

## Chapter 11

### OCCUPATIONAL LICENSES AND REGULATIONS\*

---

\* **Charter References:** Authority to grant, etc., licenses, Art. IV, § 8(18).

---

#### Article I. In General

- Sec. 11-1. Requirements.
- Sec. 11-1.1. Alcohol server training program.
- Sec. 11-2. Placing goods or merchandise on streets.
- Sec. 11-3. Dances--Licenses required, fees generally.
- Sec. 11-4. Same--Weekly fee.
- Sec. 11-5. Hearing on game table licenses.
- Sec. 11-6. License for public entertainment.
- Sec. 11-7. Limitation of class by retail alcoholic beverage licenses
- Secs. 11-8--11-19. Reserved.

#### Article II. Junk and Secondhand Dealers

- Sec. 11-20. Definition.
- Sec. 11-21. License required, fees.
- Sec. 11-22. Application for license.
- Sec. 11-23. Hearing; fee; objections.
- Sec. 11-24. Conditions to automobile junkyard license issuance.
- Sec. 11-25. Violations in operating.
- Sec. 11-26. Existing licensed automobile junkyards.
- Sec. 11-27. Penalty for violation generally.

#### Article III. Licenses and Permits Generally

- Sec. 11-28. Purpose.
- Sec. 11-29. License or permit required.
- Sec. 11-30. Fee schedule.
- Sec. 11-31. Application, granting of license to conduct garage sales, yard sales or flea markets.
- Sec. 11-32. Regulation of taverns, victualing houses, cookshops, etc.

#### Article IV. Soil and Earth Removal Operations

- Sec. 11-33. Declaration of purpose.
- Sec. 11-34. Definitions.
- Sec. 11-35. Operating conditions.
- Sec. 11-36. Approval of the zoning board of review required.
- Sec. 11-37. License required.
- Sec. 11-38. Appeals.
- Sec. 11-39. Revocation of license.
- Sec. 11-40. Enforcement provisions.
- Sec. 11-41. Exemptions from article provisions.
- Sec. 11-42. Severability.

- Sec. 11-43. Town to comply with article.
- Sec. 11-44. Effect of ordinances previously enacted.

#### **Article V. Private Detectives**

- Sec. 11-45. "Private detective" defined.
- Sec. 11-46. License required; compliance.
- Sec. 11-47. Application.
- Sec. 11-48. Investigation of applicant; investigation fees.
- Sec. 11-49. Issuance.
- Sec. 11-50. Fee.
- Sec. 11-51. Bonds.
- Sec. 11-52. Identification card.
- Sec. 11-53. Transfer.
- Sec. 11-54. Revocation.
- Sec. 11-55. Penalty for violation of article.
- Sec. 11-56. Severability.

#### **Article VI. CATV Systems**

- Sec. 11-57. Definitions.
- Sec. 11-58. Permit required.
- Sec. 11-59. Prerequisite for making application.
- Sec. 11-60. Application procedure.
- Sec. 11-61. Conditions of grant.
- Sec. 11-62. Property taxes.
- Sec. 11-63. Compliance with applicable laws and ordinances.
- Sec. 11-64. Coordination with town departments.
- Sec. 11-65. Forfeiture.
- Sec. 11-66. Reserved.

#### **Article VII. Mechanical Amusement Devices**

- Sec. 11-67. Definition.
- Sec. 11-68. License required.
- Sec. 11-69. Types of establishments that may apply for license.
- Sec. 11-70. License fee.
- Sec. 11-71. License term.
- Sec. 11-72. Penalty.
- Sec. 11-73. Effective date.
- Sec. 11-74. Validity.
- Secs. 11-75--11-80. Reserved.

#### **Article VIII. Solicitations**

- Sec. 11-81. Definitions.
- Sec. 11-82. Permit required.
- Sec. 11-83. Application for permit.
- Sec. 11-84. Issuance of permit.
- Sec. 11-85. Permits not transferable.

Sec. 11-86. No solicitations.  
Sec. 11-87. Time for solicitations.  
Sec. 11-88. Fees.  
Sec. 11-89. Violations.  
Sec. 11-90. Separability.  
Secs. 11-91--11-100. Reserved.

#### **Article IX. Peddlers and Hawkers**

Sec. 11-101. License--Required.  
Sec. 11-102. Same--Application; issuance; approval by state agencies for certain licenses; specifics required on application.  
Sec. 11-103. Fees generally.  
Sec. 11-104. Exemptions from fees.  
Sec. 11-105. Transferability; possession; producing on request.  
Sec. 11-106. Failure to produce upon request to result in payment of costs on prosecution.  
Sec. 11-107. Inspection of vehicles and food peddlers.  
Sec. 11-108. Sales prohibited during certain hours.  
Sec. 11-109. Excessive nuisance prohibited.  
Sec. 11-110. Regulations.  
Sec. 11-111. Duration of license; revocation or suspension.  
Sec. 11-112. Categories of license.  
Sec. 11-113. Special licenses.  
Sec. 11-114. Penalty for violations.  
Sec. 11-115. Separability.  
Secs. 11-116--11-125. Reserved.

#### **Article X. Blasting**

Sec. 11-126. Definitions.  
Sec. 11-127. Blasting permit required.  
Sec. 11-128. Issuance of permit.  
Sec. 11-129. Mandatory conditions.  
Sec. 11-130. Revocation of permit.  
Sec. 11-131. Penalties for violations.  
Sec. 11-132. Fees.  
Secs. 11-133--11-140. Reserved.

#### **Article XI. Adult Cabarets**

Sec. 11-141. Definitions.  
Sec. 11-142. Licensing.  
Sec. 11-143. Requirements for issuance of new license.  
Sec. 11-144. Prior uses.  
Sec. 11-145. Public welfare.

#### **Article XII. Adult Entertainment Specialty Shops**

Sec. 11-146. Definition.  
Sec. 11-147. Licensing.

Sec. 11-148. Requirements for issuance of new license.  
Sec. 11-149. Public welfare.  
Sec. 11-150. Enforcement provisions.

### **Article XIII. Fire Safety Inspections**

Sec. 11-151. New liquor licenses--Inspection required.  
Sec. 11-152. Liquor license renewals--Inspection required.  
Sec. 11-153. Liquor license relocation--Inspection required.  
Sec. 11-154. New business license--Inspection required.  
Sec. 11-155. Business license renewals--Inspection required.

### **Article XIII. Registration of Businesses and Professions**

Sec. 11-156. Registration of businesses and professions.  
Sec. 11-157. Penalties.

### **Article XIV. Mobile Food Establishments**

Sec. 11-158. Mobile Food Establishments.

## **ARTICLE I.**

### **IN GENERAL**

#### **Sec. 11-1. Requirements.**

(a) No license shall be issued to any applicant currently in arrears in any tax or assessment levied by the town, or state where applicable, or for use upon any premises for which any such taxes or assessments are unpaid.

(b) Except as otherwise provided in this Code, all licenses granted by the town council shall be taken possession of and the fee for same paid to the town clerk within 30 days from the granting of same. Failure to comply shall render such license inoperative and void.

