THE ALCOHOL BEVERAGE BOARD OF ST. MARY'S COUNTY

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RULES AND REGULATIONS

2021

Chair: David Willenborg - (At Large)
Board Member: Leonard Kohl - (1st Comm. Dist.)
Board Member: (2nd Comm. Dist.) - *vacant*
Board Member: Barbara Hill - (3rd Comm. Dist.)
Board Member: - Richard Watts - (4th Comm. Dist.)
Board Attorney: Christopher Beaver
Board Administrator: Tamara Hildebrand
Inspector: Kevin Hall
Senior Office Specialist: Suzan Dean
Alcohol Enforcement Coordinator: Sgt. Stephen Myers

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Section I
GENERAL PROVISIONS

1.01 - General

These Rules and Regulations are adopted pursuant to the authority of The Alcoholic Beverages Article, §28-208 of the Annotated Code of Maryland.

1.02 - Organization

The Board of License Commissioners is known as the Alcohol Beverage Board of St. Mary's County. Provisions concerning this Board are set forth in The Alcoholic Beverages Article, §28-2 of the Annotated Code of Maryland.

(a) Chairperson – The Chairperson shall be the individual appointed in accordance with §15-102(b) of The Alcoholic Beverages Article of the Annotated Code of Maryland, and that individual shall have all the authority outlined therein and in accordance with these rules and regulations, including specifically that authority outlined in Section VI herein below.

(b) Vice Chairperson - A Vice Chairperson will be nominated from amongst the four remaining members that have not been designated as the member-at-large pursuant to §28-203. This nomination shall be ratified by majority vote of all the members present. The term of the Vice Chair is indefinite and can be modified at any time via a motion to modify and following approval by majority vote of the members present.

(c) Vice Chairperson Duties – The Vice Chairperson shall conduct the monthly meeting when the Chairperson is absent.

1.03 - Board Administrator

The Alcohol Beverages Board Administrator, hereafter referred to as the Board Administrator, shall have the responsibility for the overall coordination and functioning of the Board. The Board Administrator shall also be the custodian of the Record of Proceedings in each case and shall maintain the docket and all records of the Board. The Board Administrator shall report to the Chairperson of the Board.

1.04 - Board Attorney

An attorney appointed by the Board shall be the legal advisor to the Board. He/she shall attend all meetings and hearings of the Board and shall provide legal advice and assistance to the Chairperson, the Board Administrator and all Board members, as requested.

1.05 - Legal Representation

Where these Rules and Regulations provide for action by a party, protestant or applicant, such act may be performed by his/her attorney, except as otherwise provided. Where any notice is to be given by or to a party, protestant or applicant, such notice may be given by or to the attorney for such party.

1.06 - Definitions

(a) Alcoholic beverages - alcohol, rum, gin, cordial, beer, ale, port, stout, wine, cider, and any other spirituous, vinous, malt or fermented liquor, liquid, or compound, by whatever name called, containing one half of one percent or more of alcohol by volume, which is fit for beverage purposes.

(b) Alcohol Enforcement Coordinator - a peace officer, serving the Alcohol Beverage Board of St. Mary’s County, whose duties shall include investigations of applications, alleged violations, and enforcement of all alcoholic beverage laws of the state and county.

(c) Art Establishment (Class AE) License – a license issued for a for profit retail business that is engaged in: the display, sale, or demonstration of original art by an individual artist or a group of artists; or the instruction of participating clients in creating art. A holder of the license may sell or serve beer and wine at retail for on–premises consumption to a participating client or customer not more than two 12–ounce offerings of beer or two 5–ounce offerings of wine.

(d) Attorney - an attorney at law admitted to the bar of the Court of Appeals of Maryland.

(e) Beauty Salon (Class S) License – a license issued for an establishment that holds a Beauty Salon Permit under §5-501 of the Business Occupations and Professions Article. A holder of the license may sell or serve not more than two 12–ounce offerings of beer or two 5–ounce offerings of wine for on–premises consumption by a beauty salon customer while the customer undergoes a cosmetology procedure listed under §5–101(n)(1) of the business occupations and professions article.

(f) Beer – a brewed alcoholic beverage, that includes:

(1) ale;

(2) porter;

(3) stout;

(4) hard cider that is derived primarily from apples, apple concentrate, and water, pears, or pear concentrate and water; and contains no other fruit product but contains at least one-half of 1% and less than 8.5% of alcohol by volume; and

(5) an alcoholic beverage that contains 6% or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49% of the alcoholic beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol; or more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the alcoholic beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol.

(g) Beer and Wine Tasting (BWT) permit – A BWT permit may be issued to a holder of a Class A – BW or BWL license, after filing application with the Alcohol Beverage Board Office and obtaining Board approval. It authorizes the licensee to hold tastings on premise during the licensing period for no more than the number of days permitted, and only on dates filed with the Alcohol Beverage Board at least seven (7) days in advance. Licensees must follow the provisions under The Alcoholic Beverages Article §28-1307. In addition, licensees must dispose of any remaining product at the end of the day.

(h) Board - the Alcohol Beverage Board of St. Mary's County.

(i) Catered Food – the provision of food required by the holder of a caterer's license under The Alcoholic Beverages Article, §28-1201(d) shall mean prepared food.

(j) Caterer's license - a caterer's license may be issued to a holder of a Class B, (Restaurant) BWL license after obtaining a Catering Permit from the Health Department, filing of an application with the Alcohol Beverage Board Office, and obtaining Board approval. It authorizes the holder to provide alcoholic beverages at events that are held away from a Class B-Restaurant premise. Prepared food must be provided by the caterer for consumption at the catered event. A holder may exercise the privilege under this license during the hours and days that are permitted for a Class B-Restaurant BWL license.

(k) Club - an association or corporation which is organized and operated exclusively for educational, social, fraternal, patriotic, political or athletic purposes and not for profit.

(l) Comptroller - the Comptroller of the Treasury of the State of Maryland.

(m) Corkage – a corkage license may be issued to a restaurant, club, or hotel that holds a Class B-BW or B-BWL license or Class C(Club) BWL license, after filing application with the Alcohol Beverage Board Office, and obtaining Board approval. It authorizes the holder to allow consumption of wine not purchased from or provided by the licensed premise, by an individual who is of legal drinking age and who is not visibly intoxicated. The wine must be consumed with a meal during the hours of sale specified by the Class B or C license. The wine must not be available for sale on the license holders wine list. A corkage fee may be charged upon which sales tax shall be imposed.

(n) Distillery On-Site Consumption Permit – a permit issued for use at the location of a Class 1 Distillery license to a holder of a Class 1 Distillery license in the County. The holder of the permit may sell mixed drinks made from liquor that the holder produces that is mixed with other nonalcoholic ingredients for on-premises consumption. The holder may not use more than an aggregate of 7,750 gallons annually of liquor the holder produces for mixed drinks sold under this permit. The holder of the permit is subject to all these Rules and Regulations as applicable to a licensed retailer.

(o) Financial Interest - 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, mortgagee, landlord or bona fide creditor, provided that such individual 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, unless the owner of such stock has a substantial degree of control or management of the corporation.

(p) Hotel - an establishment for the accommodation of the public, providing services ordinarily found in hotels, equipped with not less than ten bedrooms, a lobby with registration and mail desk, and a dining room with seating facilities which serves full-course meals at least twice daily.

(q) Inspector - the Board's Inspector is to enforce the St. Mary's County Alcoholic Beverages Laws, Rules and Regulations and to inform all holders of alcoholic beverage licenses in St. Mary's County of the various law, rules and regulations governing the sale of alcohol. The Inspector will perform other duties as directed by the Alcohol Beverage Board of St. Mary's County and the Board Administrator. The Inspector will conduct periodic "on-site" inspections of license holder premises.

(r) Keg - a container of beer with a capacity of at least four (4) gallons which is designed to dispense beer directly from the container.

(s) Licensed premises - that area specifically designated by the Board in which the sale of alcoholic beverages will be permitted.

(t) License holder(s)/Licensee(s) - one or more individuals to whom a liquor license has been granted by the Board pursuant to The Alcoholic Beverages Article of the Annotated Code of Maryland.

(u) Mead – a fermented alcoholic beverage consisting primarily of honey and water.

(v) Nonrefillable Container Permit – aka "crowler" - a nonrefillable container permit may be issued to the holder of a Class A, B (restaurant), or D license, after filing application with the Alcohol Beverage Board Office and obtaining Board approval. It authorizes the licensee to sell draft beer for consumption off the licensed premises in a nonrefillable container that meets the standards under The Alcoholic Beverages Article, §§4-1106 & 28-1103.

