application for a period not exceeding seven (7) consecutive days from the effective date thereof. The fee is \$5.00 per day for a beer or beer and wine license and \$25.00 per day for a beer, wine and liquor license, except that for any bona fide religious, fraternal, civic, war veterans', hospital or charitable organization fee for the license is \$15.00 per day.

(c) Requests for special and temporary licenses shall be made by filing the appropriate application.

(d) The Board shall have discretion, upon request by the applicant, to determine the number and frequency of special or temporary licenses allowed to be issued to that applicant in any calendar year.

7. NEW APPLICATIONS

(a) An application for a license shall be on a form provided by the Board and shall contain the information required by Article 2B, Section 10-103 of the Annotated Code of Maryland. An application fee of \$250.00 shall accompany each application for a new license or a transfer of an existing license.

(b) The following documents shall be submitted with the application and shall be considered part of the application:

1. A drawing or sketch depicting the premises to be licensed shall be filed with an application for a license or transfer of a license. The drawing or sketch shall show the layout of the premises, including the location of any bar, table and chairs, stage and parking area. Further, the drawing or sketch shall show in detail, all proposed alcoholic beverage distribution areas. In the case of package goods facilities, a drawing or sketch depicting all

storage areas, coolers and shelving where alcoholic beverages will be stored, sold or otherwise kept in inventory shall be required. In the case of restaurants, a drawing or sketch depicting all bar areas, liquor distribution areas, seating areas, and any and all outside alcoholic beverage distribution areas, bars, and service counters shall be required. If the premises to be licensed are part of a larger building, the larger building shall be roughly depicted in the drawing.

2. Where the applicant proposes to operate as a corporation or a limited liability company, provide the following with the application:

(a) Copies of the current corporate charter and by-laws or articles of organization and operating agreement, and a certification of good standing from the Maryland State Department of Assessments and Taxation (or if applicable, the certifying agency in another state);

(b) In the case of a limited liability company, provide a list of the names of each owner, the position or job title and duties each owner will have, and comply with Section 14;

(c) Copies of relevant corporate minutes or resolutions shall be submitted upon request. Corporate or limited liability company applicants shall also meet the requirements of Section 14 herein.

(d) A copy of the document that gives the applicant the right to use the premises shall be submitted. This may be a deed, lease or other document that is satisfactory to the Board.

3. The Board of License Commissioners prior to a hearing on an application requires:

(a) Applicants to obtain a criminal records check of all alcohol beverage license applicants from the Criminal Justice Information System (CJIS) of the Central Repository of the Department of Public Safety and Correctional Services, including:

(b) Applicants for new alcoholic beverage licenses shall be fingerprinted at their expense, and forward their fingerprints to the Criminal Justice Information System (CJIS) for a State Criminal Records check, and for transmittal to the Federal Bureau of Investigation (FBI) to obtain a check of the applicant's Federal criminal history. Applications for license renewal are not subject to these provisions.

(c) Subject also to the provisions of Section 8 of these Rules and Regulations, no license will be granted or transfer approved until the application has been properly completed and the required documents submitted to the Board.

(d) If events occurring subsequent to the submission of the application render any of the information provided in the application misleading, inaccurate or not wholly accurate, the Board reserves the right in its sole discretion to convene a new hearing.

(e) A certified copy of each applicant's driving record shall be submitted to the Board.

