

CHAPTER 236 IN ARTICLE 1 OF THE SMITHFIELD MUNICIPAL CODE ENTITLED “ MISCELLANEOUS PROVISIONS” IS HEREBY AMENDED BY ADDING THE FOLLOWING SECTIONS ENTITLED “PENALTIES FOR REPEATED VIOLATIONS OF STATE TOBACCO LAWS” AND "PENALTIES FOR REPEATED VIOLATIONS OF STATE ALCOHOL LAWS" THERETO:

WHEREAS, pursuant to Rhode Island General Laws § 45-6-1, town and city councils are empowered to enact ordinances for the orderly management and governance of their municipalities, including the regulation of public health, safety, and welfare;

WHEREAS, the Smithfield Town Council finds that repeated violations of Rhode Island’s tobacco and alcoholic beverage laws by victualing license holders constitute conduct that is detrimental to the public health, safety, and general welfare of the residents of the Town;

WHEREAS, the Smithfield Town Council seeks to establish enforcement measures to deter repeat violations and to promote responsible business practices among holders of victualing licenses;

NOW, THEREFORE, the Town Council of the Town of Smithfield hereby ordains as follows:

SECTION 1. 236-3.1 Findings and Purposes

1. Substantial scientific evidence exists that the use of tobacco products causes cancer, heart disease, and various other medical conditions. The Surgeon General of the United States has found that tobacco-caused diseases are the leading cause of premature, preventable death and disability in the United States.

SECTION 2. 236-3.2 Definitions

For purposes of this Ordinance, the following definitions shall apply:

A. Victualing License

A license issued by the Town of Smithfield pursuant to applicable law, permitting the licensee to engage in the preparation and/or sale of food and beverages to the public.

B. Violation

A final administrative or judicial determination that the licensee, or any of its agents, servants, or employees, has committed three (3) or more violations within a 12-month period of time.

1. Rhode Island General Laws Title 11, Chapter 9, governing tobacco products; or

2. Rhode Island General Laws Title 3, governing alcoholic beverages, including but not limited to unlawful sales to underage persons.

C. Year

A rolling twelve (12) month period immediately preceding the date of the hearing under this ordinance.

D. Person

Any individual, partnership, association, corporation, personal representative, trustee, assignee, or other legal entity.

E. Tobacco Product

Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, or any other form of tobacco intended for smoking, chewing, inhalation, or ingestion.

F. Tobacco Retailer

Any sole proprietorship, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered within the Town of Smithfield.

G. Drug Paraphernalia

The definition of drug paraphernalia is defined under R.I. Gen. Laws § 21-28.5-1.

H. Tobacco Specialty Store

A retail establishment primarily or exclusively engaged in the sale of tobacco products and related paraphernalia, which restricts access to persons twenty-one (21) years of age or older.

I. Self-Service Merchandising

The open display of tobacco products or paraphernalia that are accessible to the public without employee assistance.

SECTION 3. 236-3.3 Regulation of Tobacco Sales

A. It shall be unlawful for any person, business, or tobacco retailer—which restricts access to persons under the age of twenty-one (21)—to sell, offer for sale, or display tobacco products or drug paraphernalia through self-service merchandising.

B. Enforcement of this section shall be the responsibility of the Chief of Police or their designee.

C. Any person or business found to be in violation of this section shall be subject to the following penalties:

1. **First violation:** A written warning shall be issued to the violating business by the Smithfield Police Department;

2. **Second violation within one (1) year:** A civil fine not to exceed one hundred dollars (\$100.00) shall be imposed upon the violating business.
3. **Third violation within one (1) year:** A civil fine not to exceed two hundred dollars (\$200.00) and a mandatory suspension of the violating business' victualing license for a period of five (5) consecutive business days . .

SECTION 4. 236-3.4 Suspension of Victualing License for Repeated Violations

A. Upon a determination by the Smithfield Town Council that a licensee has committed three (3) or more *Violations*, as defined in Section 2(B), within a twelve (12) month period, the Town Council shall impose a mandatory suspension of the licensee's victualing license for a period of five (5) consecutive business days.

B. Prior to the imposition of any suspension, the Town Council or its duly authorized licensing body shall conduct a hearing. The licensee shall be provided with written notice at least ten (10) calendar days in advance of the hearing, including:

1. The date, time, and location of the hearing;
2. A summary of the alleged violations;
3. Notification of the licensee's right to legal representation and to present evidence and witnesses.

C. If, after hearing, the Town Council finds that three qualifying violations have occurred, it shall order the suspension to commence within thirty (30) calendar days.

D. During the suspension period, the licensee shall cease all food, beverage, and any other service operations to the public at the premises in question.

SECTION 5. 236-3.5 Severability

If any provision of this Ordinance, or the application thereof to any person or circumstance, is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect.

SECTION 6. 236-3.6 Definitions

For purposes of this Ordinance, the following definitions shall apply:

A. Victualing License

A license issued by the Town of Smithfield pursuant to applicable law, permitting the licensee to engage in the preparation and/or sale of food and beverages to the public.

B. Violation

A final administrative or judicial determination that the licensee, or any of its agents, servants, or employees, has committed three (3) or more violations within a twelve (12) month period of Rhode Island General Laws Title 3, governing Alcoholic Beverages, including but not limited to unlawful sales to underage persons.

C. Year

A rolling twelve (12) month period immediately preceding the date of the hearing under this ordinance.

D. Person

Any individual, partnership, association, corporation, personal representative, trustee, assignee, or other legal entity.

SECTION 7. 236-3.7 Enforcement of Alcohol Law Violations

A. Enforcement of this ordinance shall be the responsibility of the Chief of Police or their designee.

B. Any person or business found to be in violation of applicable alcohol laws shall be subject to the following municipal penalties in addition to any state-imposed penalties:

1. **First violation:** A written warning issued to the violating business by the Smithfield Police Department;
2. **Second violation within one (1) year:** A civil fine not to exceed one hundred dollars (\$100.00);

Third violation within one (1) year: A civil fine not to exceed two hundred dollars (\$200.00) and a mandatory suspension of the violating business' victualing license for a period of five(5) consecutive business days.

SECTION 8. 236-3.8 Suspension of Victualing License for Repeated Violations

A. Upon a determination that a licensee has committed three (3) or more *Violations*, as defined in Section 2(B), within a twelve (12) month period, the Town Council shall impose a **mandatory suspension** of the licensee's victualing license for a period of **five (5) consecutive business days**.

B. Prior to the imposition of any suspension, the Town Council or its duly authorized licensing body shall conduct a hearing. The licensee shall be provided with written notice at least ten (10) calendar days in advance of the hearing, including:

1. The date, time, and location of the hearing;
2. A summary of the alleged violations;
3. Notification of the licensee's right to legal representation and to present evidence and witnesses.

C. If, after hearing, the Town Council finds that three qualifying violations have occurred, it shall order the suspension to commence within thirty (30) calendar days, unless good cause is shown for a different schedule.

D. During the suspension period, the licensee shall cease all food, beverage, and other service operations to the public at the business in question.

SECTION 9. 236-3.9 Severability

If any provision of this Ordinance, or the application thereof to any person or circumstances, is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect.

SECTION 10. Effective Date

This Ordinance shall become effective thirty (30) days after its adoption.

APPROVED AS TO FORM AND LEGALITY:

Anthony M. Gallone, Jr.
TOWN SOLICITOR

ADOPTED: _____

John J. Tassoni, Jr.
TOWN COUNCIL PRESIDENT

Lyn M. Antonuccio
TOWN CLERK