(c) Any license granted by the town council shall be for one calendar year only--December to December. If the license requires a place of business and the holder of said license does not have a place to operate said business for a period of one year, said license shall be nonrenewable at the end of the one year. (Ord. of 9-16-91)

#### **Sec. 11-1.1. Alcohol server training program.**

(a) *Alcohol server training program.* All existing liquor license holders and all new liquor license holders in the future shall, at time of renewal or at time of issuance of new license, certify by affidavit that all persons on the premises involved in the service of alcoholic beverages during the hours of operation has been trained and certified as having completed one of the alcohol server training programs administered by an appropriate and recognized agency within 60 days of the date of hire or at the next available server training course. All existing liquor license holders shall be in compliance of this section by the time of renewal of their

license in 2000 and thereafter. All new liquor license holders to whom a license may be issued shall be granted a ninety-day grace period from the date of said approval to come into compliance with this section. This shall also apply to liquor license transfers. The affidavit confirming compliance shall be submitted to the town clerk.

(b) *Violation.* Any liquor license holder found to be in noncompliance with the above section during the term of their license shall be subject to review by the town council, sitting as the board of license commissioners, which may impose sanctions including, but not limited to, suspension, revocation and termination of said liquor license.  
(Ord. of 3-3-97; Ord. of 3-6-00(2))

**Sec. 11-2. Placing goods or merchandise on streets.**

It shall be unlawful for any person to deposit or place, or suffer to be deposited or placed by any person in his employ, any coal, firewood, goods, wares, chattels or merchandise in or on any street, highway or sidewalk in the town, except while removing the same into or out of some building or enclosure.  
(Code 1948, Ch. VII, § 5; Ord. of 9-16-91)

**Sec. 11-3. Dances--Licenses required, fees generally.**

The town clerk may, in his discretion, issue licenses for public dances to be held on such dates as he shall deem proper, or as the town council may designate, upon payment of a fee of \$1.00. Licenses for public masquerade dancing parties may be issued by the town clerk, in his discretion, upon the payment of a fee of \$2.00. The provisions of this section, however, shall not apply to public dances or public masquerade dancing parties given by religious societies for a religious or charitable purpose, or given by or for the benefit of the pupils of any public or private school of the town under the supervision of the principal or teachers in charge of said pupils.  
(Code 1948, Ch. XIX, §§ 1, 2; Ord. of 9-16-91)

**Sec. 11-4. Same--Weekly fee.**

The town clerk may in his discretion issue weekly licenses for public dances to any duly licensed tavern keeper or victualer upon payment of a fee of \$1.00.  
(Code 1948, Ch. XIX, § 3; Ord. of 9-16-91)

**Sec. 11-5. Hearing on game table licenses.**

All applications for licenses or transfer of licenses to keep for public use or profit, a billiard table, a bagatelle table, pool table, scippio table, or any table of a similar character in any saloon, shop or place of business within the town shall be assigned for a hearing to a day certain and notice thereof shall be given by advertisement in a public newspaper of general circulation in the town at least 14 days prior to such hearing.  
(Ord. of 12-29-64; Ord. of 9-16-91)

**Sec. 11-6. License for public entertainment.**

(a) *Application.* No person shall hold any public entertainment within the town without first filing a written application for a license to do so with the town council of said town. Said application shall be filed with

the town clerk with a copy to the chief of police not later than seven days prior to the next regular meeting of said town council, provided, however, that said town council may waive this requirement on good cause shown by the applicant. The application shall contain the following:

- (1) Location of proposed public entertainment, to include name and address of owner of real property;
- (2) Applicant's name and address;
- (3) Hours of operation;
- (4) Description in detail of the type of entertainment, to include number of entertainers, type of music (if any), whether or not public address sound systems will be used, lighting, etc.;
- (5) Provisions for traffic, crowd and fire control, to include parking and sanitation facilities.
- (6) A statement of whether or not alcoholic beverages of any nature will be served or consumed on the premises;
- (7) Other information which the applicant may deem relevant in assisting the town council in passing on the application.

(b) *Compliance with other laws.*

- (1) No license shall issue by said town council until the applicant or applicants shall affirmatively show that the proposed entertainment, if allowed, or the premises to be used therefor, shall otherwise comply with all applicable federal, state and local laws relative to the health, safety and welfare of the public, including, but not limited to, traffic, zoning, parking, fire protection, and the like.
- (2) No license shall be issued to any applicant currently in arrears in any tax or assessment levied by the town or for use upon any premises for which any such taxes or assessments are unpaid at the time of the filing of the application. The applicant seeking such license shall submit proof that all such taxes and assessments have been paid at the time the application is filed.

(c) *Special expenses.* The town clerk, upon the granting by the town council of such a license, shall forthwith notify the chief of police of the granting of said license, the time or times and the place or places that said public entertainment will occur, and deliver to said chief a copy of the license so granted. The chief of police shall assign such constables as he deems necessary for the protection of the public and property involved who shall be present at the premises at all times when the premises are used for such public entertainment, provided, however, that the licensee shall pay for the services of such constables at the then prevailing rate therefor. The licensee shall also be required to pay for all other special expenses incurred as a result of the granting of the license. The agreement by the licensee to pay the expenses hereinabove set forth shall be a condition to the granting thereof by the town council.

- (d) *Violation.* Any person violating any of the provisions of this section shall be fined not less than

\$25.00 and not more than \$100.00 for each offense.

(Ord. of 12-15-80; Ord. of 9-16-91)

**Editors Note:** Section 11-5 derived from an ordinance of Dec. 15, 1980. Subsections (e) and (f), the validity and effective date clauses, have not been included, at the discretion of the editor.

### **Sec. 11-7. Limitation of class by retail alcoholic beverage licenses**

(a) The Town of North Smithfield shall not issue more than 13 Class BV Retail Alcoholic Beverage Licenses.

(b) The Town of North Smithfield shall not limit the number of other Class B Retail Alcoholic Beverage Licenses.

(c) This Ordinance shall become effective at the expiration of 20 days after publication following passage.

### **Secs. 11-8--11-19. Reserved.**

(Ord. of 8-5-19)

## **ARTICLE II.**

### **JUNK AND SECONDHAND DEALERS\***

---

\* **State Law References:** Authority to license, G.L. 1956, § 5-21-1; punishment for violation, § 5-21-5; auto wrecking and salvage yards, § 31-39-1 et seq.

---

### **Sec. 11-20. Definition.**

As used in this article "automobile junkyard" means a place where one or more unserviceable, discarded, worn-out or junked automobiles, or bodies, engines, tires, parts or accessories thereof are gathered together.

(Ord. of 9-28-65, § 3)

### **Sec. 11-21. License required, fees.**

The town council may issue and revoke at pleasure licenses to all persons applying therefor, permitting selling, purchasing, bartering and dealing in junk, old metals and any other secondhand articles, and operating or maintaining automobile junkyards for a period of not more than one year, commencing on the first day of December in each year and also charge and collect fees for such licenses as follows:

- (1) Twenty-five dollars for the keeper of a shop or storehouse for the reception of any junk, old metals or other secondhand articles which is not an automobile junkyard;
- (2) Five dollars for any foundryman or other person receiving such junk, old metals or other secondhand articles for the purpose of melting or converting the same into castings;
- (3) Five dollars for any gatherer of junk, old metals or other secondhand articles in any bag, wagon or cart;

- (4) One hundred dollars for any person establishing, operating or maintaining an automobile junkyard.