(w) Refillable Container Permit – aka "growler" – a refillable container permit may be issued to the holder of a Class A, B (restaurant), or D license, after filing application with the Alcohol Beverage Board Office and obtaining Board approval. It authorizes the licensee to sell draft beer for consumption off the licensed premises in a refillable container that meets the standards under The Alcoholic Beverages Article, §§4-1104 & 28-1102. In addition to those standards, the refillable container must be sealed by a tamper-proof seal after it is refilled by the licensee and remain sealed at all times while on the licensed premises. A tamper-proof seal may include but is not limited to the following: a plastic adhesive, tamper resistant tape, a shrink-wrap seal and shrink bands (also known as cut shrink bands, custom cut bands, tamper evident bands, tamper evident seals, safety seals, cap bands, clear bands and seamless bands).

(x) Renewal - the re-granting of an existing license for the exact premises, licensees, and type of license as was previously issued.

(y) Resident Applicant - for the purpose of an applicant or licensee, an individual who has resided in St. Mary's County for a period of two years prior to the date of filing of an application, is a registered voter and taxpayer of St. Mary's County and will continue to be a resident of St. Mary's County and be a registered voter thereof for the period that he/she holds the license.

(z) Restaurant - an establishment for the accommodation of the public equipped with a dining room with facilities for preparing and serving regular meals, wherein the average daily receipts from the sale of food exceed the average daily receipts from the sale of alcoholic beverages.

(aa) Retail dealer - a person who deals in or sells any alcoholic beverage to any person other than a license holder.

(bb) Tavern - an establishment in which the average daily receipts from the sale of alcoholic beverages sold for consumption on the premises exceed the average daily receipts from the sale of food, and when applicable, the area designated for the sale of package goods does not exceed 25% of the total licensed area.

(cc) Wine - any fermented beverage, including light wine, sparkling wine that is naturally or artificially carbonated, and fortified wine to which alcohol, spirits or other ingredients are added. Wine that may be sold under a Beer & Wine license may not contain more than 22% of alcohol by volume.

(dd) Wholesaler - a person who purchases or imports any alcoholic beverage for sale to wholesalers, licensed retail dealers or others.

Section II
THE APPLICATION PROCESS

2.01 - Form of Application/Check List

(a) Application for a new license, transfer, renewal, extension of premises, change of officers, or class change of a license, shall be made upon standard printed forms issued by the Board. The information requested therein shall be filled in by the applicant or under his personal supervision and shall be typewritten or printed in black ink so as to be easily legible.

(b) The application shall be accompanied by the check list provided by the Board.

(c) Applications and check lists must be completed to the fullest extent possible before the application will be processed by the Board Administrator and a hearing date scheduled.

(d) New, transfer, and change of officer applications shall be accompanied by Consent for Record Check.

(e) The Board will not grant or transfer a license to any applicant who has been convicted of a felony.

(f) The Board will not accept or process a new application if the Board's records indicate that one or more of the applicants is currently listed as a licensee on an existing license in St. Mary's County, or if the application for a new license is being requested for a location that is covered by an existing St. Mary's County license.

(g) Each application must include with it a plot plan of the proposed licensed premises, dimensioned or drawn to scale, showing existing or proposed structures and a floor plan of the premises showing interior locations of rooms with each room use labeled. §190-2 of the St. Mary's County Code prohibits the consumption of alcohol in outside areas of licensed premises unless otherwise approved by proper authority. The plot plan should adequately define parking areas, and those areas such as horseshoe courts, ball parks, etc., where serving counters may be utilized and designated areas where consumption of alcohol may take place, should be defined and drawn to scale on the licensed premise area.

(h) All applicants for new, transfer, and change of officers(s) who are licensees must attend Responsible Alcohol Service Training (RAST) within 90 days of application approval.

2.02 - Applications Requiring Public Hearing

Applications listed in 2.01(a) above will be considered for approval by the Board at its regular monthly meetings, which are open to the public. All applicants for licenses shall appear at said meeting, unless excused by the Board for good cause. However, applicants for change of officers of existing licenses or applicants for trade name change of existing licenses are not required to attend said meeting. A public meeting on renewals and special licenses will not be required unless deemed necessary by the Board.

2.03 - Updating Application

Any change altering pertinent information contained in the original or any subsequent application filed with the Board, including change of telephone number, change of address, death of a licensee, withdrawal of a licensee from the licensed business, dissolution of a corporation or other business entity, change of name by marriage, election or change of officer(s) who are licensees, or major physical changes in the licensed premises, shall be immediately reported to the Board Administrator by the Licensee(s). The Licensee does not have to appear before the Board for a hearing if the change of information from the original or any subsequent application is only a reduction in the size of the premises.

2.04 - Applications by Sole Owner (Individual)

Any person applying for an alcoholic beverages license or transfer of license as a sole owner shall have been a resident of St. Mary's County for two (2) years immediately preceding the filing of the application, shall be a registered voter and taxpayer of St. Mary's County, and shall continue to reside in St. Mary's County and be a registered voter thereof as long as he/she holds the alcoholic beverages license.

2.05 - Applications by Partner

(a) A license may not be issued to a partnership in the partnership's name, but rather to the individual partners of a partnership, and they shall assume all responsibilities as individuals and be subject to all penalties, conditions and restrictions imposed upon licensees under state law and these rules and regulations.

(b) If the application is made for a partnership, all of the partners shall have resided in St. Mary's County for at least two years prior to the date of the filing of the application and shall continue to reside in St. Mary's County and be a registered voter thereof as long as they hold the license.

2.06 - Application on Behalf of a Corporation or Club

(a) A license may not be issued to a corporation or club in the corporation or club name, but rather, only to individual officers or shareholders of the corporation or club and they shall assume all responsibility as individuals and be subject to all penalties imposed upon licensees under state law and these rules and regulations.

(b) If the application is made on behalf of a corporation or club, whether incorporated or unincorporated, the license shall be applied for by and be issued to at least three of the officers of that corporation or club, as individuals, for the use of the corporation or club. In the case of a corporation where there are less than three officers or directors of the corporation, all officers and/or directors shall make the application. In the event there are no officers or directors of a close corporation, at least one stockholder shall make the application. At least one of the corporate applicants must be a county resident and have resided in St. Mary's County for at least two years prior to the date of the filing of the application, be a registered voter and taxpayer of St. Mary's County and shall continue to reside in St. Mary's County and be a registered voter thereof as long as he/she holds the license.

(c) The application shall also set forth the names and addresses of all the officers of the corporation or club and shall be signed by the president or vice-president, as well as by the three officers to whom the license is to be issued.

(d) Applicants for a new license or transfer of a license filed by three individuals for the use of a corporation shall certify:

(1) That the owner(s) of at least 15% of the stock in the corporation have been residents of St. Mary's County for at least (6) six months preceding the application.

(2) The applicants shall maintain the above requirement for as long as they are licensees.

(e) Individuals applying for a license on behalf of a corporation shall submit an executed copy of the Articles of Incorporation and a stock sheet or minutes showing names, addresses, and percentage of stock ownership of all stockholders. The stock sheet/minutes requirement shall not apply in the case of a corporation whose shares of stock are authorized for sale by the Securities and Exchange Commission of the United States.

2.07 - Application on Behalf of a Limited Liability Company or Limited Liability Partnership

(a) A license may not be issued to a limited liability company or limited liability partnership, but rather to authorized persons of the Limited Liability Company or limited liability partnership and they shall assume all responsibility as individuals and be subject to all penalties imposed upon licensees under state law and these rules and regulations.

(b) If the application is made for a limited liability company or limited liability partnership, the license shall be applied for by and be issued to at least three (3) of the authorized persons of that limited liability company or limited liability partnership, as individuals for the use of the limited liability company or limited liability partnership. In the case of a limited liability company or limited liability partnership where there are less than three (3) authorized persons, all authorized persons shall make the application. At least one (1) of the authorized person must be a county resident and have resided in St. Mary's County for at least two years prior to the date of the filing of the application, be a registered voter and taxpayer of St. Mary's County and shall continue to reside in St. Mary's County and be a registered voter thereof as long as he/she holds the license.

(c) The application shall also set forth the names and addresses of each of the authorized persons and shall be signed by the 3 authorized persons to whom the license shall be issued.

(d) Individuals applying for a license on behalf of a limited liability company or limited liability partnership shall submit the following items with their application:

(1) An executed copy of the Articles of Organization or a Certificate of Limited Liability Partnership,

(2) A list of the names and addresses of all authorized persons of the limited liability company or limited liability partnership, including their respective percentages of interest in the limited liability company or limited liability partnership,

(3) A resolution from the members of the limited liability company verifying that the individuals applying for the license are “authorized persons” of the limited liability company, and

(4) All requirements of The Alcoholic Beverages Article §4-105 of the Annotated Code of Maryland as applicable.

