

**AN ORDINANCE AMENDING SECTIONS 118-3 THROUGH 118-16 OF THE TOWN OF SMITHFIELD MUNICIPAL CODE ENTITLED "ALCOHOLIC BEVERAGES"**

**IT IS HEREBY ORDAINED BY THE TOWN OF SMITHFIELD AS FOLLOWS:**

Section 1. Sections 118-3 through 118-16, of the Smithfield Municipal Code are hereby amended to read as follows:

**§ 118-3 New License Applications.**

- A. All new business applications shall complete a Business Registration in the office of the Town Clerk or on the Town's website as required by Section §236-11 of the Smithfield Code of Ordinances.
- B. An application form must be obtained from the Office of the Town Clerk or on the Town's website, fully completed, and returned to the Town Clerk with the payment for the annual license fee and all required documentation which shall include:
  - 1) Background check
  - 2) Retail Sales Permit (issued by the RI Division of Taxation)
  - 3) Certificate of Good Standing (issued by the RI Division of Taxation)
  - 4) Menu
  - 5) A brief written description of the premises sufficient to identify the specific location, within the building and/or on the property grounds where alcohol is to be served. A site plan, drawn to an acceptable engineering scale and accurately presenting all required data.
  - 6) An abutter's list from the Smithfield Tax Assessor's Office which will identify all property owners with 200 feet of any point of the premises where alcohol will be served (R.I.G.L. §3-5-17).
  - 7) A Special Use Permit from the Smithfield Building Department (if applicable).

**C. Notice**

Notice of the application must be given by regular mail to all owners of property within 200 feet of the proposed business location. The notice shall be prepared and mailed by the Office of the Town Clerk, and the cost associated with said mailing shall be paid by the applicant. The notice must state that the abutting property owners have a right to address the proposed application and state the time and place of the public hearing.

**D. Advertising**

The Office of the Town Clerk will advertise the public hearing once a week for two (2) weeks in a newspaper of local circulation. The initial advertisement must appear fourteen (14) days or more before the scheduled hearing date.

**E. Basis for Denial or Approval**

The Town Council has the general discretionary authority to deny a license for reasons to include, but not limited to:

- 1) Compliance with State and local health and safety laws, codes, ordinances, rules, and

regulations.

- 2) Compliance with State and local alcoholic beverage laws, codes, rules, and regulations.
- 3) Premises is located within 200 feet of a school or place of public worship (R.I.G.L. §3-7-19).
- 4) Impact on traffic.
- 5) Parking.
- 6) Impact on existing municipal services and requirements, if any, for new municipal services.
- 7) Impact on Police Department.
- 8) Failure of the applicant to comply with the requirements of State law, including, but not limited to:
  - i. Applicant must be a citizen and resident of Rhode Island, except that licenses may be issued to corporations incorporated in other states of the United States if they are authorized to transact business in Rhode Island (R.I.G.L. §3-5-10).
  - ii. Corporate applicants with 25 stockholders or less must provide a list of the names and addresses of all stockholders, officers, and members of the board of directors to the Town Council, and each person listed must be a suitable person to hold a license within the district of the Town Council (R.I.G.L. §3-5-10).
  - iii. Failure of a corporation to report the acquisition of a 10% interest and any change of officer or directors within thirty (30) days (R.I.G.L. §3-5-10).
  - iv. Applicant has a criminal record or repeated violations of the alcoholic beverage laws.

#### § 118-4 License Renewal Applications.

- A. All licenses, except F and F-1 are issued for a period of no more than one year and shall be renewable on December 1 each year in accordance with these rules and regulations and State law.
- B. The license renewal applications shall be submitted by October 1 to allow time for processing. Failure to submit a timely license renewal application shall be grounds for denying renewal of the license.
- C. The full amount of the annual license fee must be submitted with the application. Failure of the Town Council to act on a license renewal application, timely submitted and fully completed and executed, shall cause the existing license to be extended until such time as the Town Council acts on the application.
- D. The Town Council may refuse to renew any license for reasons to include but not limited to:
  - 1) One or more incidents of disorderly conduct within the licensed premises or outside of the licensed premises if the conduct can be shown to have its genesis within the premises.
  - 2) Failure to comply with State and local health and safety laws, codes, ordinances, rules, and regulations.
  - 3) Failure to comply with State and local alcoholic beverage laws, codes, rules, and regulations.
  - 4) Delinquency of applicant in payment of tangible taxes and application fees.
  - 5) Failure to furnish a Certificate of Good Standing issued by the Rhode Island Division of Taxation.
- E. Notice: Notice to abutting landowners are not required.
- F. Advertising: The license renewal application shall be advertised in a newspaper of local circulation. The advertisement shall provide the date and time of the meeting at which the renewal

application shall be considered.