(Ord. of 9-28-65, § 1)

**Sec. 11-22. Application for license.**

Every applicant for a license required by this article shall make application in writing, setting forth:

- (1) Name and address, both of residence and of business of the applicant;
- (2) Business or employment of the applicant during the five years next preceding application;
- (3) Age of applicant.

Such application shall be referred to the zoning inspector, for his approval or disapproval, before being acted upon by the town council.

(Ord. of 6-16-64, § 2)

**Sec. 11-23. Hearing; fee; objections.**

(a) The town council, before granting a license under this article to keep a shop or storehouse for the reception of any junk, old metals or other secondhand articles, or to establish, operate or maintain an automobile junkyard in any location not lawfully occupied for such purpose at the time of the application for such license, shall hold a public hearing, notice of which shall be posted at least seven days, but not more than 14 days, prior to said hearing in not less than two public places in the town and in a newspaper of general circulation in the town; provided, however, before the council shall post or publish notice of a hearing, it shall collect from the applicant for such license a fee of \$10.00, plus the cost of posting and publishing the notice.

(b) No license shall be granted under this article to the keeper of any shop or storehouse for the reception of any junk, old metals or other secondhand articles, or to a person establishing, operating or maintaining an automobile junkyard in any location not lawfully occupied for such purpose at the time of the application for such license, where the owners or occupants of the greater part of the land within 200 feet of such building or place shall file with the town council their objection to the granting of such license; provided, however, this subsection shall not apply to any applicant who is the keeper of such a shop or storehouse, or automobile junkyard, which is being acquired under eminent domain proceedings, who is applying for a license elsewhere in the town.

(Ord. of 9-28-65, § 2)

**Sec. 11-24. Conditions to automobile junkyard license issuance.**

No license shall be granted for an automobile junkyard under section 11-21 unless:

- (a) It is to be operated and maintained entirely within a building; or
- (b) It is to be operated and maintained exclusively for the purpose of salvaging the value as scrap of



the material collected, as opposed to reselling parts to be used for the purpose for which they were originally manufactured, and is to be located in a built-up commercial or industrial area, or contiguous to a railroad siding, or on or contiguous to docking facilities; or

(c) It is:

- (1) More than 1,000 feet from the nearest edge of any highway on the interstate or primary system;
- (2) More than 600 feet from any other state highway;
- (3) More than 300 feet from any park, bathing beach, playground, school, church or cemetery and is not within ordinary view therefrom; and
- (4) Screened from view either by natural objects or well constructed and properly maintained fences at least six feet high acceptable to the town council, in accordance with regulations as promulgated by the director of public works and as specified on said license.

(Ord. of 9-28-65, § 4)

#### **Sec. 11-25. Violations in operating.**

Notwithstanding any other provisions of this article, except section 11-26, it shall be a misdemeanor to operate or maintain an automobile junkyard unless:

- (a) It is to be operated and maintained entirely within a building; or
- (b) It is to be operated and maintained exclusively for the purpose of salvaging the value as scrap of the material collected, as opposed to reselling parts to be used for the purpose for which they were originally manufactured, and is to be located in a built-up commercial or industrial area, or contiguous to a railroad siding, or on or contiguous to docking facilities; or
- (c) It is:
  - (1) More than 1,000 feet from the nearest edge of any highway on the interstate or primary system;
  - (2) More than 600 feet from any other state highway;
  - (3) More than 300 feet from any park, bathing beach, playground, school, church or cemetery and is not within ordinary view therefrom; and
  - (4) Is screened from view either by natural objects or well constructed and properly maintained fences at least six feet high.

It shall be the duty of the police of this town to enforce this section, and any person violating this section shall, upon conviction for the first offense, be punished by a fine of not less than \$50.00 nor more than \$100.00,

or by imprisonment for not less than ten days nor more than 30 days, or by both such fine and imprisonment; and shall for a second or subsequent conviction be fined not less than \$100.00 nor more than \$500.00, or by imprisonment for not less than 30 days nor more than six months, or by both such fine and imprisonment. (Ord. of 9-28-65, § 5)

**Sec. 11-26. Existing licensed automobile junkyards.**

The provisions of subsections (a), (b) and (c) (2) and (3) of sections 11-24 and 11-25 shall not apply to any automobile junkyard in existence and having a valid license issued pursuant to section 11-21 hereof and section 31-5-28 of the General Laws (now repealed) on the date of passage of the ordinance from which this section is derived.

(Ord. of 9-28-65, § 6)

**Sec. 11-27. Penalty for violation generally.**

Any person carrying on a business pursuant to this article without license required by this article, or in violation of any ordinance or regulation made as herein authorized, shall be fined for any one offense not exceeding \$500.00 or imprisoned not exceeding six months.

(Ord. of 9-28-65, § 1)

**State Law References:** This penalty authorized by G.L. 1956, § 5-21-1.

**ARTICLE III.**

**LICENSES AND PERMITS GENERALLY\***

---

\* **Editors Note:** Ord. of Oct 29, 1974 amended Ch. 11 by adding Art. III, §§ 11-28--11-32.

---

**Sec. 11-28. Purpose.**

The purpose of this article is to establish fees for licenses, permits, fines and other miscellaneous fees and charges in Establishing a more equitable charge for the services rendered. (G.L. 10-2-67).

(Ord. of 10-29-74)

**Sec. 11-29. License or permit required.**

Any person, firm, corporation or other entity who operates or carries on a business without first obtaining a license or permit whenever required by this Code or other town ordinances shall be punished as provided by law.

(Ord. of 10-29-74)

**Sec. 11-30. Fee schedule.**

Every person, as defined previously, engaged in or conducting any business, trade, occupation or activity mentioned in this section shall pay a license or permit fee in the amount specified in this section.

	Class		Term	Date Due or Issued	Fee
(1)	Auctioneer		1 year	December 1	\$ 25.00
(2)	Bingo (1 weekly per organization)		1 party	On application	1.00 per night
(3)	Bowling Alley		1 year	December 1	10.00 per alley
(4)	Closing Out Sale		60 days	On application	100.00
(5)	Dog:				
	(a)	Male	1 year	May 1	3.00
	(b)	Female	1 year	May 1	3.00
	(c)	Spayed female	1 year	May 1	3.00
	(d)	Penalty fee			
(6)	Employment Office		1 year	December 1	50.00
(7)	Entertainment:				
	(a)	Dancing	Each	On application	10.00 per day
				December 1	150.00 yearly
	(b)	Carnival	Each	On application	
	(c)	Circus	Each	On application	
	(d)	Dog show	Each	On application	2.00 per show
	(e)	Fireworks	Each	On application	2.00 private
	(f)	Talent show	Each	On application	2.00 per day
	(g)	Horse shows and rodeos	Each	On application	
	(h)	Adult cabaret	1 night	December 1	1,000.00 per night
	(i)	Adult entertainment specialty shop	1 year	December 1	5,500.00
	(j)	Adult entertainment viewing machine	1 year	December 1	1,500.00 each
(8)	Hotel, Motel or Rooming House:				
	(a)	Class A up to 4 rooms	1 year	December 1	10.00
	(b)	Class B up to 8 rooms	1 year	December 1	15.00
	(c)	Class C up to 14 rooms	1 year	December 1	25.00