2.08 - Interest in More Than One License - Prohibited

(a) A person, partnership, corporation, limited liability company, or unincorporated association, who has a Class A**,** C or D liquor license, may not have an interest in more than one such license in the state of Maryland; except that a person who has a Class B (Restaurant) Beer, Wine &. Liquor license in another county in Maryland may also have a Class B (Restaurant) license in St. Mary's County.

(b) Not more than one (1) license, regardless of class, may be issued in St. Mary's County to an individual or for the use of a partnership, a corporation, an unincorporated association or a limited liability company, subject to the variations listed in §28-1501(B)(2) of The Alcoholic Beverages Article of the Annotated Code of Maryland.

2.09 - Conditional Approval

(a) This subsection shall apply only to Transfer Applications:

The Board may grant conditional approval for the transfer or assignment of a license. The Board’s determination shall be based on the same criteria as required under the guidelines listed in Section 2.12 of the Rules and Regulations and §§4-3 & 28-17 of The Alcoholic Beverages Article. The conditional approval may be issued for up to 30 days.

If the Board approves the application to transfer the license, the approval shall be conditioned upon compliance with the requirements of the Health Department, Fire Marshal, Department of Planning and Zoning and any other applicable governmental regulatory agency. If the applicant fails to comply with the requirements of the said agencies within the time limitation, the conditional approval shall be revoked unless, for good cause determined by the Board and upon written request of the applicant, the time limitation is extended.

During the time period from when the Board grants conditional approval until all of the requirements have been completed for final approval (the “conditional period”), either the licensee(s) or the applicant licensee(s), or both, may be found responsible and penalized by the Board under Section 6.07 for any violation of the Rules and Regulations or The Alcoholic Beverages Article which occur during the conditional period.

If the applicant licensee is found to have committed a violation of the Rules and Regulations or The Alcoholic Beverages Article during the conditional period, and later withdraws the application for transfer before final approval, the Board may still note a violation by the applicant which shall be kept as a record of violation under Section 5.05 of the Rules and Regulations.

(b) This subsection shall apply only to New Applications:
The Board may grant conditional approval of applications for licenses on premises prior to the erection of a building or completion of renovations (hereinafter collectively referred to as "improvements") on the subject premises. For improvements to an existing structure, the conditional approval may be issued up to 90 days prior to the premises being ready for use; for new construction, the conditional approval may be issued up to 180 days prior to the premises being ready to use. The application for such approval shall be accompanied by a detailed concept plan of the proposed improvements, and the applicant's estimate of the length of time for completion of the improvements. The Board's determination shall be based on the same criteria as required for the issuance of any new license and in addition thereto, whether the estimated time for the completion of improvements is reasonable and in the public interest. If the Board approves the application, the approval shall be conditioned upon compliance with the requirements of the Health Department, Fire Marshal, Department of Planning and Zoning, and any other applicable governmental regulatory agency. The approval shall also be conditioned upon the completion of the improvements within a specific time limitation set by the Board. If the applicant fails to comply with the requirements of the said agencies or fails to complete the improvements within the said time limitation, the conditional approval shall be revoked unless, for good cause determined by the Board, upon written request of the applicant, the time limitation is extended.

2.10 - Issuance of License

(a) The Board may not grant more licenses per election district than permitted pursuant to The Alcoholic Beverages Article.

(b) Before approval may be granted for the issuance of any new license, for any transfer of an existing license, for the expansion of the premises of an existing licensed establishment, or for the renewal of an existing license, the licensee(s) shall have complied with:

(1) The requirements of The Alcoholic Beverages Article, including obtaining a Bulk Transfer Permit, and paying all retail sales and withholding taxes, if applicable.

(2) The rules and regulations of all state and county agencies, including but not limited to, the acquisition of a Traders License, and approval by the Fire Marshal, the Health Department and the St. Mary’s County Department of Planning and Zoning.

(3) The requirements of The Alcoholic Beverages Article as to the submission of a certificate of compliance with the Maryland Workers Compensation Act or proof of current coverage by a Worker's Compensation insurance policy or binder.

(4) Any other reasonable conditions or restrictions placed upon the issuance of the license by the Board.

(5) Upon issuance of the license, the applicant shall occupy and begin conducting an alcoholic beverages business upon the licensed premise within one hundred twenty (120) days from the time the said application is approved. If this 120-day period has not been complied with, the Board may revoke or suspend the license. In extenuating circumstances, this deadline may be extended for a reasonable period of time by the Board, upon written application for same by the license holder.

Where a license is issued to individuals whose licensed establishment is being operated by or on behalf of a partnership, a corporation, a club, or a limited liability company, the requirement of compliance with the above-listed items shall also apply to said business entity.

2.11 - Renewal Applications

(a) Applications for renewal of licenses shall be filed on or before March 3rd of each year. Failure to do so shall result in expiration of the license on April 30. If that occurs, an application for a new license will then be submitted for consideration by the Board.

(b) Failure to pick up a renewed license by April 30 will result in a fine of $25.00 per day until May 31st, after which a new application must be filed. If a license holder pays their license fee by check which fails to clear due to insufficient funds of for other reasons, the license holder shall be treated as failing to pick up their renewed license. The Board's Inspector or Enforcement Coordinator will pick up the license from the premise and the license holder will be charged a fine of $25.00 per day from April 30 until a certified check, cashier's check or cash is presented as payment for the license. If the license holder fails to pick up the license, and pay the fine, on or before May 31st, a new application will be required.

(c) Failure to pick up a renewal license before 4:30 p.m. on the last business day prior to April 30 will result in a written notice being posted at the business which shall remain until May 31 or until the renewed license is picked up by the license holder.

(d) Failure to renew a license or failure to pick up a renewed license by the May 31 deadline will result in a written notice being posted at the business until a new application is approved.

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

(f) Renewal applications shall be accompanied by a statement noting the hours of operation, days of closing and name of manager.

(g) No hearing shall be required for 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 are located.

(2) The Board Administrator has reason to believe that discretionary action by the Board is necessary.

(h) No license shall be renewed unless the licensee has actively engaged in the sale of alcoholic beverages as authorized by the license within 6 months prior to the date of application for renewal. The reissuance of any license which has not been renewed under the provisions of this section is subject to the filing of an application, hearing, notice and other provisions of The Alcoholic Beverages Article; except if the main premises have been destroyed by fire, wind or flood, the Board may conditionally renew the license if the licensee is making substantial efforts to restore, replace or repair the premises. This conditional extension shall be effective for one year from the date of approval by the Board. If the licensee desires further extension, he/she shall request same in writing, with an explanation for the need for additional time. The licensee shall pay the license fee for each year, even though the establishment may not be open for business.

2.12 - Transfers

(a) No transfer of a license holder's place of business to another location, or the sale or assignment of a license or a license holder's business or stock in trade may occur without the prior approval of the Board, upon written application of the license holder or the transferee, subject to all of the same requirements as for a new application or transfer, as applicable. Transfer occurring without the prior approval of the Board may result in suspension of the license and/or denial of the request for transfer. Licensees in the process of selling their businesses shall notify the Board by submitting a copy of the executed contingent contract.

(b) The Board requires the following prior to approval of a transfer:

(1) A receipt or certificate from the Supervisor of Assessments of St. Mary's County showing there are no unpaid taxes on the merchandise, fixtures, and stock of the transferor due to the county or any municipality.

(2) A receipt from the Comptroller of the State showing that all retail sales, amusement and withholding taxes have been paid.

(3) An affidavit of Transferor certifying that he has complied with the Bulk Transfer Act, Commercial Law Article, Title 6 of the Annotated Code of Maryland.

(4) The completion and submission of all documents, information and fees required by the Board in its application package.

(5) Adjudication of any pending violation charges.

(c) Applicants requesting a transfer (transferees) must be present at the Board Meeting when their application is considered.

(d) Upon approval of the transfer, the new licensee shall occupy and begin conducting business upon the licensed premises within 120 days from the date of approval. This can be extended under hardship circumstances for a reasonable period of time, upon written request by the licensee, including an explanation of the need for same. Non-compliance may result in the revocation or suspension of the license.

(e) In addition to the cost of publication of the notice of such transfer of business or sale or assignment to another person, a fee of $100.00 is also required by the County Commissioners at the time the transfer is recorded.

(f) No transfers will be made during the month of April.

(g) A transfer of location is prohibited for a holder of a Class AE or S license.

