

Chapter 6 - ALCOHOLIC BEVERAGES¹¹

Footnotes:

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Cross reference— Alcoholic beverages in parks, § 54-34.

State Law reference— Alcoholic beverages, G.L. 1956, title 3.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Power of liquor license commissioners to issue licenses.

The right, power and jurisdiction to issue liquor licenses authorized by G.L. tit. 3 shall vest in the town council. In conformity with G.L. § 3-5-15 and for the purposes of this article and the issuance of such licenses, the town council is hereby constituted as the license commissioners, and the town clerk is hereby appointed and designated as clerk of the license commissioners. The town council, acting as the town's license commissioners, shall have the full power to hear all applications made for liquor licenses within the town and shall have the power to deny or grant such licenses pursuant to and in compliance with state General Laws and the rules and regulations of the liquor control administrator for the state. The town clerk, acting as the clerk of the license commissioners, shall have the responsibility to oversee the filing of liquor license applications and petitions to the town council and shall be responsible for notification and advertising in connection with such license applications, together with all other duties and responsibilities consistent with the laws of the state and the rules and regulations of the liquor control administrator for the state.

(Ord. of 3-9-15)

Secs. 6-2—6-9. - Reserved.

Sec. 6-10. - Services to underage prohibited.

No alcoholic beverage shall be sold or served to any underage person by a licensee.

(Ord. of 11-13-01)

Sec. 6-11. - Possession, consumption by minors prohibited.

It shall be unlawful for any person who has not attained the age of 21 years to consume or have in his possession alcoholic beverages of any kind on public highways, beaches, picnic areas or any other public place within the town.

(Ord. of 11-13-01)

Sec. 6-12. - Consumption on streets, parking lots.

It shall be unlawful for any person to consume any alcoholic beverage, or to have in his or her possession any open container thereof, at any time, upon any public street, sidewalk, or parking lot. A parking lot shall include private commercial property upon which the public is invited and which is not licensed under RI Gen. Laws, Title 3, Chapter 7.

(Ord. of 11-13-01)

Sec. 6-13. - Consumption on beach, parks.

It shall be unlawful for any person to consume any alcoholic beverage, or to have in his or her possession any container thereof, in any public park or beach, at any time or in any municipal campgrounds between the hours of 10:30 p.m. and 8:00 a.m. This section does not apply to functions or gatherings specifically authorized by the town council.

(Ord. of 11-13-01)

Sec. 6-14. - Penalty.

Any person who shall violate any provision of 6-31, 6-32, 6-33, 6-34 shall be fined not exceeding \$250.00 and/or shall be required to perform community service. For the second offense and subsequent offenses be fined not exceeding \$500.00 and/or imprisoned for a term not to exceed 30 days and/or required to perform community service.

(Ord. of 11-13-01)

Secs. 6-15—6-25. - Reserved.

ARTICLE II. - ENTERTAINMENT IN ESTABLISHMENTS WITH LIQUOR LICENSE^[2]

Footnotes:

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Editor's note— An Ord. of 4-24-00 repealed article II, sections 6-26—6-31, in its entirety and replaced it with a new article II, sections 6-26—6-30. Former article II pertained to similar material and derived from the Code of 1967, §§ 5-1, 5-3—5-7.

Cross reference— Businesses, ch. 22.

Sec. 6-26. - Legislative findings and intent.

The town council has the authority and responsibility to regulate, conduct and legislate on matters of local concern affecting the public health, safety and welfare.

Business establishments that serve alcoholic beverages for consumption on the premises are subject to regulation by the town council due to the affects of consumption of alcoholic beverages. Conduct at or within those establishments merits appropriate regulation to prevent risks to public health, to preserve public safety and to minimize criminal activities.

Establishments which promote adult, sexually oriented entertainment of certain types, including but not limited to nudity and sexual performances have been known to have direct and secondary impacts on the surrounding community which negatively effect the public health, safety and welfare.

It is not the intent of this article to inhibit the free speech and expression of any art or speech nor to suppress any activities protected by the First Amendment to the Constitution of the United States, or article I., section 21 of the Constitution of the State of Rhode Island and Providence Plantations, nor is it the intent to condone or legitimize any obscene, illicit or illegal acts, materials or activities.