	(d)	Class D 15 or more rooms	1 year	December 1	50.00
(9)	Jukeboxes or Amusement Coin-Operated Machines (Town Council approval)		1 year	December 1	50.00 each
(10)	Junk Gatherer (no badge)		1 year	December	10.00
(11)	Junkyard (no badge) Used Auto Parts		1 year	December 1	100.00
(12)	Kennel		1 year	May 1	25.00
(13)	Laundry and/or Dry Cleaner		1 year	December 1	25.00
(14)	Liquor				
	(a)	Class A	1 year	December 1	1,000.00
	(b)	Class BT	1 year	December 1	750.00
	(c)	Class BV	1 year	December 1	750.00
	(d)	Class BL	1 year	December 1	400.00
	(e)	Class C	1 year	December 1	600.00
	(f)	Class D	1 year	December 1	400.00
	(g)	Class DL	1 year	December 1	200.00
	(h)	Class E	1 year	December 1	100.00
	(i)	Class F	1 day	On application	15.00
	(j)	Class F-1	1 day	On application	35.00
(15)	Liquor License Advertising as applied for				50.00 each
(16)	Liquor License Transfers only as applied for				10.00 each
(17)	Transfers (all other)			As applied for	10.00 each
(18)	Motion Picture Operator (approved by fire chief)		1 year	December 1	10.00
(19)	Pawnbroker (\$2,000.00 bond each city)		1 year	December 1	50.00
(20)	Peddler		1 year	December 1	25.00
(21)	Peddler--1 day		1 day	On application	2.00
(22)	Civil Constable (with power to carry pistol)		1 year	December 1	25.00
(23)	Civil Constable (serve writs: \$5,000.00 bond required)		1 year	December 1	25.00
(24)	Pool or Billiard Table (not coin-operated)		1 year	December 1	10.00 each table
(25)	Possessing Explosives (for use in occupation)		1 year	December 1	2.00
(26)	Private Detective or Agency (\$5,000.00 bond required)		1 year	December 1	150.00
	As set forth in RIGL 5-5-9 and 5-5-14				
(27)	Secondhand Dealer		1 year	December 1	25.00

(28)	Skating Rink	1 year	December 1	25.00
(29)	Sound Truck and Soliciting Public Address System Permit		(Subject to Chapter 12, Town Ordinances)	
			On application	No charge
(30)	Holiday Sales	1 year	December 1	50.00
(31)	Theater and Motion Picture Shows and Drive-in Theaters	1 year	December 1	50.00
	X-Rated Movies	1 year	December 1	1,500.00
(32)	Victualing House (unlimited)	1 year	December 1	50.00
(33)	Explosives	1 year	December 1	2.00
(34)	Sale of Firearms and/or Ammunition	1 year	December 1	25.00
(35)	Garage Sales, Yard Sales, or Flea Markets, so-called (Limit 2 per year)	1 day	On application	5.00
(36)	Flea Market (commercial)			
	(a) Daily	1 day	On application	3.00
	(b) Weekly	1 week	On application	15.00
	(c) Monthly	1 month	December 1	20.00
	(d) Yearly	1 year	December 1	50.00
(37)	Registration of any Business, Trade Name, or Profession not herein specified			2.00
(38)	Part-time and Craft Shops (Sunday sales)	1 year	December 1	10.00
(39)	Drain layer (with required bonds and/or surety)	1 year	On application	50.00

Council may waive fees for nonprofit organizations.

(Ord. of 10-29-74; Ord. of 11-9-76; Ord. of 2-20-79; Ord. of 5-21-79; Ord. of 6-28-82; Ord. of 9-17-90; Ord. of 9-16-91; Ord. of 5-18-92; Amend. of 10-17-94; Ord. of 2-1-99; Ord. of 8-20-07)

**Sec. 11-31. Application, granting of license to conduct garage sales, yard sales or flea markets.**

Applications for a license to conduct noncommercial garage sales, yard sales or flea markets shall be filed with the town clerk. The town clerk, consistent with law, may issue said license. Commercial garage sales, yard sales or flea markets shall be referred to the zoning inspector who shall be required to determine that the granting of said license will not result in a violation of the zoning laws. (G.L. 7-2-73).  
(Ord. of 10-29-74; Ord. of 9-16-91)

**Sec. 11-32. Regulation of taverns, victualing houses, cookshops, etc.**

Application for a license to conduct business as a tavern, victualing house, cookshop, oyster house and/or oyster cellar, shall be filed with the town clerk and referred to the town council for consideration and the town council can grant or refuse to grant said application; in the event that the town council determines to grant said application, the holder thereof shall be entitled to operate continuously after 6:00 a.m. but not after 2:00

a.m.

Upon application by any holder of a license issued pursuant to this section by the town council and upon a showing of public convenience and necessity after a public hearing before said town council after having given notice by publication once a week for three weeks in a daily newspaper published in the County of Providence, the town council may grant the application for additional operational hours between 2:00 a.m. and 6:00 a.m.  
(Ord. of 10-29-74)

#### ARTICLE IV.

### SOIL AND EARTH REMOVAL OPERATIONS\*

---

\* **Cross References:** Soil erosion and sediment control, Ch. 13 1/2.

---

#### **Sec. 11-33. Declaration of purpose.**

For the purposes of promoting the health, safety, or general welfare and in order to effect uniform regulation within the town for earth removal as hereinafter defined, the town hereby provides for the regulation, control and licensing of earth removal as hereinafter defined, such power to be restricted and exercised in accordance with sections 11-34 through 11-44 of this article, and pursuant to the authority of Rhode Island Public Laws of 1978, Chapter 259. Section 11-36 herein shall also constitute an amendment to the zoning ordinance of the town consistent with powers granted in Title 45, Chapter 24, Sections 13, 14 and 19 of the General Laws of Rhode Island 1956, as amended, sections 5.6.3.7 (a) through (j) inclusive.  
(Ord. of 6-18-79)

#### **Sec. 11-34. Definitions.**

*Earth removal* shall mean the extraction, quarrying or removal of any soil, loam, sand, gravel, clay, shale, or other earth material from deposits of any tract of land on which it is found. Excluding, however, earth removal:

- (a) Less than ten cubic yards of material in the aggregate in any year from any lot;
- (b) In grading land for construction of a roadway;
- (c) For a subdivision in accordance with a plat plan or plans approved in accordance with an ordinance of the town, or any duly authorized board of authority thereof, or for the construction of a building for which a building permit has been issued; provided, however, that the removal of such material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance does not exceed that actually displaced by the portion of such buildings, structures, streets, driveways, sidewalks, or paths or other appurtenances below finished grade.

*Town council* shall mean the duly elected town council of the town.

*Zoning board of review* shall mean the zoning board of review established by the town.

*Zoning inspector* shall mean that person appointed by the town council, as selected by the town administrator pursuant to the home rule charter of the town, and charged with the duty to enforce the provisions of the zoning ordinance and to record all amendments to said ordinance.  
(Ord. of 6-18-79)

**Sec. 11-35. Operating conditions.**

(a) *Hours.* Earth removal operations shall be limited to the hours between 7:00 a.m. and 6:00 p.m. of any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday (except a legal holiday) and earth removal on Sunday and on any legal holiday or for the hours prior to 7:00 a.m. or after 6:00 p.m. may be authorized by the zoning inspector for emergency purposes only.