2.13 - Extension of Premises or Installation of Additional Bar or Serving Counter

Approval of the Board will be required to expand any licensed premises or to install an additional bar or serving counter. A letter of request must be submitted with a detailed drawing of the proposed expansion. A decision will be made by the Board as to what constitutes a reasonable distance from the main building for an additional bar or serving counter. When a game is scheduled, alcoholic beverages may only be served one (1) hour before, during, and one (1) hour after the game.

2.14 - Subsequent Application Following Denial

(a) If a license is refused by the Board, no further application shall be considered from the applicant or for the premises for a period of six months from the date of the public hearing at which the refusal occurred.

(b) If a subsequent application by the same applicant or for the same premises is refused within a two-year period following the date of the first refusal, then other applications may not be considered from the applicant or for the premises, as the case may be, until two years following the date of the first refusal.

2.15 - Advertising

(a) Notice of an application for a new license, transfer of a license or location, or request for a change in class shall be published for two successive weeks, in at least one newspaper of general circulation in St. Mary's County. The notice shall specify the name(s) of the applicant(s), the nature of the application, the location of the existing or proposed premises and the time and place fixed by the Board for hearing the application. It shall elicit written exceptions or testimonials to be submitted to the Board not less than 72 hours prior to the scheduled hearing. Said hearing shall not be less than seven, nor more than thirty days after the last publication.

(b) All expenses for the published notification shall be paid in advance by the applicant.

2.16 - Temporary Licenses - Class C Per Diem

(a) Application by any qualified bona fide religious, fraternal, veterans, political, civic, educational, athletic or other non-profit organization for a temporary license for use at a function at which there will be a cash bar and/or admission charge shall be made on forms provided by the Board and submitted at least five (5) days prior to the event for which the application is sought.

(b) Each application made pursuant to this section shall be accompanied by a copy of the organization's by-laws, charter, or other similar documents indicating the nature and/or structure of the organization.

(c) The following persons, on behalf of the organization seeking a license under this section, must be alcohol awareness certified:

(1) For a corporation, an officer;
(2) For a partnership, a partner;
(3) For a limited liability company; a member;
(4) For any other type of organization, the applicant.

(d) The person making application on behalf of an organization under this section must have been a county resident for at least two (2) years prior to submitting said application.

(e) The Board Administrator is authorized to grant such licenses on behalf of the Board.

(f) If, for any reason, the application for the license is not granted, the applicant may request that the matter be scheduled for hearing before the Board at its next regularly scheduled meeting.

(g) Temporary License Requirements:

(1) Personnel selling alcoholic beverages must be 21 years of age or older.

(2) Licensees may not sell or furnish any alcoholic beverages at any time to a person under 21 years of age.

(3) Licensees may not sell or furnish any alcoholic beverages at any time to a person who, at the time of sale, is visibly intoxicated.

(4) Alcoholic beverages sold may not be removed from the licensed premises.

(5) The same closing hours apply to these licenses as to all other licenses. (2:00 A.M. - 6:00 A.M.)

(6) All profits from the sale of beer, wine or liquor under this license must accrue to the organization to which the license is being issued.

(7) Applicants for the temporary Class C Per Diem license under Section 2.16 of these Rules and Regulations shall:

(i) become alcohol awareness certified: (if a corporation, an officer of the corporation; if a partnership, a partner; if a Limited Liability Company, a member; if any other organization or individual, the applicant); and

(ii) be a resident of St. Mary's County.

(8) Personnel selling alcoholic beverages may not do so while intoxicated, or under the influence of alcohol or controlled dangerous substances.

(h) Violation of any of the aforesaid requirements may result in the denial of future temporary license requests by the organization committing said violations.

2.17 - Temporary Licenses – Class BWTS

Application by any qualified licensee for a 1-day Class BWTS beer and wine (on-premises) tasting or sampling license must be accompanied by proof of medium priority or special temporary food services permit from the Health Department, when food is being served, including foods for pallet cleansing or pairing.

2.18 - Prohibition Against Licensing

The Board may not approve any license to sell alcoholic beverages in any building, the nearest wall of which, measured in a direct line, is within 300 feet of the nearest point of the main building of any elementary or secondary school, church or other place of worship.

Section III
INSPECTION AND SUPERVISION OF LICENSED ESTABLISHMENTS

3.01 - Alcohol Beverage Board

(a) The Board has the authority to administer and enforce the provisions of The Alcoholic Beverages Article of the Annotated Code of Maryland and these Rules and Regulations.

(b) The Alcohol Enforcement Coordinator and the Inspector shall report on matters within the Board's authority and jurisdiction to the Chairperson or to the Board Administrator.

(c) Activity/Inspection reports filed by the Alcohol Enforcement Coordinator and/or Inspector shall be reviewed by the Board and/or the Board Administrator.

3.02 - Inspections

Every license holder, his/her clerks, agents, employees or servants, shall cooperate with representatives of the Board, members of law enforcement agencies, the Fire Marshal, the Health Department, and representatives of other authorized agencies whenever any of these persons come to the licensed premises on official business. Each licensee, his/her clerks, agents, employees or servants, shall also comply with any reasonable order of such authorities or other public authority concerning the promotion of the health, safety and general welfare of the public at large.

3.03 - Duties and Responsibilities of the Alcohol Enforcement Coordinator

(a) Provide assistance to the Board in any matter pertaining to alcoholic beverages.

(b) Make routine inspections of licensed establishments to ensure that they are in compliance with all appropriate state and local laws, and restrictions and rules and regulations of the Board.

(c) Coordinate information with other appropriate regulatory agencies.

(d) Investigate all written reports of violations forwarded by the Sheriff's Office or the Maryland State Police.

(e) Investigate all citizen complaints made against a licensed establishment.

(f) Initiate covert inspections and investigations of licensed establishments that may be necessary to prove or disprove alleged violations.

(g) Provide reports and information to the Board Administrator for the purpose of assisting the Board in taking appropriate action against licensees found to be in violation.

(h) Provide testimony and evidence at Board hearings at which violations are alleged against licensees.

3.04 - Duties and Responsibilities of the Inspector

(a) Provide assistance to the Board in any matter pertaining to alcoholic beverages.

(b) Make routine inspections of licensed establishments to ensure that they are in compliance with all appropriate state and local laws, and restrictions and rules and regulations of the Board.

(c) Coordinate information with other appropriate regulatory agencies.

(d) Investigate all written reports of violations forwarded by the Sheriff's Office or the Maryland State Police.

(e) Investigate all citizen complaints made against a licensed establishment.

(f) Provide reports and information to the Board Administrator for the purpose of assisting the Board in taking appropriate action against licensees found to be in violation.

(g) Provide testimony and evidence at Board hearings at which violations are alleged against licensees.

Section IV
STANDARDS OF OPERATION

4.01 - Records

(a) Licensees shall keep invoices and tickets of all purchases of alcoholic beverages at the licensed establishment for a period of two years from the date of each purchase. Such records shall be open for inspection at all times by the Alcohol Enforcement Coordinator/Inspector and duly authorized representatives of the State.

(b) Licensees shall keep on their licensed premises records containing the legal names, aliases, addresses, dates of birth, social security numbers and duties of all persons currently employed by the licensed establishment. A copy of certification of those who have attended an authorized alcohol awareness training course shall also be maintained. Such records shall be made available upon request for inspection by duly authorized representatives of the Board.

4.02 - Schedule of Operation

(a) Normal allowable hours of operation. The hours during which a licensee may sell those alcoholic beverages for which he/she is licensed shall be from 6:00 AM until 2:00 AM the following morning, including Sunday, when authorized by the license held. No consumer may remain on the premises of the establishment (this includes the establishment parking lot) after the termination of the permitted hours of sale, except that a customer may remain on the premises for one-half hour after the closing time on Sunday morning as long as the customer is not consuming alcohol during that one-half hour period. Licensees will indicate on all applications their normal hours, days and months of operation. The Board shall be notified of any deviation from the stated schedule.

(1) Exceptions:

(i) A holder of a Class AE license may not sell or serve beer or wine after 10:00 PM

(ii) A holder of a Class S license may not sell or serve beer or wine after 9:00 PM

(iii) The holder of a Nonrefillable Container Permit may not sell a nonrefillable container of draft beer after midnight.

(iv) A holder of a Distillery On-Site Consumption Permit may not sell or serve mixed drinks from 10:00 PM until 10:00 AM.

(b) New Year's Day. On New Year's Day only, licensees may, upon approval of an application made to the Board, keep their establishments open and sell beverages authorized by their license if he/she meets the following criteria:

(1) Holders of licenses authorizing the sale of alcoholic beverages in a sealed container which may not be opened, nor its contents consumed on the premises (off sale license), shall not be eligible for such permit.