8. GOVERNMENTAL AGENCY APPROVALS

No application for a license or transfer of a license will be issued until the Board receives from the applicant, transferee or license holder, as the case may be, written certification from the State Fire Marshal, the Calvert County Health Department, the Calvert County Department of Community Planning and Building and the Department of Inspections and Permits that the licensed premises, or proposed premises, meets the requirements of all local, state and federal laws, regulations and/or ordinances, and that there are no outstanding violations on the licensed premises or proposed premises. With regard to a renewal of a license, as per Section 5(e) above, the Board shall inquire as to written certification from the State Fire Marshal, the Calvert County Health Department, the Department of Community Planning and Building, and the Department of Inspections and Permits that the licensed premises meets the requirements of all local, state and federal laws, regulations and/or ordinances, and that there are not outstanding adjudicated violations or other sanctions imposed on the licensed premises. In the case of violations or sanctions involving the licensed premises (including without limitation, zoning violations) that affect the safety, health or welfare of the public, any violation or sanction that has been adjudicated by a Court of competent jurisdiction and found by said Court to be existing, or an admitted violation of the zoning or other laws by the license holder, shall be a bar to the issuance, renewal, or transfer of a license until such time that the violation or sanction has been abated or remedied. The Board may receive guidance from the appropriate Calvert County governmental agency(ies) as to whether the license holder is taking appropriate measures to abate or remedy the violation or sanction.

9. PUBLIC ACCOMMODATION

Applicants for new licenses are required to produce evidence at the hearing showing why the issuance of the license applied for is necessary to accommodate the public. Applicants must show the location and class of other licenses which they consider to be in their market area.

10. TRANSFER OF LOCATION

The Board's approval of any transfer of location may be conditioned upon completion of the transfer in accordance with representations made in the application and at the hearing.

11. TRANSFERS TO ANOTHER PERSON OR PERSONS

(a) A request for approval of a transfer of an existing license to another person or persons under Article 2B, Section 10-503 of the Annotated Code of Maryland shall be treated as a new application for a liquor license by the prospective transferee and the relevant provisions of Section 7 of these Regulations shall be complied with. Whether the license is

necessary to accommodate the public shall not be in issue at the hearing. In addition to the information required under Section 7, the prospective transferor and transferee shall furnish, as part of the prospective transferee's application, a copy of the proposed Contract of Sale.

(b) The prospective transferee must appear at the hearing unless excused for good cause shown. The transferor shall not be required to be present at the hearing unless the transferor's presence is requested by the Board in writing. In all cases, however, an affidavit executed by the transferor shall be required to be presented to the Board that attests to the transferor's consent to the transfer of the existing license.

(c) The Board's approval of any transfer to another person or persons may be conditioned upon the submission of evidence that all retail sales, amusement, admission and withholding taxes have been paid to the Comptroller of the Treasury of the State of Maryland, that a bulk transfer permit has been obtained if the stock of alcoholic beverages is to be transferred whether by sale, gift, inheritance, assignment or otherwise, and irrespective of whether or not consideration is paid, that all state and local real and personal property taxes owed have been paid and that the transferee(s) and transferor(s) have complied with the Bulk Sales Act of the Annotated Code of Maryland.

(d) Transfer of the management responsibility and/or of any economic benefit associated with the establishment in question may not be made prior to the Board's final approval of the transfer. However, a prospective transferee(s) may work under the existing license for a period not exceeding thirty (30) days provided the Board approves the arrangement in advance.

(e) No transfer other than that referred to in subsection (d) above will be effective until final approval by the Board and no person may assume economic benefit of a license except as may be provided in subsection (d) above.

(f) The Board's approval of any transfer to another person or persons may be conditioned upon completion of the transfer in accordance with representations made in the application or at the hearing.

(g) Transfer to another person(s) at the same location shall be treated as a new application, except for requiring proof that the transfer is necessary to accommodate the public. Transfer of a license to a new location shall be treated as a new application.

12. NON-USE OF LICENSE

(a) Subject to the provisions of subparagraph (b) below, the holder(s) of any license issued by the Board whose establishment is not open for business for more than thirty (30) consecutive calendar days must obtain the written approval of the Board before re-opening the licensed establishment. Such approval shall be applied for in writing not later than ten (10) days following the last day that the licensed establishment was open for business. Failure to comply with this requirement will lead to a hearing at which the Board will determine whether or not the premises has been vacated under the provisions of Article 2B, Section 10-504 of the

Annotated Code of Maryland, and the license shall be revoked or reinstated at the discretion of the Board.

(b) In the case of an establishment that operates on a seasonal basis, if the establishment is not open for business for more than one hundred eighty (180) days, the license holder shall be required to provide written notice to the Board on an annual basis (prior to the date of closing of the season), the date of closing and the date of the anticipated reopening of the establishment.