(b) *Initiation or lateral expansion.* The initiation or lateral expansion of earth removal is hereby prohibited:

- (1) Within 200 feet of a public road;
- (2) Within 200 feet of neighboring lot lines.

(c) *Fencing.* Fencing shall be required of those portions of the boundary of the tract of land upon which earth removal is being conducted adjacent to zoned residential property, such fencing to be six feet in height and effective to control access to the area in which such earth removal is being conducted. When an excavation will have a depth of more than 15 feet with a slope in excess of one to two, a fence at least six feet high shall be erected to limit access to this area.

(d) *Reduction of dust; recording instruments.*

- (1) Calcium chloride or oil shall be applied to reduce dust and mud on all nonhard-surfaced roads to be used for vehicular ingress or egress to the tract of land on which earth removal is to be conducted.
- (2) Where deemed appropriate by the town council, the installation, maintenance, and operation by the applicant of continuous recording instruments is required to measure the effectiveness of all equipment used for drilling, digging and hauling, to control or lessen noise, vibration, smoke, water pollution, odors, fly ash, dust, fumes, vapors, gases, and other forms of air pollution, toxic gases, heat, glare and fire or other safety hazards, and the town council also may require that such recording instruments be tested at reasonable intervals under the direction of the zoning inspector to determine their accuracy and that the results of such test be filed with the town council.

When the director of health determines specific dates, on a yearly basis, relative to seasonal changes in highest groundwater table elevation, such dates may be used by the zoning inspector. When groundwater determinations are made outside the wet season and percolation tests are required, such percolation tests shall

follow the percolation test procedure as set forth in the D.O.H. regulations (R-23-SD 14.00-pl a.b.c.d.e.f. and SD 14.02). Where proposed "subsurface seepage system" is used in D.O.H. regulations, "excavation of earth material" shall be substituted.

- (e) *Drainage, groundwater table elevation; permanent water bodies.*
- (1) Drainage shall be provided to prevent the permanent collection and stagnation of surface or underground waters, and to prevent the flooding and erosion of surrounding property and the pollution of ponds and streams; and
- (2) Earth removal shall not encroach closer than four feet to the groundwater table.

Groundwater table elevation determinations shall be made on all land from which earth products will be removed. Procedures for groundwater table elevation determinations shall be made in the same manner as required by the department of health in their "Rules and Regulations Establishing Minimum Standards Relating to Location, Design Construction and Maintenance of Individual Sewage Disposal Systems" (R23-1-SD15.00-01 and 02). Where "subsurface seepage system" is used in the D.O.H. regulations, "excavation of earth removal" shall be substituted. Where "director" or "agent of the director" is used in the D.O.H. regulations, "zoning inspector" shall be substituted;

- (3) Permanent water bodies shall not be created as a result of earth removal activities.

The zoning inspector or his appointed representative shall witness all percolation and groundwater determinations and shall certify to the accuracy of technical data recorded. Any changes made in such D.O.H. regulations relative to groundwater level determination and percolation tests from time to time shall be considered part of this article.

- (f) *Off-street parking; posting of signs; access roads; truck routes.*
- (1) Off-street parking shall be provided and utilized by all related vehicles.
- (2) Any access to excavated areas or areas in the process of excavation shall be adequately posted with keep-out danger signs.
- (3) Access roads shall be constructed with a curve so as to help screen the operation from public view.
- (4) All trucking routes and methods shall be subject to the approval of the chief of police, and such routes be cleaned, repaired and/or resurfaced by the earth removal operator where such is required by the town council.

(g) *Explosives.* The use of explosives shall be in accordance with the regulations for storage or handling of explosives as set forth by the State of Rhode Island.  
(Ord. of 6-18-79)



**Sec. 11-36. Approval of the zoning board of review required.**

As a condition precedent to the issuance of a license pursuant to section 11-37 hereof, zoning board of review approval of a special exception for earth removal must be obtained, such special exception to be heard and decided consistent with powers granted in Title 45, Chapter 24, Sections 13, 14 and 19 of the General Laws of Rhode Island 1956, as amended, and prior written notice shall be given to the town administrator and planning board of the town. Except as otherwise provided herein, as a condition precedent to granting of a special exception pursuant to this section, the applicant for such special exception shall submit to the zoning board of review for their approval thereof:

- (a) *Site plan.* A site plan at a scale of not less than 100 feet to the inch and with contours of not more than five feet, prepared by a registered engineer, land surveyor or landscape architect, in compliance with the provisions of this article and setting forth:
  - (1) Lot lines, ownership, abutters, adjacent public streets, watercourses, existing contours at intervals of not more than five feet and location plan at a scale of not less than 400 feet to the inch;
  - (2) Proper provision for vehicular traffic, service roads, control of entrances and exits to highways; and
  - (3) The relation of temporary and future buildings and operations machinery to the removal areas; delineation of removal areas and depths with estimates of cubic yards of material to be removed; fencing; method of removal; distance of excavation to street and lot lines.
  
- (b) *Restoration plan.* A restoration plan prepared by a registered engineer, land surveyor or landscape architect, in compliance with the provisions of this article, at the same scale required for the site plan in subsection (a) above and setting forth:
  - (1) The existing contours of the tract of land with a contour interval not exceeding five feet, based upon classifications of preliminary samples of the material to be removed,
  - (2) The final contours of the tract of land with a contour level not exceeding five feet upon completion of earth removal operations; and
  - (3) The type of ground cover to be planted or applied upon completion of earth removal operations to effectively control wind and water erosion; provided however, if suitable fertile ground cover existed at the beginning of earth removal, enough of said ground cover is to be held in reserve and reapplied for a minimum thickness of three inches.

The said land restoration plan and its implementation applies to the conversion of the site and its planned restoration. It is, therefore, required that:

- (1) Any land restoration plan correspond to a situation which could reasonably occur in the immediate future (zero to five years), and be revised as necessary as the existing physical character of the removal area changes;

- (2) The land restoration plan or any part thereof which reasonably applied to an area shall be put into effect within one year of cessation of normal earth removal operation and completed by the timetable of the restoration plan.

The decision of the zoning inspector shall be final in determining when a restoration plan shall be put into effect, either on the entire site or any portion thereof.

- (c) *Certificate of compliance.* A certification by a registered engineer, landscape architect or registered land surveyor that completion of earth removal operations complies with the restoration plan.
- (d) *Noncompliance.* If the plan set forth in subsection (b) above is not complied with, the town is authorized and empowered to undertake and complete such plan and the owner of said tract of land shall reimburse the town and the town shall have a lien on said tract of land for such expenses.
- (e) *Bond.* A bond not to exceed \$500.00 per acre of said tract of land to insure compliance with the restoration plan and reasonable additional amounts as required by the zoning board or town council to insure repair to town roads for damage by any hauling operations.