The intent of this article is to promote sanitary conditions, prevent opportunities for criminal activity, preserve property values, prevent the spread of disease and promote the public health, safety, morals and welfare.

(Ord. of 4-24-00)

Sec. 6-27. - Definitions.

Unless the context otherwise requires, as used in this article, the following words and phrases shall have the meaning and be defined as provided herein.

Alcoholic beverage shall mean and include any liquid which either by itself or by mixture with any other liquid or liquids is or may become fit for human consumption as a drink and which contains five-tenths of one percent or more of alcohol by weight, meaning and intending distilled spirits, wine or fortified wine, beer and malt beverages.

Employee shall mean and include any person providing services of any kind in or on a licensed premises for wages, gratuities, other remuneration, or compensation of any kind, or under any contract of employment, oral or written, express or implied with any person and meaning and intending to include but not be limited to: guides, ushers, escorts, waiters, waitresses, servers, hosts, hostesses, bartenders and the like.

Entertainer shall mean any person who performs or presents entertainment at or upon any licensed premises for a fee, tip, gratuity, compensation or other remuneration, either as an employee, contractor or invited guest of the business establishment.

Licensed premises shall mean and include any premises within and upon which alcoholic beverages are sold or served for consumption on the premises pursuant to a license or permit issued by the town or otherwise, and shall include premises which allow for the consumption of alcoholic beverages in or on the premises on a "bring your own" basis.

Operator shall mean and include the owner, license holder, manager, person in charge or any person operating a licensed premises.

Patron shall mean and include any natural person who is a guest, member, customer or invitee on or in the licensed premises.

Person shall mean and include any natural person, corporation, partnership, association or any other legally recognized entity.

(Ord. of 4-24-00)

Sec. 6-28. - Prohibited conduct.

(a) No operator shall, on licensed premises, suffer or permit:

- (1) Any female employee or entertainer to expose to public view the female breast uncovered or bare at or below the areola area or to exhibit the female breast covered with a transparent or semitransparent material which exposes to public view the breast at or below the areola area;

- (2) Any person to expose to public view the bare or uncovered buttocks, anus, anal cleavage, anal cleft, genitals or pubic hair of any person or to exhibit the buttocks, anus, anal cleavage, anal cleft, genitals or pubic hair of any person covered with a transparent or semitransparent material which exposes to public view the buttocks, anus, anal cleavage, anal cleft, genitals or pubic hair of any persons;
 - (3) Any person to perform, engage or participate in acts which constitute or simulate the following:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
 - b. The touching fondling or caressing of the breast, buttocks, anus or genitals;
 - (4) Any person to utilize artificial devices or inanimate objects to perform, simulate, or depict any of the acts prohibited in subsections (a), (b) and (c) hereof; and
 - (5) Any person to show, display or exhibit in or on any licensed premises any film, video, still picture, electronic reproduction or image of any act or conduct prohibited by subsections (a), (b) and (c) hereof.
- (b) No person, including a patron, while present on licensed premises, shall:
- (1) Expose to public view his or her own bare or uncovered buttocks, anus, anal cleavage, anal cleft, genitals or pubic hair or exhibits his or her buttocks, anus, anal cleavage, anal cleft, genitals or pubic hair covered with a transparent or semi-transparent material which exposes to public view his or her buttocks, anus, anal cleavage, anal cleft, genitals or pubic hair;
 - (2) Perform, engage or participate in acts which constitute or simulate the following:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
 - b. The touching, fondling or caressing of the breast, buttocks, anus or genitals;
 - (3) Utilize artificial devices or inanimate objects to perform, simulate, or depict any of the acts prohibited by subsections (a), (b) and (c) hereof.
- (c) No female employee or entertainer shall expose to public view her breast uncovered or bare at or below the areola area or exhibit her breast covered with a transparent or semi-transparent material that exposes to public view the breast at or below the areola area.

(Ord. of 4-24-00)

Sec. 6-29. - Violations and penalties.