13. ALTERATION, ADDITION OR REMODELING

(a) The Board shall be advised of proposed physical changes in the licensed premises that render the drawing of the licensed premises on file with the Board inaccurate. Written permission of the Board will not be forthcoming until the Board is satisfied that the proposed change has been approved by the appropriate governmental agencies. The Board may grant permission without a hearing. The drawing on file for the licensed premise shall be amended by the licensee if the Board approves the proposed physical changes.

(b) This section shall not apply to tables and chairs unless a certain number of tables and chairs are required under a particular license (Class B On Sale, Beer, Wine and Liquor).

(c) Failure to advise or notify the Board of the type of changes contemplated by this Section shall be deemed to be a violation under Section 26 of these Rules and Regulations and may result in a penalty, fine, or other disciplinary action or sanction (monetary or otherwise) against the license holder and/or suspension or revocation of the liquor license, as the case may be, as determined by the Board in its sole discretion.

14. CORPORATIONS OR LIMITED LIABILITY COMPANIES

(a) Applications by all individuals who propose to operate as a corporation or limited liability company are governed by Article 2B, Section 9-101 of the Annotated Code of Maryland.

(b) All of the individuals applying for the license must have a pecuniary interest in the corporation or limited liability company. "Pecuniary interest" is defined as ownership of at least ten percent (10%) of the outstanding common stock of the corporation that is entitled to vote at any stockholder meeting, or at least a ten percent (10%) share in the limited liability company. The required ten percent (10%) pecuniary interest must have been obtained for actual consideration if the person who owns it is the qualifying resident applicant. In any event, the "Pecuniary interest" requirement shall be deemed met if the actual consideration exceeds Five Thousand Dollars (\$5,000.00). Individual officers applying for a license for the use of a corporation which has more than twenty-five (25) stockholders who are entitled to vote are not required to own at least ten percent (10%) of the outstanding common stock of the corporation, but they must have a pecuniary interest in the corporation. Officers of clubs are exempt from the pecuniary interest requirement. The stockholders or limited liability company

members owning the greatest percentage of outstanding stock or interest must appear on the application as applicants.

(c) A stockholder making an application under the provision contained in Article 2B, Section 9-101(b) must be a registered voter and taxpayer of Calvert County and must have resided in Calvert County for at least two (2) years prior to the application. Notwithstanding the foregoing, the two (2) year residency restriction may be waived by the Board, in its sole discretion. In addition, he or she must meet the "pecuniary interest" requirement referred to in (b) above.

(d) Licensees who operate an establishment under the corporate or limited liability company form must report to the Board any transactions affecting their ownership or interest in the corporation or limited liability company. These proposed transactions must be reported prior to occurrence.

(e) Licensees who operate an establishment under the corporate or limited liability company form shall submit with their renewal application, a sworn statement giving the address of each officer and director of the corporation or limited liability company. The sworn statement shall also include the name and address of each stockholder or member who owns more than five percent (5%) of the outstanding stock or membership interest and shall show the number and class of stock owned by each stockholder.

(f) Any change of any officer, stockholder, director, or other representative of a corporation, or membership interest in the limited liability company in whose name a license has been issued, requires a hearing for a determination of the fitness of the new applicant to hold a license. The provisions of Article 2B, Section 10-103 (18) are not applicable when there is a change in officers unless the change involves the qualifying resident officer or unless the Board deems it necessary to require compliance with Section 10-103 (18).

(g) Clubs and Associations which are fraternal, social, patriotic, educational, political or athletic, and not for personal profit shall submit to the Board on its renewal applications the names of outgoing and incoming officers as soon after the election of the incoming officers as practical.

(h) Any license issued to a corporation prior to the adoption of these regulations which does not conform with this section and with Section 7(b)(2) shall be brought into conformance prior to the renewal of license.