(Ord. of 6-18-79)

**Cross References:** Extraction of earth products, App. A, § 5.6.3.7.

### **Sec. 11-37. License required.**

(a) As a condition precedent to any earth removal as herein defined, a license shall be required to be issued by the town council following a public hearing to be held by the town council and upon the submission of the documents required by section 11-36 and approval by the zoning board of review of a special exception and the payment of a license fee of \$50.00 to the town.

(b) The license shall be issued only to the owner of record and shall not be transferable. Should an existing earth removal operation be sold, such operation shall no longer be considered nonconforming and must obtain a license as set forth under section 11-41, herein. This license shall expire at the end of one year and must be renewed annually, together with application for renewal of an earth removal license for another year. Plans shall be submitted to the zoning inspector showing any change or anticipated change from originally submitted plans of earth removal activities. If no changes are anticipated for the coming year, submission of new plans are not required, but the owner of record must so certify in writing upon application for renewal.

(c) The zoning inspector, upon receipt of application for renewal of an earth removal license, shall make a field inspection of such earth removal activities to determine compliance with plans on file. His written findings shall be sent to the town council with his determination of compliance or noncompliance. The town council shall thereafter issue the license for another year upon determination of compliance by the zoning inspector; upon the determination of noncompliance by the zoning inspector, the license shall not be reissued until compliance with this article.

(d) In granting or reissuing a license hereunder, the town council may impose such other additional, reasonable conditions specifically designed to safeguard the neighborhood and the town, which may include

conditions as to the overall operations set forth in this article and as relating to the site plan and restoration plan requirements.  
(Ord. of 6-18-79)

**Sec. 11-38. Appeals.**

Appeals from the decisions of the town council or zoning board of review shall be taken in the same manner as appeals from decisions of the zoning board of review as set forth in Title 45, Chapter 24, Section 20 of the General Laws of Rhode Island 1956, entitled "Zoning Ordinances," as amended.  
(Ord. of 6-18-79)

**Sec. 11-39. Revocation of license.**

Any license issued under the authority of this article by the town council may be revoked for violations of any of the provisions hereof after notice and a public hearing. The town council shall fix a reasonable time for the hearing on revocation, give public notice thereof at least two weeks prior to the date of hearing, as well as due notice to the party in interest, by certified mail, return receipt requested, and decide the same within a reasonable time, which decision shall be in writing and contain appropriate findings of fact. Upon hearing, any party may appear in person or by agent or by attorney.  
(Ord. of 6-18-79)

**Sec. 11-40. Enforcement provisions.**

(a) *Penalty for violations.* Any person, firm or corporation violating any of the provisions of this article shall be subject to a fine as a penalty not exceeding \$100.00 for each offense; each and every violation and nonconformance of this article, or each day that any provision shall have been violated, shall be construed as a separate and distinct violation thereof. All such fines shall inure to the benefit of the town.

(b) *Suit.* Suit may be brought in the superior court in the name of the town to restrain any violation of or compel compliance with the provisions of this article.  
(Ord. of 6-18-79)

**Sec. 11-41. Exemptions from article provisions.**

This article shall not apply to earth removal being conducted on the date of its enactment, on any tract of land, up to limits of presently owned property, within the town. The following conditions shall be considered as conclusive evidence that such real property is or has been used for the purpose of earth removal:

- (a) Such real property was acquired or leased prior to the effective date of this article;
- (b) Such real property was purchased by an individual, corporation or otherwise engaged at the time of acquisition in the business of mineral extraction;
- (c) Such real property, or the substantial portion of such property has not been permanently developed, for any residential, commercial (other than farm or agriculture) or industrial purposes;

- (d) Such real property contains mineral deposits of a demonstrable economic value;
- (e) Earth material has been removed from such real property, for commercial purposes, at regular intervals, over any six-month period, within the last three years; and
- (f) Upon the sale of any real property being used for earth removal activities, the nonconforming status of this section shall no longer be considered in effect and any subsequent earth removal activities must be licensed and conform to the regulations of this article. The application procedure shall conform to section 11-37 herein.

(Ord. of 6-18-79)

**Sec. 11-42. Severability.**

If any provisions of this article or the application thereof is held invalid by a court of competent jurisdiction, the validity of the remainder of this article shall not be affected thereby.

(Ord. of 6-18-79)

**Sec. 11-43. Town to comply with article.**

If the town shall engage in earth removal for municipal purposes, it shall substantially comply with the provisions of this article.

(Ord. of 6-18-79)

**Sec. 11-44. Effect of ordinances previously enacted.**

This article shall not be deemed to limit by implication or otherwise any ordinance enacted pursuant to the authority of Chapter 24 of Title 45 of the General Laws of Rhode Island 1956, as amended.

(Ord. of 6-18-79)

**ARTICLE V.**

**PRIVATE DETECTIVES**

**Sec. 11-45. "Private detective" defined.**

"Private detective," for the purpose of this article, shall mean and include any person who engages in business or who accepts employment for hire, fee or reward to furnish or supply information as to the personal character or actions or identity of any person or as to the character or kind of business or occupation of any person; provided, that "private detective" shall not include within its meaning a detective or officer belonging to the law enforcement agencies of the United States or of any state, county or city; nor someone employed and performing services exclusively for a single employer.

(Ord. of 6-8-81)

**Sec. 11-46. License required; compliance.**

Every person shall be and is required by this article to have a valid detective's license as a condition precedent to his functioning as a private detective; provided, that licenses heretofore issued and in effect shall continue in effect until the expiration of the period for which such license was granted. Upon expiration of any such presently existing valid detective licenses, application for renewal shall be made in accordance with the provisions of this article.

It shall be unlawful after the effective date of this article for any person to operate or continue to operate any business as a private detective without first complying with the requirements of this article, except where a prior license has been issued.

(Ord. of 6-8-81)

**Sec. 11-47. Application.**

(a) All applications for license under the provisions of this article shall be made in writing to the town council upon forms provided by the town clerk in his office.

(b) Every application for a license shall state the following:

- (1) The full name, age, residence, present and previous occupations, including part-time occupations, and the name and address of present and previous employers, together with the years of employment stated therein;
- (2) That each person signing the application as hereinafter required is a citizen of the United States or, if an alien, has permanent resident status in the United States;
- (3) The location of the principal place of business of the application;
- (4) A full set of fingerprints and two black and white photographs (size one inch by one inch) taken within one year of the application date;
- (5) Certification that the applicant has been a bona fide resident of the state for a period of not less than 30 days immediately preceding the filing of the application, and that all prior taxes, liens or fines have been satisfied as of the date of application;
- (6) Such other information as to the identity of the applicant as may facilitate investigation of the applicant's character.

(c) The application shall be signed and sworn to by the individual applying before a person authorized to administer oaths.

(d) The application shall be accompanied by three letters of reference, two of which shall be from residents of the town attesting to the character and ability of the applicant, and at least one of which shall be from a person from a criminal justice agency or its equivalent.

(Ord. of 6-8-81)

**Sec. 11-48. Investigation of applicant; investigation fees.**

After the applicant has properly executed the form provided in section 11-47 and paid the cost of investigation as provided in this section, the town clerk shall submit the application together with all other information related thereto to the chief of police of the town who shall within 45 days conduct an investigation of the character of the applicant and, upon completion of his investigation, shall endorse upon the application his recommendation of approval or disapproval thereof and his opinion of the ability of the applicant to perform the services usually required of a private detective. For this purpose, the chief of police may require the applicant to appear in person for an interview, and to have the applicant provide such other information as may be necessary to complete the investigation.