(2) Holders of licenses authorizing the sale of alcoholic beverages for consumption on the premises (on sale license) shall be eligible for such special permit only if:

(i) such licensee serves prepared food, free of charge, to the establishment's patrons during the hours for which the special permit is issued; and

(ii) no carry-out sales are made during these hours.

(c) Election Day. Sales of alcoholic beverages shall be permitted on Election Day.

(d) Closing of Licensed Establishments. If for any reason, a licensed establishment is closed for a period of 20 days or more, the licensee shall advise the Board, in writing, immediately, of the reason for closing, the estimated time the business will not be operated, and future plans for the use of the license. Failure to comply with this section may result in the imposition of a fine and/or suspension or revocation of the license. Establishments only open seasonally are exempt from this requirement during the establishment's off-season time.

4.03 - Compliance with Laws and Regulations

Licensees shall operate their establishments at all times in accordance with the requirements of all federal, state and local laws and regulations. Where a license is issued to individuals whose licensed establishment is being operated by or on behalf of a partnership, a corporation, a club, or a limited liability company, the requirement of compliance with all federal, state and local laws and regulations shall also apply to said business entity. These Rules and Regulations are subordinate to and do not supercede any federal or state laws in conflict herewith.

4.04 - Rest Room Facilities

Licensees shall provide toilet facilities on the licensed premises as required by, and in conformance with state and local laws and regulations.

4.05 - Washing Containers

Licensees shall thoroughly wash all containers used for dispensing drinks in a manner that conforms to the regulations of the Health Department.

4.06 - Refuse

Licensees shall provide containers for garbage and refuse material that conform with the requirements of the Health Department, shall keep all such containers securely covered, and shall remove all refuse material regularly to avoid accumulation.

4.07 - Emergency Order of Closing

In the event an emergency situation or other exigent circumstances relating to the public welfare or safety are found to exist at or in the vicinity of a licensed establishment, and in the opinion of the Alcohol Enforcement Coordinator or any authorized representative of the St. Mary's County Sheriff's Office or the Maryland State Police, or the Inspector, the continued operation of the licensed business would be an immediate threat to the peace, safety, quiet or general welfare of the community, the Coordinator, police supervisor or the Inspector are individually authorized to order the establishment closed for the hours remaining prior to legal closing.

The Board shall be notified in writing of any such closing by the officer involved within forty-eight (48) hours, and a report of the incident shall be submitted to the Chairperson of the Board for review.

4.08 - Maintenance of Documents

(a) Each licensee shall maintain the following documents so that they are conspicuous and easily read in his/her place of business:

(1) Alcoholic Beverage license (this document shall be in a frame, under glass)
(2) Retail Sales Tax License
(3) Trader's License
(4) Health Department Permit
(5) State Fire Marshal Capacity Load Poster

(b) Each licensee shall maintain the following documents on the premises:

(1) Employees records
(2) Invoices
(3) These Rules & Regulations
(4) Alcohol Awareness Training Certificates

4.09 - Trade Name

No licensee shall change the trade name of his/her establishment without prior approval by the Board. Application for such change shall be made on forms furnished by the Board. A trade name shall be displayed prominently on the outside of the establishment.

4.10 - Licensee's Responsibility

Licensees shall be personally responsible for the operation of the licensed premises and shall be responsible for violations committed, not only by him/her, but also by his/her clerks, agents, employees and servants.

4.11 - Sale of Beer for Cash

In St. Mary's County, no manufacturer or wholesaler may sell any beer to any retailer except for cash on delivery.

4.12 - Alcohol Awareness Training

(a) A holder of any class of retail alcoholic beverages license or an employee designated by the holder shall complete training in an approved alcohol awareness program. The holder or designated employee shall be re-certified by the program upon the expiration of the certification. Licensees violating the above provisions are subject to:

(1) For the first offense, a fine of $100; and

(2) For each subsequent offense, a fine not to exceed $500, or suspension or revocation of the license, or both.

(b) The licensee or designated employee shall forward a copy of the certification received upon completion of training to the Board within ten days after receipt of the program provider's certificate of completion.

(c) The Board maintains a list of certified providers of alcohol awareness training programs and their schedules. Licensees may obtain scheduling information by calling (301) 475-4200 Ext. 71600 or writing to the Alcohol Beverage Board Administrator at P.O. Box 653, 41650 Tudor Hall Rd., Leonardtown, MD 20650.

4.13 - General Maintenance

Licensees shall take steps to ensure that:

(a) Stock inventory and store or bar equipment is being maintained in a clean and orderly fashion.

(b) Damaged or decrepit equipment is repaired or replaced on a timely basis.

(c) Interior walls, floors and ceilings are clean and in good repair.

(d) The exterior of the licensed premises is clean and in good repair.

4.14 - Health and Safety Standards

Those conditions found by the Alcohol Enforcement Coordinator that could affect the health and safety of the patrons will be reported to the Health Department and the Fire Marshal, as appropriate, for their action.

4.15 - Age of Employees

The following rules apply to the establishments referred to:

(a) If a licensed establishment is a restaurant, waiters or waitresses who are serving alcoholic beverages in connection with serving a meal shall be at least 18 years of age or older. However, in order to be a bartender or barmaid, the employee must be 21 years of age or older.

(b) If a licensed establishment is not a restaurant but employs bartenders or barmaids to sell alcoholic beverages for consumption on the premises, those employees must be 21 years of age or older.

(c) All other licensed establishments may employ persons 18 years of age or older for the sale of alcoholic beverages.

4.16 - Eviction: Vacating

On the tenth (10th) day after a license holder shall have vacated or been evicted from the premises for which the license was issued, said license shall expire, unless an application for approval of transfer to another location or assignment to another person is pending or unless the Board, in its discretion, has granted a stay, which shall not exceed twenty (20) days. The foregoing shall not apply to establishments operated on a seasonal basis which, during the period or periods of non-operation, retain all fixtures and equipment, and sufficient stock for seasonal reopening.

4.17 - Death of Licensee

Upon the death of the holder of any license issued under the provisions of this article, other than Class E, Class F and Class G licenses, the license shall expire, However, upon application to the Comptroller or the clerk of the court issuing the license, and upon the payment of a fee of one dollar ($1.00), made by the executors or administrators of the deceased, a certificate of permission may be granted for the continuation of the business in the name of the executors or administrators for the benefit of the estate of the deceased. The certificate of permission may be granted for a period not exceeding 18 months from the date of the granted permission, unless the license expires earlier. If the license does expire earlier, upon application by the executor or administrator, a renewal license may be granted for a period not exceeding 18 months after the death of the license holder. The license fee for the period of the issuance of the license shall be paid by the estate of the deceased on a pro rata basis. Such certificates of permission and renewal licenses will be subject to the right of protest, revocation, suspension and restriction as in other cases, and the executors or administrators of the deceased shall be subject to the provisions of the Tax-General Article that relate to alcoholic beverages and all of the provisions of The Alcoholic Beverages Article. The said administrator or executor to which the aforesaid certificate of permission has been granted may assign or transfer the license for the benefit of the estate, and upon the approval of the application for said transfer or assignment, the license shall be considered reinstated, upon the payment of the balance of the license fee due to the expiration of the license year. No Class E, Class F, or Class G license shall expire or become inoperative because of the death and/or incompetence of one or more, but less than all, of the persons to whom it is issued for a partnership, corporation or limited liability company. If all the persons to whom it is issued shall die and/or become incompetent during its term, such license shall expire ten days thereafter, but, upon application within ten days, accompanied by a fee payment of $1.00 by a person on behalf of such business entity, the Comptroller or the clerk may issue a new license replacing, and containing the privileges of, such license to the end of the license year.

4.18 - Customer Notices; Signs

A holder of any class of license for the sale of alcoholic beverages shall be required to prominently display:

(a) A notice posted within the licensed premises advising patrons that they must be 21 years of age to purchase, possess and/or consume alcoholic beverages.

(b) A notice posted on the exterior wall of the premises or some other place in the immediate vicinity of the parking area, advising patrons that the consumption of alcoholic beverages in the parking area is prohibited.

4.19 - Keg Beer Regulations

In St. Mary's County, a licensee may not sell or otherwise transfer, or offer to sell or otherwise transfer the contents of a keg for consumption "off premises" unless:

(a) The licensee provides to the purchaser a keg registration form, approved and distributed by the State Comptroller, designed to be affixed to the keg and that indicates the name and address of the licensed establishment and a registration number.

(b) The purchaser provides valid identification and completes and signs a registration form with the following information:

(1) The purchaser's name, address and driver's license number.
(2) The date of birth of the purchaser.
(3) The date of purchase.