15. CHANGE OF NAME OR ADDING A NEW PERSON TO LICENSE

(a) An application for a change of name(s) of the licensee(s) on an existing license or the addition of a new person to an existing license shall, in the discretion of the Board, comply with the relevant provisions of Section 7 with regard to the new license holder. At issue for the Board shall be the qualifications and fitness of the new license holder and not the existing license or the licensed premises itself. Licensees who operate an establishment under the

corporate or limited liability company form must comply with the provisions of Rules and Regulations 14(d), (e) and (f).

(b) A hearing shall be held before an application for a change of name is approved. Whether the license is necessary to accommodate the public shall not be an issue at the hearing.

(c) This section shall not apply to Class C licenses. However, Class C license holders shall report any change of name(s) to the Board.

16. CHANGE IN THE NAME OF ESTABLISHMENT

Licensees must obtain the permission of the Board prior to changing the name under which the licensed establishment is operated.

C. STANDARDS OF OPERATION.

17. RECORDS

(a) All license holders shall keep on their premises a record containing the names, addresses and ages of all persons employed by them on said premises. These records shall be open for inspection at all times during regular business hours by duly authorized representatives of the Board.

(b) All Class B license holders shall keep records showing their monthly receipts from the sale of food and their monthly receipts from the sale of alcoholic beverages. These records shall be available upon request by the Board and shall be provided within two (2) business days of the request unless good cause for delay is shown. The following records must be maintained by Class B license holders:

1. Cash register tapes
2. Cash receipts journal (sales journal)
3. Cash disbursement journal (purchase journal)
4. Customer order forms (sales checks)
5. Invoices
6. Bank statements and canceled checks.

With the exception of Item 6, all of the above documents should distinguish between alcohol and food transactions. These records must be retained for at least two (2) years before they are discarded or destroyed.

(c) Licensees shall operate their establishments at all times in accordance with the requirements of all federal, state and local laws, regulations and ordinances. Failure to comply with this provision shall constitute a violation under Section 26 of these Rules and Regulations, and may result in a fine, penalty, or other disciplinary action or sanction (monetary or otherwise) against the license holder and/or suspension or revocation of the liquor license, as the case may be, as determined by the Board in its sole discretion.

18. PLACE OF SALES

(a) Alcoholic beverages may be sold, served or consumed anywhere on the licensed premises and designated patron areas. The licensed premises and designated patron areas must be clearly described in the original application and/or any amended application and must be accompanied by a drawing or sketch as required by Sections 6, 7, 11 and 13 of these Rules and Regulations, among others.

(b) In the case of Class A licenses (package good stores) sales and consumption of alcoholic beverages in or on parking lots shall be prohibited.

(c) For Class B, C and D licenses, any area(s) that the license holder desires to use as a patron area shall first be approved by the Board prior to the use of said patron area(s). Approval from the owner and/or landlord of the establishment shall also be required, if applicable. As provided in provision (a) herein above, the license holder shall provide a sketch or site plan of the proposed patron area(s) and shall detail all boundaries, security measures and other information as may be required by the Board. The Board reserves the right to set conditions and/or restrictions on the use of any proposed patron area(s) as it may deem necessary, in its sole discretion, to determine what is in the best interest of public accommodation and the need to protect the peace and safety of the community.

19. LICENSED PREMISES

For the purpose of assessing responsibility for any violations of Article 2B of the Annotated Code of Maryland, the licensee shall be responsible for all areas designated as the licensed premises and other premise or building areas including, but not limited to, any and all appurtenant property that the licensee(s) lease, own or otherwise have an interest in, patron areas and parking lot areas.

20. ALCOHOLIC BEVERAGES PERMITTED ON LICENSED PREMISES

No alcoholic beverages are permitted on the licensed premises except those that are permitted to be sold under the license.

21. CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED AFTER HOURS

No alcoholic beverages shall be served, dispensed, furnished or consumed in any part of the premises of any licensed establishment during the hours when consumption and/or sale is prohibited by law.

22. ALCOHOLIC BEVERAGES MUST BE INACCESSIBLE DURING OFF HOURS

To the extent practicable, licensees who are open for business during hours when they are not permitted to sell alcoholic beverages must keep their entire stock of alcoholic beverages locked and inaccessible to the public and their employees during such hours.