- (a) It shall be unlawful for any person to fail to comply with the provisions of this article or to perform or commit any act prohibited by this article. The commission of any prohibited act or refusal to comply with any requirement of this article is hereby declared to be a violation. Each such act or event shall be and constitute a separate violation or offense.
- (b) Any person, entertainer, patron or operator who violates any provision of this article shall upon conviction be punished by a fine not to exceed \$500.00 and/or imprisonment not to exceed one year.
- (c) The violation of any provision of this article by the operator of any licensed premises shall be deemed a public nuisance and shall constitute grounds for the suspension or revocation of any and all alcoholic beverage licenses or other licenses issued to the premises or operator.

(Ord. of 4-24-00)

Sec. 6-30. - On Sundays.

~~Holders of restaurant and liquor licenses shall procure a further permit from the town clerk for dancing or any other form of entertainment on Sundays. The fee for such permit shall be set from time to time by the council and a schedule containing such fee is on file and available in the town offices. Such licensees shall pay for whatever police protection service may be necessary. _~~

(Ord. of 4-24-00)

Secs. 6-31—6-50. - Reserved.

ARTICLE III. - ONE-DAY (CLASS F AND F1) LIQUOR LICENSES

Sec. 6-51. - One-day licenses (class F and F1).

The town council has the authority to issue one-day liquor licenses. Applications for such licenses must be filed with the town clerk no less than 45 days prior to the proposed event. The petitioner will complete an application which shall state the name of the responsible party, the time and location of the event, the expected number of attendees, the name of the owner of the property where the event will take place and the name of the individuals who will be serving liquor. Application fees required by law will accompany the application.

(Ord. of 1-13-03; Ord. of 2-24-03; Ord. of 2-23-04)

Sec. 6-52. - Conditions for issuance.

The use of one-day liquor licenses on town-owned property is prohibited and licenses will otherwise be issued subject to the following conditions:

- (1) Petitioners will provide a \$2,000,000.00 general liability and liquor liability insurance policy for the event with the town named as additional loss insured.
- (2) Applicant, if an individual, or the responsible party if an organization shall have no criminal convictions or alcohol related dispositions at Rhode Island Traffic Tribunal.
- (3) If the applicant is not the owner of the premises where the event will be held, the property owner must provide to the town with written permission for the event to be held and permission for the issuance of the one-day liquor license.
- (4) Applicants must provide proof that the individuals serving alcohol at the event have been TIP trained.
- (5) Applicants must receive approval for the event from the chief of the town police department. The chief of police will assign one police officer to the event for each 100 people expected to attend. Applicants will pay the expense of the police attendance.

(Ord. of 1-13-03; Ord. of 2-24-03; Ord. of 2-23-04)

Sec. 6-53. - Limitations of events.

One-day liquor licenses are exceptions to the established rule that liquor should be sold in duly licensed premises. These licenses should be issued only in exceptional circumstances and should not be used to circumvent the sale of liquor in licensed establishments. Due to the time and effort required to issue such licenses and the public policy that such licenses should not generally be issued, the town

limits the number of such licenses to 12 per year and to no more than three per applicant and three per location.

Applicants are bound by the provisions of G.L. tit. 3, ch. 7, § 3-7-14 et seq. which are related to licensee operations under class F or F1 (one-day) liquor licenses.

(Ord. of 1-13-03; Ord. of 2-24-03; Ord. of 2-23-04)

ARTICLE IV. - BYOB LICENSE FOR VICTUALING ESTABLISHMENTS

Sec. 6-54. - Purpose and intent.

- (a) The council of the Town of Tiverton hereby declares that the purpose of this article is to preserve the health, safety and welfare of its residents by ensuring that the public consumption of alcohol is carried out responsibly at victualing establishments that allow patrons to bring their own alcoholic beverages.
- (b) It is the council's intent to ensure that those establishments that allow the general public to consume alcohol on their premises are properly trained to inspect photo identification to prevent underage drinking, as well as to regulate the amount of alcohol consumption that occurs on these aforementioned premises to promote the health and safety of the Town of Tiverton and to reduce the prominence of drinking and driving therein.

(Ord. of 3-9-15)

Sec. 6-55. - Definitions.

- (a) As used in this article, the following terms shall have the meanings indicated:

Alcoholic beverages means any and all intoxicating beverages that contain alcohol, liquor or such other intoxicating substances as are further defined in G.L. § 3-1-1.