**§ 118-5 License restrictions.**

- A. The Town Council shall have the authority to impose restrictions upon a license, whether newly issued, renewed, transferred, or relocated, provided the restrictions are designed to promote the reasonable control of alcoholic beverages.
- B. The Town Council shall have broad discretionary authority to impose restrictions which are generally applied to all liquor licenses or all licenses within a class. Restrictions applicable to all licenses shall include but not limited to:
  - 1) No loud noise, music, or other nuisance shall be permitted to annoy nearby residents, persons on adjoining properties, street, or sidewalks. Consistent with Chapter §252 of the Smithfield Code of Ordinances.
  - 2) The applicant assumes all responsibility and liability which may result from the granting of the license. The applicant acknowledges that the Town of Smithfield assumes no responsibility by granting the license.
- C. Any other conditions imposed by the Zoning Board of Review must be complied with by the licensee.

**§ 118-6 Prior payment of taxes required.**

**[Amended 1-28-1981]**

Any applicant for, or license or holder of, an alcoholic beverage license within the Town must satisfy and pay any and all tax liabilities prior to the granting of a new alcoholic beverage license or the renewal of an existing alcoholic beverage license.

**§ 118-7 Definitions.**

**[Amended 1-28-1981]**

As used in this article, the following terms shall have the meanings indicated:

**TAX LIABILITIES**

Includes but not be limited to, any and all real, personal or intangible tax, as well as sewer usage fee or sewer assessment.

**Article III  
Consumption**

**[Adopted as indicated in section histories (Secs. 3-4 through 3-6 of the 1985 Code of Ordinances)]**

**§ 118-8 Beach areas.**

**[Amended 7-15-1963]**

No person shall possess or consume any alcoholic beverage on any of the beaches operated by the Town or public areas adjacent thereto.

**§ 118-9 Public property.**  
**[Amended 10-23-1979; 1-14-1980; 5-5-1987]**

No person, whether in or outside a motor vehicle, shall consume any alcoholic beverages on any public street, sidewalk or parking lot in Town, nor on any property owned by the Town of Smithfield.

**§ 118-10 Business property.**  
**[Amended 10-23-1979; 1-14-1980; 5-5-1987]**

It shall be unlawful for any person to consume alcoholic beverages in public view on private property on which a business is conducted, where the owner of such property has posted a prohibition against such consumption and where such notice has been filed with the Chief of Police.

**Article IV**  
**Alcohol Server Training**

**[Adopted 4-20-2004; amended in its entirety 5-5-2009]**

**§ 118-11 Requirements; violations and penalties; disposition of fines.**

- A. Every holder of a liquor license issued by the Town of Smithfield shall ensure that:
- (1) All persons who sell or serve alcoholic beverages, anyone serving in a supervisory capacity over those who sell or serve alcoholic beverages, anyone whose job description entails the checking of identification for the purchase of alcoholic beverages and valet parking staff shall receive alcohol server training as set forth herein.
  - (2) Any eligible employee of a licensee shall be required to complete certified alcohol server training as defined herein within 60 days of the commencement of his or her employment and must attain a minimum score of 75%.
  - (3) Licensees shall require employees described in Subsection A(1) hereof to be recertified every three years.
  - (4) As a condition of license renewal, and as part of the license renewal application, each licensee must submit to the Town Clerk information verifying that all persons described in Subsection A(1) hereof and employed by the licensee for more than 60 days in the past year have completed a certified alcohol server training program as defined herein within the last three years.
  - (5) All persons who have completed certified alcohol server training as required herein must have their valid server permits on the premises when engaged in the sale or service of alcoholic beverages.
  - (6) Individuals who have been issued a server permit in another jurisdiction by an approved Rhode Island alcohol server training program shall be determined to be in compliance with this article, subject to the three-year limitation contained herein.
  - (7) Only alcohol server training programs that meet the criteria determined by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals may be eligible for certification by the Department of Business Regulation. The Smithfield Substance Abuse Prevention Coalition shall maintain a list of certified alcohol training programs which meet said criteria.

- B. Any liquor licensee who violates or fails to comply with any provision of this § 118-11 shall be subject to the following sanctions:
- (1) An initial written warning for a first violation or noncompliance within a three-year period;
  - (2) A written warning for a second violation or noncompliance within a three-year period;
  - (3) A fine not to exceed \$250 for a third violation or noncompliance within a three-year period; and
  - (4) License suspension for a fourth and subsequent violation in a three-year period.
- C. Any server who violates or fails to comply with any provision of this article relating to servers of alcoholic beverages shall be subject to the following sanctions:
- (1) An initial written warning for a first violation or noncompliance within a three-year period;
  - (2) A written warning for a second violation or noncompliance within a three-year period;
  - (3) The loss of server training certification for a third violation or noncompliance in a three-year period.
- D. Failure to have a valid server permit on the person of an individual required to be certified hereunder shall not constitute a violation, provided proof of a valid permit is provided within 10 days of the request therefor.
- E. All fines collected by the Town hereunder shall be paid over to the Smithfield Substance Abuse Prevention Coalition.