(c) The licensee affixes the completed registration form to the keg and retains a copy of the form for at least thirty (30) days on the licensed premises.

(d) Upon return of a registered keg from a purchaser, the licensee removes or obliterates the keg registration form attached to the keg and notes that removal, the date of that removal and

the person's name and address, if different than the purchaser, on the copy of the keg registration form retained by the licensee at the licensed premises.

(e) If a keg is returned without a registration sticker attached, the licensee or his designated representative shall notify the Board no later than seventy-two (72) hours after the keg is returned and provide the Alcohol Enforcement Coordinator with all pertinent information to investigate the alleged removal of the registration sticker. The licensee shall not return the keg to the wholesaler or alter the keg in any way pending the completion of any investigation by the Board or its Coordinator.

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

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

(h) A licensee may charge a keg registration fee to the purchaser.

(i) A licensee who sells kegs or violates any provision of these regulations is subject to a fine not to exceed $100.00 and/or a suspension or revocation of his/her alcoholic beverages license.

(j) The existence of a completed registration form signed by the purchaser shall create a presumption that the licensee has complied with the requirements as set forth hereinabove.

(k) All licensees engaged in selling kegs must maintain neat and accurate records of such sales and said records shall be accessible to the Alcohol Enforcement Coordinator upon request.

4.20 - Temporary Licensee Responsibilities-

All persons selling alcoholic beverages shall be in compliance with all rules and regulations pertaining to a permanent licensee.

Section V
PROHIBITED PRACTICES

5.01 - Violations of Local Rules or Regulations

The Board may:

(a) Suspend or revoke a license, and/or

(b) Impose a fine, and/or

(c) Order a restriction on the operations of the business, and/or

(d) Require Responsible Alcohol Service Training (R.A.S.T.) on a license holder for a violation of any local rule or regulation adopted by the Board 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.

Pursuant to §6-204 of the Alcohol Beverage Article of the Annotated Code of Maryland, the Board may subpoena a licensee before the Board for an inquiry regarding matters related to the license of the licensee.

5.02 - Prohibited Acts Requiring Mandatory Suspension or Revocation of License

The Board is required by law to suspend or revoke a license for any of the following causes:

(a) a conviction of the licensee for the violation of any of the provisions of The Alcoholic Beverages Article or of the Tax-General Article that relate to the alcoholic beverages tax;

(b) the willful failure or refusal of any licensee to comply with any provisions of the Tax-General Article that relate to the alcoholic beverages tax or any provisions of The Alcoholic Beverages Article or any rule or regulation that may be adopted in pursuance thereof;

(c) the making of any material false statement on any application for a license;

(d) two or more convictions of one or more of the clerks, agents, employees or servants of a licensee under the provisions of The Alcoholic Beverages Article or the Tax-General Article that relate to the alcoholic beverages tax of any violation on the licensed premises within a period of two years;

(e) the possession upon the premises of any retail dealer of any alcoholic beverage upon which the tax imposed by the Tax-General Article has not been paid;

(f) the violation of the provisions of §§2-216 and 2-315 of The Alcoholic Beverages Article prohibiting manufacturers, wholesalers, etc. from having any interest in a retail establishment, and placing limitations on the furnishing of signs, products, etc. by such persons or entities.

(g) the willful failure of any licensee to keep the records required by The Alcoholic Beverages Article or the provisions of the Tax-General Article that relate to the alcoholic beverages tax or to allow any inspections of such records by duly authorized persons;

(h) the possession of any alcoholic beverage which the licensee is not licensed to sell;

(i) the suspension or revocation of a permit issued to any licensee by the Federal Alcohol Administration, or for the conviction of violating any federal laws relating to alcoholic beverages.

(j) the failure to furnish bond as required by The Alcoholic Beverages Article within 15 days after notice from the Comptroller.

(k) the revocation and suspension of licenses is also authorized for such other offenses as specified in other sections of The Alcoholic Beverages Article or the Tax-General Article or these regulations.

5.03 - Prohibited Attire and Conduct

Any license issued under the provisions of The Alcoholic Beverages Article and these regulations shall be revoked if, after hearing as provided in §4-6 of The Alcoholic Beverages Article, any of the activities listed in this section are found to have occurred on any premises or location for which the license was issued.

(a) Attire and conduct - With respect to attire and conduct, a person may not:

(1) Be employed or used in the sale or service of alcoholic beverages in or upon the licensed premises while the person is unclothed or in attire, costume, or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttock, vulva or genitals.

(2) Be employed or act as a hostess or act in a similar-type capacity to mingle with the patrons while the hostess or person acting in a similar-type capacity is unclothed or in attire, costume or clothing as described in subparagraph (1) above.

(3) Encourage or permit any person on the licensed premises to touch, caress or fondle the breast, buttocks, anus or genitals of any other person; or

(4) Permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion of it.

(b) Entertainment provided generally- With respect to entertainment provided, a person may not:

(1) Permit any person to perform acts of or acts which simulate:

(i) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

(ii) The touching, caressing or fondling of the breast, buttocks, anus or genitals.

(iii) The display of pubic hair, anus, vulva or genitals.

(2) Permit any entertainer whose breasts and/or buttocks are exposed (subject to the restrictions of subparagraph (1) of this subsection) to perform closer than six feet from the nearest patron.

(3) Permit any person to use artificial devices or inanimate objects to depict, perform or simulate any activity prohibited by subparagraph (1) of this subsection;

(c) Motion pictures, still pictures, electronic or other visual reproductions, - A person may not exhibit or show any motion picture film, still picture, electronic reproduction or other visual reproduction depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals;

(3) Scenes where a person displays the vulva or anus or the genitals; or

(4) Scenes where artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described hereinabove.

(d) Persons exposing genitalia, etc. - A person may not permit any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus.

(e) Effect of other statutes, ordinances, rules or regulations. - The provisions of this section do not permit any conduct or form of attire prohibited by any other provision of statute, ordinance, rule or regulation.

5.04 - Other Prohibited Practices

Violations of the following prohibited practices may result in the suspension or revocation of a license or the imposition of a fine. The penalty imposed for any particular violation shall be in the discretion of the Board.

(a) Consumption or Sale During Prohibited Hours

(1) No licensee, his/her clerks, agents, employees or servants shall consume or permit the consumption of alcoholic beverages by patrons on the licensed premises during the hours when such sales or consumption are prohibited by law.

(2) No alcoholic beverages shall be served, consumed, furnished or given away by a licensee, his/her clerks, agents, employees or servants or any patron on any part of the licensed premises during the hours prohibited by law.

(b) Acts Contrary to Law

No licensee, his/her clerks, agents, employees or servants shall commit or allow the commission on the licensed premises of any act which is contrary to any federal, state or local statute, law, ordinance, or regulation; or against the public peace, safety, health, or welfare.

(c) Gambling

No licensee, his/her clerks, agents, employees or servants shall allow the licensed premises to be used for the purpose of bookmaking or gambling in any form, except when specifically authorized by law. The exception to the general prohibition against gambling on licensed premises shall apply only to volunteer fire companies or bona fide fraternal, civic, war veterans', religious, or charitable organizations eligible under Title 13, Subtitle 21 of the Maryland Criminal Law Annotated Code for gambling.

(d) Narcotic Drugs

No licensee, his/her clerks, agents, employees or servants shall permit the licensed premises to be used for the sale, transfer, or possession of controlled dangerous substances, as defined in the Annotated Code of Maryland.

(e) Relation with Wholesalers

(1) No licensee, his/her clerks, agents, employees or servants shall purchase alcoholic beverages except from a duly licensed manufacturer or wholesaler, nor shall any licensee, his/her clerks, agents, employees or servants sell, for purpose of resale, to any other licensee, any alcoholic beverages; and no licensee shall have in his/her possession, or in the possession of his clerks, agents, employees or servants, at any place on the licensed premises or in the building in which the licensed premises are located, any alcoholic beverages not permitted to be sold under his/her license.

(2) No licensee shall solicit or accept, directly, or indirectly, any gift of alcoholic beverages, any tie-up advertisements in newspapers or other periodicals, or gift or rebate of any sort from a manufacturer or wholesaler, or from any other person or corporation engaged in the distribution of alcoholic beverages in St. Mary's County, except a sign display or any other form of advertisement of a value not in excess of $30 for beer and malt beverages or $75 for distilled spirits and wine, advertising the products of a particular manufacturer, wholesaler, distiller, brewer, or the like.

(3) No licensee shall have any interest in the business of any manufacturer or wholesaler of alcoholic beverages; nor shall any such manufacturer or wholesaler have any interest in the business of any licensee.