BYOB also known as a bring-your-own-beer, bring-your-own-bottle, bring-your-own-wine, or carry-in establishment, means the practice of allowing individuals to bring and consume alcohol on the premises of a victualing house.

BYOB establishment means any victualing house, operated for profit or pecuniary gain, which is not licensed by the State of Rhode Island Liquor Control Board wherein patrons may consume alcoholic beverages which said patrons have carried or brought into the premises.

BYOB license means a BYOB license shall be understood as a limited, nonretail, Rule 5 Class ~~B-~~B-V-BLV license as defined by the State of Rhode Island Department of Business Regulation. As such, licensee is bound to all limitations and regulations as set forth therein and otherwise contained within G.L. tit. 3, Alcoholic Beverages. A BYOB license maintains all the requirements set forth by the State of Rhode Island Department of Business Regulation but does not confer the right to retail sales. A BYOB license will be understood as a Class ~~B-V~~B-V-BLV liquor license for the purpose of regulation under Town of Tiverton Code of Ordinances chapter 6.

Corkage fee means a convenience charge allowable only under a BYOB license for the labor and services incurred by the BYOB establishment for the consumption of alcoholic beverages on its premises.

Photo identification document means any permissible form of legal identification that is provided in G.L. § 3-8-6.

Victualing house also known as a "victualer," means any shop or place where a substantial part of the business is the furnishing of food for consumption at the place where it is furnished.

- (b) All other terms used throughout this article shall have their normal and ordinary meaning and shall be construed in the context in which they are provided.

(Ord. of 3-9-15)

Sec. 6-56. - General rule.

It shall be unlawful for any tavern or victualing house in the Town of Tiverton that does not have a class B liquor license pursuant to G.L. § 3-7-7, but otherwise may qualify to possess one pursuant to Rhode Island Department of Business Regulation Commercial Licensing Regulation 8, Section 4, Rule 5 Class B-V license, to operate as a BYOB establishment as herein defined, or to allow the practice of BYOB to occur on its premises, without first obtaining a BYOB license issued by the Tiverton Town Council.

(Ord. of 3-9-15)

Sec. 6-57. - BYOB license for alcoholic beverages at victualing houses.

- (a) The Town of Tiverton may grant a BYOB license to any establishment qualifying for a license under Rhode Island Department of Business Regulation Commercial Licensing Regulation 8, Section 4, rule 5. This license shall confer the limited right for consumption but not the retail of intoxicating beverages on the victualer's premises as defined by G.L. tit. 3, alcoholic beverages, as it would be applicable to a Rhode Island Department of Business Regulation Commercial Licensing Regulation 8, Section 4, Rule 5 Class B-V license.
- (b) Application for a BYOB license shall be made to the Tiverton Town Council at the time of the initial or renewal application for a BYOB license. The determination whether to grant a BYOB license is solely in the Tiverton Town Council's discretion.
- (c) No BYOB license shall be issued for any premises until the town clerk receives the following:
 - (1) A certification from the tax collector that all real and tangible personal property taxes and assessments pertaining to the premises and the property on which the premises is located and for which a BYOB license is to be issued are current and that no such taxes or assessments are then due and owing; and
 - (2) A certification from the building/zoning official that the property is in compliance with applicable statutes, regulations, and ordinances; and
 - (3) A certification from the fire department that the property has been inspected and is in compliance with applicable statutes, regulations, and ordinances; and
 - (4) A completed BCI and background check from the police department; and
 - (5) Any other items reasonably required to be furnished by the town council as part of its determination of fitness to hold the license.
- (d) Approval of a BYOB license under this policy shall not create any property rights; any further transfer or conferral of the BYOB license is limited to the provisions set forth under G.L. § 3-5-19 and any other limitations as would be applicable to a Rhode Island Department of Business Regulation Commercial Licensing Regulation 8, Section 4, Rule 5 Class B-V license.
- (e) A BYOB license is only permitted for victualing houses, as defined herein, that neither have nor are currently in the process of applying for, a liquor license as found in G.L. § 3-7-7 and otherwise fulfills the requirements of Rhode Island Department of Business Regulation Commercial Licensing Regulation 8, Section 4, rule 5.
- (f) A BYOB license shall not be issued to any establishment, person, or corporate entity whose liquor license has been suspended or revoked in any jurisdiction.