## Article V License Fees

### § 118-12 Liquor license fees.

Annual liquor license fees shall be as follows:

Class of License	Fee
A	\$1,000
B (victualer)	\$600
BV (limited)	\$600
C	\$600
D	\$200

Article VI  
**Penalty Provisions for All Liquor Violations**

**§ 118-13 Fines and revocation; show-cause hearing.**

- A. In addition to any criminal penalties which may be imposed by a court of law, any holder of a liquor license issued by the Town of Smithfield who breaches any condition on which the license is issued, or who violates any rule, regulation, ordinance, or statute applicable thereto, with the exception of the alcohol server training requirements set forth in § 118-11, shall, for the first offense, be subject to a fine of up to \$500 and/or suspension or revocation of license; and for the second and any subsequent offense, be subject to a fine of up to \$1,000 and/or suspension or revocation of license. Each separate violation hereunder shall be considered a separate offense even if multiple violations occur on the same date or arise out of the same incident. In the event that there are no offenses within 36 successive months from the date of the last offense, then the next offense shall be treated as the first offense. All fines collected by the Town hereunder shall be paid over to the Smithfield Substance Abuse Prevention Coalition.
- B. Violations
- 1) The license holder has breached any condition imposed on the license.
  - 2) The license holder has violated the provisions of State law concerning alcoholic beverages, including but not limited to the rules and regulations issued by the Liquor Control Administration.
  - 3) The license holder has violated provisions of any applicable Town Ordinances.
  - 4) The license holder has failed to submit their paperwork by October 1.
  - 5) For purposes of this section, the licensee assumes responsibility for preventing its patrons from disturbing the surrounding neighborhood. Failure to do so shall be grounds for revocation or suspension of a license or imposition of a fine.
- C. Minimum penalties. In no event shall a penalty imposed hereunder be less than:
- (1) For a first offense, a mandatory minimum fine of \$100.
  - (2) For a second offense in a thirty-six-month period, a mandatory minimum fine of \$250.
  - (3) For a third offense in a thirty-six-month period, a mandatory minimum penalty of a fine of \$350 and a three-day license suspension.
- D. Imposition of penalty. Prior to imposing any penalty hereunder, the Town Council shall conduct a public show-cause hearing. The hearing notice shall be given to the licensee at least 10 days prior to the hearing. The notice shall include the date, time and place of the hearing, and shall state the nature of the charges against the licensee.

Article VII  
**(Reserved)**

**§ 118-14 (Reserved)**

Article VIII  
Vitualling Licenses

§ 118-15 Alcoholic beverages prohibited.

Every holder of a vitualling license issued by the Town of Smithfield shall ensure that no alcoholic beverages are consumed on the licensed premises unless the Town Council has issued a liquor license for the licensed premises which license is in full force and effect.

Article IX  
Location of Licensed Premises

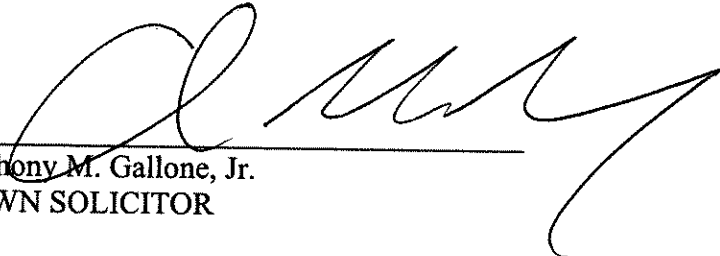
[Adopted 11-1-2011 by Ord. No. 2011-09]

§ 118-16 Prohibited location.

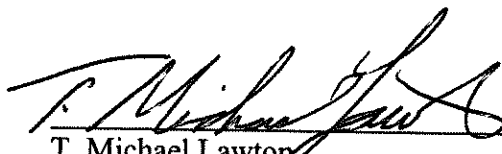
No Class A, Class B, Class B-Limited, Class C, Class D, Class E, or Class J license issued pursuant to the provisions of R.I.G.L. Chapter 3-7 ("Retail Licenses") shall be granted to any applicant who proposes to use and/or operate under said license at a location which is within the same building and is within two hundred (200) feet of any portion of the premises of a child-care provider and/or child-placing agency

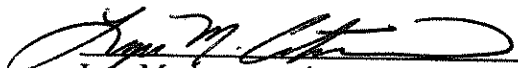
Section 3. These Ordinance Amendments shall take effect Thirty (30) days after their adoption by the Smithfield Town Council.

APPROVED AS TO FORM AND LEGALITY:

  
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Anthony M. Gallone, Jr.  
TOWN SOLICITOR

ADOPTED: DECEMBER 5, 2023

  
\_\_\_\_\_  
T. Michael Lawton  
TOWN COUNCIL PRESIDENT

  
\_\_\_\_\_  
Lyn M. Antonuccio  
TOWN CLERK