(f) Alcoholic Beverage Containers/Refilling or Tampering

No licensee, his/her clerks, agents, employees or servants shall reuse or refill any bottle or container of alcoholic beverages; nor shall any licensee adulterate, dilute, or fortify the contents of any such bottle or container.

(g) Consumption on "Off Sale" Premises

No holder of a Class A "off sale" license, his/her clerks, agents, employees or servants shall permit any person to consume or open any alcoholic beverage on the licensed premises nor any other portion of the property of the establishment, including parking areas adjacent to the licensed establishment.

(h) Noise: Disturbance of the Neighborhood

(1) Excessive noise emanating from licensed premises is prohibited.

(2) The Alcohol Beverage Board may regulate the time and noise level of the playing of mechanical music boxes, live music, and sound making devices that are used on the licensed premises where the sound disturbs the peace, tranquility, safety, and/or health of the surrounding neighborhood.

(i) Sales or furnishing alcoholic beverages to intoxicated persons

No license holder, his/her clerks, agents, employees or servants shall sell alcoholic beverages to any intoxicated person, any person under the influence of narcotic drugs, or any person acting in a disorderly manner.

(j) Sales to Minors

No licensee, his/her clerks, agents, employees or servants shall sell any alcoholic beverages to anyone under the age of twenty-one. The licensee shall have full responsibility to determine, with reasonable certainty, that the person to whom the sale is made is twenty-one years old or older. In disciplinary proceedings, it shall be no defense that a clerk, agent, employee or servant of the establishment acted contrary to orders or that a licensee did not participate in the violating action or actions.

(k) Sales Limited to Specific Area of Licensed Premises

A holder of any "on-sale" license, his/her clerks, agents, employees or servants, may permit alcoholic beverages to be sold, served and consumed only on that part of the premises which has been specifically licensed for such uses by the Board.

(l) Prohibition Against Direct Sales from Locations Outside County

No license shall be issued to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, which authorizes direct sales and shipments of alcoholic beverages from locations outside St. Mary's County to consumers within St. Mary's County.

(m) Limitation of Sales in Open Containers

(1) The licensee is prohibited from selling, giving, or otherwise providing any alcoholic beverage in any synthetic container, glass, or unsealed bottle, can or container through any drive-in or walk-up window, which is actually removed from the licensed premises.

(2) The licensee is prohibited from selling, giving, or otherwise providing any patron with the simultaneous sale of any alcoholic beverage:

(i) Any synthetic cup or glass except in original factory unopened packages.

(ii) Any ice in individual containers.

(n) Storage of Alcoholic Beverages

It shall be unlawful for any licensee or establishment to store or keep any alcoholic beverages, except on the premises covered by the license or at a public or government-controlled warehouse having a permit issued under the provisions of The Alcoholic Beverages Article of the Annotated Code of Maryland and no alcoholic beverages may be stored in trailers or trucks on or about the licensed premises.

(o) Solicitation of Sale and Delivery off of Premises

Sales to consumers may not be solicited or consummated away from retailer's licensed premises.

(p) Consumption in Outside Areas

The licensee may not permit any person, who is a patron of the licensed premises, to drink any alcoholic beverage while:

(1) On public property, unless authorized by a governmental entity that has jurisdiction over the property;

(2) On a mall, adjacent parking area, or other outside area of any combination of privately-owned retail establishments, such as a shopping center, where the general public is invited for business purposes, unless authorized by the owner of the shopping center;

(3) On an adjacent parking area or other outside area of any other retail establishment, unless authorized by the owner of the establishment; or

(4) In any parked vehicle located on any of the places enumerated in this subsection, unless authorized.

(5) It shall not be defense to a violation of this section that the licensee’s clerk, agent, employee, or servant permitted such activity without the licensee’s permission or knowledge.

(q) Consumption of Alcoholic Beverages by Person Under Age 21

No licensee, proprietor or operator of any establishment dispensing alcoholic beverages shall permit the consumption or possession on the licensed premises of any alcoholic beverage by a person under 21 years of age.

(r) Sales of Alcoholic Beverages by intoxicated persons

No licensee of any licensed establishment shall dispense or sell alcoholic beverages or allow their clerks, agents, employees or servants to do so while said licensee, clerk, agent, employee or servant is intoxicated or under the influence of alcohol or controlled dangerous substances.

5.05 - Consideration of Previous Violations

(a) Records of any violation of the alcoholic beverage laws of this State and/or the rules and regulations of this Board shall be retained for consideration in connection with a subsequent violation for a period of three (3) years from the date that the Board enters a finding of a violation into the record. If a licensee requests a postponement of a hearing of a violation pursuant to Rule 6.06, the Board may, in its discretion also extend the three (3) year period if it would expire during the period of postponement. After the expiration of the said (3) year time period, the violation shall not be considered by the Board in determining sanctions to be imposed for a subsequent violation. However, if, within the three (3) year time period, the license is transferred, the violations shall not extend or be applicable to the transferee of the license for the premises upon which the previous violation occurred.

(b) If a transferee of a license or a new applicant for a license has previously held a license in St. Mary's County or elsewhere, and has been found by the Board or a similarly established Board elsewhere to have been in violation of any laws, rules or regulations to which said licensee was subject, within three (3) years prior to the application for transfer, then said violations shall be considered by the Board in reviewing the transfer application or new application.

Section VI
THE HEARING PROCESS

6.01 - Meetings

Regular meetings of the Alcohol Beverage Board of St. Mary's County are held on the second Thursday of each month at 1:00 p.m. in the Governmental Center Complex in Leonardtown, Maryland. Special meetings may be held at other times and notice thereof shall be given to the public through the news media. A quorum of the members must be present to conduct any meeting of the Board. The Board shall generally transact business as a small board, pursuant to Robert's Rules of Order, which includes, but is not limited to the following:

(a) Informal discussion of a subject is permitted while no motion is pending,
(b) Motions need not be seconded,
(c) The chairman can make motions without leaving the chair, and
(d) The chairman usually votes on all questions.

6.02 - Notification to Applicants of Meetings

All applicants or counsel for applicants will be promptly notified in writing of the time, date and location of the meeting at which their applications will be considered by the Board.

6.03 - Minutes of Meetings

The Board shall cause to be prepared official minutes of its meetings and shall maintain all documents and exhibits submitted to the Board. It shall not be necessary to transcribe the testimony unless requested, or as required for appeals of decisions by the Board.

6.04 - Public Attendance: Maintenance of Order

The general public is encouraged and invited to attend all Board meetings, and reasonable seating facilities shall be provided. The Chairperson shall maintain order during the hearing. Whenever confusion or disorder arises in the hearing room, or inappropriate demonstration of approval or disapproval are indulged in by persons in attendance, the Chairperson shall enforce order on his/her own initiative without any point of order being made by a member. Under circumstances of confusion and disorder, the Chairperson shall have the power to order the hearing room cleared or to recess the hearing. The Chairperson may order the hearing adjourned to a later date and/or time if necessary to maintain order.

6.05 - Matters of Law

All matters of law raised by any party during a hearing shall be referred to the Board Attorney or his/her designee, who shall advise the Board. After receiving such advice, the Board shall act accordingly.

6.06 - Conduct of Meetings

(a) The Chairperson shall be permitted to postpone matters on the docket upon written request from the license holder, in the Chairperson's discretions, prior to the date of the hearing.

(b) The Chairperson shall call the docket at the beginning of all hearings. In the Chairperson's discretion, any preliminary matters may be heard and disposed of first.

(c) All persons wishing to testify shall be placed under oath prior to giving testimony.

6.07 - Penalties/Payment of Fines

(a) The Board may impose a fine up to One Thousand Dollars ($1,000.00) for each violation of the Alcohol Beverages Article or the Local Rules and Regulations.

(b) When a revocation, suspension, or restriction of any license or licensee's premise has been imposed for a violation of The Alcoholic Beverages Article or these Local Rules and Regulations, the revocation, suspension, or restriction shall be immediate unless in the matter of suspension or restriction, the Board has delayed the effective date by motion and majority vote of the members.

(c) When a monetary fine has been imposed on a licensee for a violation of The Alcoholic Beverages Article or these Local Rules and Regulations, the licensee must pay the fine via cash or cashier's check to the Board Administrator within ten (10) business days. The ten-day period begins the first business day after the fine is imposed by the Board. Business days are defined as the days Monday through Friday. Failure to make such payment shall result in the licensee being brought before the Board to show cause why further penalty should not be imposed for failure to comply with the Board's directive.