Every applicant for a license under this article shall, upon properly executing the application in conformity with section 11-47, submit to the town clerk a fee of \$100.00 to cover the costs of initial investigation of the applicant. Renewals are exempt from this provision.  
(Ord. of 6-8-81)

#### **Sec. 11-49. Issuance.**

The application shall be submitted by the chief of police, with his recommendation; the town council, upon being satisfied that the licensing of the applicant will not be detrimental to the public safety, health or welfare of the town, may grant the application; and the town clerk shall thereupon issue the license upon payment of fees required by this article and filing of a bond as hereinafter required; provided, that no license shall be issued to any person convicted of a felony or any misdemeanors involving moral turpitude.  
(Ord. of 6-8-81)

#### **Sec. 11-50. Fee.**

No license under this article shall be issued until the applicant pays to the town clerk a license fee as set by the State of Rhode Island on or before the first day of December of each year. The town council may waive payment of a portion of the license fee when the initial application is granted during the course of the year, but in no event shall the fee be less than \$25.00.  
(Ord. of 6-8-81; Ord. of 9-16-91)

#### **Sec. 11-51. Bonds.**

No license shall be issued under this article until the applicant files with the town a surety bond executed by such applicant, with two or more private sureties, or by one surety company authorized to do business in this state, in the sum required by the State of Rhode Island conditioned for the faithful and honest conduct of the business of private detective. Such bond as to its form, execution and sufficiencies of the sureties shall be approved by the town council.

The bond requirement of this article shall not be required of private detectives presently operating with a valid private detective license, but shall be required as a condition precedent to renewal of any such detective license.

The bond required shall be taken in the name of the people of the state and every person injured by the willful, malicious or wrongful act of the principal may bring an action on the bond in his own name to recover

damages suffered by reason of such willful, malicious or wrongful act.

Every licensee shall at all times maintain on file the surety bond required by this article in full force and effect, and upon failure to do so, the license shall be forthwith suspended until such bond is furnished.  
(Ord. of 6-8-81; Ord. of 9-16-91)

**Sec. 11-52. Identification card.**

Every person licensed hereunder shall be given a permanent license or identification card which shall be approximately two and one-half (2 1/2) inches wide and three and one-half (3 1/2) inches long, and shall bear thereupon the number assigned to the licensee, the full name, date of birth, residence address, brief description of the licensee, his fingerprints and photograph, and a space upon which the licensee shall write his usual signature with pen and ink, or a facsimile of such signature.  
(Ord. of 6-8-81)

**Sec. 11-53. Transfer.**

The transfer or assignment of any license issued hereunder is hereby expressly prohibited.  
(Ord. of 6-8-81)

**Sec. 11-54. Revocation.**

The town council shall have the power to revoke or suspend any license issued under the provisions of this article for cause, which may include but shall not be limited to violation of any of the provisions of this article or any laws of the state or other ordinances of the town, in which case the town council by a full council majority vote may revoke the license after first giving written notice of a hearing to the licensee, together with a brief description of the reasons for calling the hearing.

It shall be a violation of this article for which the license may be revoked, or other penalties imposed if:

- (a) Any licensee performs any services usually performed by a private detective, upon speculation and with a view towards selling the information so gathered to a customer by whom the licensee was not employed when the service was performed;
- (b) Any licensee misrepresents the scope of such license, or holds himself out as a public official or as having any power or authority beyond that of a private detective.

(Ord. of 6-8-81)

**Sec. 11-55. Penalty for violation of article.**

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100.00, or by imprisonment for not more than 30 days, or by both, together with the revocation of his license in accordance with section 11-54 hereof.  
(Ord. of 6-8-81)

**Sec. 11-56. Severability.**

If any provision of this article or the application thereof is held invalid by a court of competent jurisdiction, the validity of the issuance of the remainder of this article shall not be affected thereby.  
(Ord. of 6-8-81)

## ARTICLE VI.

### CATV SYSTEMS\*

---

\* **Editors Note:** An ordinance of June 28, 1982, §§ 1--9, purported to amend Ch. 11 with a new §§ 11-55(a). At the editor's discretion, §§ 1--8 have been codified as Ch. 11, Art. VI, §§ 11-57--11-65, for purposes of maintaining Code format.

**Cross References:** Buildings and structures, Ch. 4; streets and sidewalks generally, Ch. 14; poles and wires, § 14-20 et seq.

---

#### **Sec. 11-57. Definitions.**

As used in this article:

*Community antenna television system*, hereinafter referred to as "CATV systems" or "system" means a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television or radio signals directly or indirectly off the air and transmit them to subscribers for a fee.

*Council* is the town council of the Town of North Smithfield.

*Person* is any person, firm, partnership, association, corporation, company or organization of any kind.

*Town* is the Town of North Smithfield, Rhode Island.  
(Ord. of 6-28-82, § 2)

#### **Sec. 11-58. Permit required.**

The town council hereby requires, under Section 39-19-7 of Rhode Island General Laws, that any person who erects poles or posts or constructs any conduit or other facility or is licensee under any pole attachment license agreement or who maintains cables, wires or fixtures upon, under or over any municipal highway or other public place in the town for the purpose of operating a CATV service must first obtain a permit from the town council.

(Ord. of 6-28-82, § 1)

#### **Sec. 11-59. Prerequisite for making application.**

No person shall be permitted to apply for a permit hereunder, unless there shall be in force for same a valid compliance certificate issued by the administrator and chief executive officer of the division of public utilities and carriers of the State of Rhode Island.

(Ord. of 6-28-82, § 3)

#### **Sec. 11-60. Application procedure.**



Each person applying hereunder shall file with the town clerk the following documents and information:

- (1) A certified copy of the certificate referred to in section 11-59 above.
- (2) True and accurate maps or plats of all proposed installations to be erected, constructed or maintained in the town.
- (3) The name and address of the applicant and, in the case of a corporation, the names and addresses of all officers and directors of the same.
- (4) A copy of the applicant's most recent report to its stock-holders (if the applicant prepares such a report).
- (5) An income statement applicable to the applicant's operations during the preceding twelve-month period, a balance sheet, and a statement of its properties devoted to CATV operations, by categories, giving its investment in such properties on the basis of cost, less applicable depreciation. These reports shall be prepared or approved by a certified public accountant.

(Ord. of 6-28-82, § 4)

**Sec. 11-61. Conditions of grant.**

The town council shall grant to an applicant a permit pursuant to this article, only if the council is satisfied that:

- (1)
  - a. The applicant will at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
  - b. The applicant will install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the State of Rhode Island Building Code and in such a manner that they will not interfere with any installations of the town or of a public utility serving the town.
  - c. All structures and all lines, equipment, and connections over, under, and upon the streets, sidewalks, alleys, and public ways or places of the town, wherever situated or located, will at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.
- (2)
  - a. All transmissions and distribution structures, lines, and equipment to be erected by the grantee within the town will be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys or other public ways and places.
  - b. In case of disturbance of any street, sidewalk, alley, public way, or paved area, the applicant will, at its own cost and expense, and in a manner approved by the director of

public works, replace and restore such streets, sidewalks, alley, public way, or paved area in as good condition as before the work involving such disturbance was done.