23. HEALTH, FIRE AND SAFETY

(a) All licensees will be held to a strict accountability for the enforcement and observance of all health regulations in effect in Calvert County, or any incorporated municipality therein, as the case may be, concerning the proper sanitation of eating and drinking establishments.

(b) All license holders shall maintain their premises at all times in such a manner as to comply with the rules and regulations in reference to fire prevention and safety.

24. NOISE AND MUSIC

Subject always to state, local or other municipal laws, regulations or ordinances concerning noise or other nuisance activities, electronic music boxes and other sound making devises (including musical instruments) shall not be operated in a manner which disturbs the peace and quiet of the neighborhood. Failure to comply with this provision shall constitute a violation under Section 26 of these Rules and Regulations, and may result in a fine, penalty, or other disciplinary action or sanction (monetary or otherwise) against the license holder and/or suspension or revocation of the liquor license, as the case may be, as determined by the Board in its sole discretion.

25. ALCOHOL AWARENESS TRAINING

Each license holder is responsible for ensuring that at least one individual who has completed an approved alcohol awareness program is present upon the licensed premises during hours when alcoholic beverages are sold. Evidence of the certification must be made available if requested by the Board or its authorized representative. In the discretion of the Board, this provision shall not apply in circumstances in which volunteers may provide services to clubs or other charitable organizations.

26. VIOLATIONS

Subject to the enabling provisions of Article 2B, Section 16-301, the Board shall have full power and authority to adopt such reasonable rules and regulations as it may deem necessary to enable it to effectively discharge the duties imposed upon it by Article 2B. To that end, if the Board, after a hearing, finds that any of the provisions of these Rules and Regulations or any other provision(s) of Article 2B have been violated, the Board shall have the power and authority to impose and administer any penalty, action or sanction that it deems reasonable and necessary to effectively administer the law. Such penalties, actions or sanctions may include, but shall not be limited to, the imposition of fines, restrictions, or other sanctions (monetary or otherwise) against the license holder, and/or the suspension or revocation of the licensee's alcoholic beverage license.

D. MISCELLANEOUS.

27. DEFINITION OF "RESTAURANT"

(a) "Restaurant" means an establishment for the accommodation of the public equipped with a kitchen and dining room with facilities for preparing and serving regular meals, wherein the average monthly receipts from the sale of foods exceed the average monthly receipts from the sale of alcoholic beverages

(b) Any license issued to an establishment prior to the adoption of these regulations that does not conform to this section shall be brought into conformance prior to the renewal of its license.

28. CHANGE IN CHARACTER OF BUSINESS

(a) In the event that a licensee decides to significantly alter the mode of operation or the format of presentation of alcoholic beverages to the public from that contained in the original application approved by the Board at the time of the issuance of the license, such change must first be presented to the Board for approval. Such changes in operation would include entertainment, alteration of physical premises, etc. Any such changes shall be reviewed and due consideration given to the testimony presented at the time of the original application by parties of record in order to assure that the best interest of the public is accommodated and that the change in character of the business does not unduly disturb the community.

(b) Failure to comply with this provision shall constitute a violation under Section 26 of these Rules and Regulations, and may result in a fine, penalty, or other disciplinary action or sanction (monetary or otherwise) against the license holder and/or suspension or revocation of the licensee's alcoholic beverage license, as the case may be, as determined by the Board in its sole discretion.

29. SEVERABILITY

If any part of these Rules and Regulations shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations.

30. AMENDMENTS

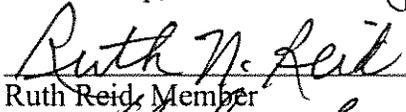
The Board may amend these Rules and Regulations from time to time, as may be deemed necessary by the Board.

31. CONDITIONS

The Board may set conditions and/or restrictions on the granting of a new license, the granting of a transfer of an existing license, or the renewal of a license when it feels that these conditions are in the best interest of public accommodation and the need to protect the peace and safety of the community.

Adopted effective August 28, 2014.


Beth Swoap, Chair


Ruth Reid, Member


Malcolm Funn, Member