(d) When a licensee is penalized for a failure to comply with a specific requirement of The Alcoholic Beverages Article or these Local Rules and Regulations, the Board is authorized to enter a penalty and set a specific period in which the licensee may comply with the requirements of The Alcoholic Beverages Article or these rules. In the event the time period is not met, the Board's order can include immediate penalties for non-compliance.

(e) For a violation of 5.04(j) during Underage Compliance Checks conducted by the Alcohol Enforcement Coordinator of St. Mary's County, the Board may consider as the penalty the following Standard Consequence Matrix:

(1) Violation of Underage Compliance Check - First Offense

(i) Mandatory attendance of Responsible Alcohol Service Training (R.A.S.T.) by licensee. Attendance by establishment employees strongly recommended.

(ii) The licensee may be required to pay a fine up to $1000.00, with up to $500.00 suspended for up to a three (3) year probationary period.

(2) Violation of Underage Compliance Check - Second Offense within three (3) year probationary period:

(i) Mandatory attendance of Responsible Alcohol Service Training (R.A.S.T.) by licensee. Attendance by establishment employees strongly recommended.

(ii) The licensee may be required to pay a fine up to $1000.00 in addition to any previously suspended amounts from the first offense, for a second offense within three (3) years.

(iii) The licensee may face suspension of license.

(3) Violation of Underage Compliance Check - Third Offense within three (3) year probationary period:

(i) Mandatory attendance of Responsible Alcohol Service Training (R.A.S.T.) by licensee. Attendance by establishment employees strongly recommended.

(ii) The licensee may be required to pay a fine up to $1000.00.

(iii) The licensee may face suspension of license or possible revocation of license.

(4) Violation of Underage Compliance Check - Fourth Offense within three (3) year probationary period:

(i) Revocation of license.

(f) If a license is suspended due to a ruling from the Board, notice of the suspension shall be posted at the premises of the licensee for the entire period of suspension. If a license is revoked due to a ruling from the Board, notice of the revocation shall be posted at the premises for a period of 30 days after the date of revocation.

6.08 - Appeals

(a) Any licensee, applicant for a license, or group of not less than ten (10) persons who are residents or real estate owners in the district in which a licensed place of business is located or proposed to be located, may, within thirty (30) days from the date of any final decision of the Board in approving, suspending, revoking, restricting or refusing to approve, suspend, revoke or restrict any license or licensee, appeal such decision to the Circuit Court for St. Mary's County.

(b) The appellant shall be required to pay, in advance, a sum of money reasonably estimated to cover the expense of transcribing the hearing of the decision being appealed.

Section VII
CLASSES AND FEES

7.01 - General

License Fees shall be paid in full by the applicant at the time of the issuance of the license. All checks shall be made payable to the St. Mary's County Treasurer. The County Treasurer shall collect the Alcoholic Beverages license fees and shall pay to the Commissioners of Leonardtown the fees received from licenses issued to premises within the limits of said town.

7.02 - Classes and Fees

Class A - Package Goods... (Off-sale only). No consumption on the licensed premise.

Class A Light Wine (7 day) *(needs to have Class 4 license from state)*	$ 50.00
Class A Beer (7 day)	$ 200.00
Class A-1 Beer, Wine & Liquor (7 day)	$ 400.00
Class A-2 Beer, Wine & Liquor (6 day)	$ 300.00
Class A-3 Beer & Wine (7 day)	$ 350.00
Add on BWT (only for Class A-1, A-2, or A-3 licenses)	
BWT 26 day	$ 150.00
BWT 52 day	$ 200.00
BWT 365 day	$ 250.00

Class AE – Art Establishment License… (On-sale only) Consumption of beer and wine only on the licensed premises $ 300.00

Class B - Restaurants and Hotels ... Consumption on or off premises unless otherwise specified by the Board, except for hotels, which may only be on premises.

Class B Beer & Wine (7 day) (Hotel or Restaurant)	$ 400.00
Class B Beer, Wine & liquor (7 day) (Restaurant)	$ 650.00
Class B Beer, Wine & liquor (7 day) (Hotel/Restaurant)	$ 1,000.00
Add on Caterers License	$ 250.00

Class C - Clubs ... (On-sale only). Consumption only on the licensed premises.

Class C Beer. Wine & Liquor (7 day) (Clubs)	$ 350.00

Class C Per Diem Licenses. (On-sale only). Consumption only on the licensed premises.

Class C Beer (not to exceed 10 consecutive days from effective date)	$ 10.00/period
Class C Beer & Wine	$ 10.00/day
Class C Beer, Wine & Liquor	$ 10.00/day

Wine Festival License (On/off sale) For consumption on or off the licensed premises on the days and hours designated for the festival. Shall be issued to a Sponsor of the wine festival rather than to the individual wineries.

Wine (One weekend per year) $ 15.00

Beer Festival License (On/off sale) For consumption on or off the licensed premises on the days and hours designated for the festival held in Historic St. Mary's City. Shall be issued to a Sponsor of the beer festival rather than to the individual breweries.

Beer (One weekend per year) $ 15.00

Class BWTS (on-premises) Beer & Wine Tasting and Sampling License $ 50.00

Class D (On/off sale). For consumption on the licensed premises or elsewhere.

Class D Beer (6 day)	$ 200.00
Class D Beer (7 day)	$ 250.00
Class D Beer, Wine & Liquor (On/Off sale) (6 day)	$ 250.00
Class D Beer, Wine & Liquor (On/Off sale) (7 day)	$ 650.00

Class M-G – Municipal Golf Course (On-sale only) Beer, wine & liquor license for consumption only on the land & in the facilities used for golfing purposes. $ 600.00

Class S – Beauty Salon License…(On-sale only) Consumption of beer and wine only on the licensed premises $ 300.00

Nonrefillable or Refillable Container Permits

In conjunction with A, B or D licenses with Off-Sale privilege $ 50.00

In conjunction with B or D licenses without Off-Sale privilege unless prohibited by law, this Board, or other agency or municipality. $ 500.00

An applicant who has a Refillable Container Permit may not be charged a fee for a Nonrefillable Container Permit

Distillery On-Site Consumption Permit $ 650.00

7.03 - Other Fees

Application Fee … For new and transfer applications $ 250.00

Section VIII
COVID RECOVERY LEGISLATION

8.01 – Sale and Delivery for Off-Premises Consumption Permit

For the purpose of promoting the economic recover of different categories of small businesses in the wake of the COVID-19 pandemic, the Board has adopted these regulations in accordance with §4-1107 of the Alcoholic Beverages Article, to issue a permit authorizing the sale or delivery of mixed drinks or cocktails for off-premises consumption. The permit is effective from time of issue until June 30, 2023, at which time the permit shall expire and have no further force or effect.

(a) a sale and delivery for off-premises consumption permit may be issued to a holder of a Class B-BWL restaurant license or a qualifying Class D-BWL license

(1) to qualify for application of permit, a Class D-BWL license shall have a Health Department licensed kitchen that permits them to make prepared food.

(b) the mixed drink or cocktail shall be purchased along with prepared food other than prepackaged snacks

(c) the individual purchasing the mixed drink or cocktail shall be at least 21 years of age and provide valid identification as proof of age

(d) a log of all sales for home delivery or curbside pick-up shall be kept. The log shall include the following information:

(1) the purchaser's name, address, driver's license number, and date of birth

(2) delivery address or in the case of pick-up, the address of the business

(3) name of delivery person or curbside server

(4) copy of receipt showing prepared food purchased, number of mixed drinks or cocktails purchased, and time of delivery or pick-up

(e) each mixed drink or cocktail sold for off-premises consumption or delivery shall:

(1) be provided in the manufacturer's original sealed container or in a container closed with a cap, cork, seal, or lid with no holes for straws or sipping; and

(2) be sold or delivered not later than 11:00 PM

(f) the delivery shall be made from the licensed premises to the purchaser by the license holder or the license holder's employee, who is at least 21 years old and certified in an alcohol awareness program

(g) the mixed drink or cocktail is not delivered to:

(1) another premises licensed to sell alcoholic beverages; or

(2) an address located outside of the licensed jurisdiction.

(h) the number of mixed drinks or cocktails shall be limited to two (2) 12 ounce or less drinks per single transaction.

(i) the Board may upon the finding of a violation of the terms of this permit or any violation of any local rule or regulation adopted by the Board 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 may revoke the permit.

Revised 8/12/21

Additional and updated copies of these Rules & Regulations may be found on the Alcohol Beverage Board of St. Mary's County website:

www.stmarysmd.com/alcohol/beverageboard

If you cannot use this link, go to:

www.stmarysmd.com

Click on Public Agencies

Click on Alcohol Beverage Board