- c. Any pole, cable, or other fixture placed in any public way the applicant will be placed in such a manner as not to interfere with the usual travel on such public way.
- d. Existing utility poles presently installed and currently in use by other utilities shall be used for the system and distribution. No new poles solely for CATV use will be installed without the specific permission of the director of public works and the council. Under no condition shall poles be permitted to be installed in existing areas or proposed subdivisions in which all utilities are currently or mandated to be underground as per the subdivision regulations of the town.

- (3) The applicant shall carry sufficient liability insurance to indemnify the town for any damages or claims made against the town by reason of the installation, maintenance or operation of the applicant's CATV cables in the town, naming the town as the insured in an amount not less than \$500,000.00 prior to issuance of the permit.

(Ord. of 6-28-82, § 5)

#### **Sec. 11-62. Property taxes.**

Each recipient of a permit hereunder is subject to any and all municipal property taxes in real estate and tangible personal property, which includes any and all cables, wires, lines, ducts, conduits, poles or posts and other fixtures owned by a CATV company and used by it for the distribution of television signals.

(Ord. of 6-28-82, § 6)

**Cross References:** Finance and taxation, Ch. 6.

#### **Sec. 11-63. Compliance with applicable laws and ordinances.**

The permittee shall at all times during the duration of the permit be subject to all lawful ordinances in the town, rules governing community antenna television systems of the division of public utilities and carriers, and the laws of the State of Rhode Island, together with such provisions that may be incorporated in the construction certificate or operation certificate issued by the division of public utilities and carriers.

(Ord. of 6-28-82, § 7)

#### **Sec. 11-64. Coordination with town departments.**

Each recipient of a permit shall coordinate and consult with the planning board, zoning board, the building inspector, the civil defense director, the school department and the director of public works prior to any and all construction and installation of said cable system.

(Ord. of 6-28-82, § 8)

#### **Sec. 11-65. Forfeiture.**

In addition to all other rights and powers pertaining to the town by virtue of any permit or otherwise, the town reserves the right to terminate and cancel any permit and all rights and privileges of the permittee hereunder in the event that the permittee becomes insolvent, unable or unwilling to pay its debts, or adjudged a

bankrupt.  
(Ord. of 6-28-82, § 9)

**Sec. 11-66. Reserved.**

**ARTICLE VII.**

**MECHANICAL AMUSEMENT DEVICES**

**Sec. 11-67. Definition.**

"Mechanical amusement devices" means any machine, which upon insertion of a coin, slug, token, plate, or disc, may be operated by the public generally for the use as a game or amusement whether or not registering a score and whether its operation demands skill or chance or both. It shall include, but not be limited to, such devices as pinball machines, shuffleboard games, video or computer-type games, electronically operated or displayed games, air games such as air hockey games and all games and amusement devices similar thereto under whatever name they may be called.

(Ord. of 8-16-82)

**Sec. 11-68. License required.**

No establishment within the boundaries of the town shall have a game or mechanical amusement device (as defined in section 11-67 above) without first obtaining a license approved by the town council and issued from the office of the town clerk.

(Ord. of 8-16-82)

**Sec. 11-69. Types of establishments that may apply for license.**

Types of establishments that may apply for a mechanical amusement license are as follows:

- (1) Bowling alleys;
- (2) Places that hold Class B, C and D liquor licenses;
- (3) Restaurants with waiting lounges;
- (4) Roller skating rinks;
- (5) Bona fide nonprofit youth service agencies (such as YMCA, Boys Club) or similar agencies.

(Ord. of 8-16-82)

**Sec. 11-70. License fee.**

The fee for each mechanical amusement device shall be \$50.00 for each device.

(Ord. of 8-16-82)

**Sec. 11-71. License term.**

All licenses issued under this article shall be for the term of one year renewed annually on December first. All licenses will be affixed to the mechanical amusement device so that it will be within the view of the public. All licenses will be issued the owner or operator of the mechanical amusement device and said license shall not be transferable.

(Ord. of 8-16-82)

**Sec. 11-72. Penalty.**

Failure to procure a license for a mechanical amusement device for operation of said mechanical amusement device shall incur a fine of \$100.00 per day.

(Ord. of 8-16-82)

**Sec. 11-73. Effective date.**

This article shall take effect upon passage and shall affect all license renewals.

(Ord. of 8-16-82)

**Sec. 11-74. Validity.**

If any provision of this article or the application thereof is held invalid by a court of competent jurisdiction, the validity of this article shall not be affected thereby.

(Ord. of 8-16-82)

**Secs. 11-75--11-80. Reserved.**

**ARTICLE VIII.**

**SOLICITATIONS\***

---

\* **Editors Note:** Ord. of Sept. 17, 1984, amended this Code by adding provisions designated as Ch. 11, Art. VI, which provisions were redesignated by the editor as Art. VIII, §§ 11-81--11-90, inasmuch as the Code already contained an Art. VI.

---

**Sec. 11-81. Definitions.**

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

- (a) "Solicit" and "solicitation" shall mean the request, either directly or indirectly, for money, credit, property, financial assistance or other thing of value, or any plea or representation that such money, credit, property, financial assistance or other thing of value will be used for charitable or religious or commercial purposes.
- (b) "Charitable" shall mean and include benevolent, educational, philanthropic, humane, patriotic, social service, and civic or fraternal.

- (c) "Religious" or "religion" shall have the meaning commonly accepted therefor.
- (d) "Educational" or "education" shall have the meaning commonly accepted therefor.
- (e) "Contributions" shall mean and include the receipt of anything of value, including the loan of money.
- (f) "Person" or "persons" shall include any individual, firm or partnership, corporation, company, association, or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, or agent or similar representative thereof.

(Ord. of 9-17-84)

**Sec. 11-82. Permit required.**

No person, group of persons, nor representatives of any charitable organizations, including any benevolent, educational, philanthropic, humane, patriotic, social service, civic or fraternal, or religious organizations, no persons representing organizations of any kind, nature or purpose whatsoever, shall solicit donations, contributions, subscriptions or memberships or in any other manner solicit, within the Town of North Smithfield without having first received a permit from the town council pursuant to the terms of this article. Provided however, that no permit shall be required for door-to-door advocacy of a charitable, religious, educational or political cause, or dissemination of information in support thereof.

(Ord. of 9-17-84; Amend. of 9-16-02)

**Sec. 11-83. Application for permit.**

An application for a permit pursuant to this article shall be made to the town council on a form provided by the town clerk. Such application shall be sworn to in duplicate and filed with the town clerk at least 14 days prior to the time when the permit applied for shall become effective. Applications for permits required under section 11-76 shall contain the following information:

- (a) The name, address, and date of birth of the person applying for the permit.
- (b) If the applicant is not an individual the names, addresses, and dates of birth of the applicant's principal officers and/or directors.
- (c) The names and addresses of the person or persons in charge of conducting the solicitation, and the names and addresses of any persons who will conduct such solicitation together with a statement as to whether or not any such person or persons have been convicted of any crime involving moral turpitude, and if so, the nature of such offense, the date of such conviction, and the sentence imposed, if any.
- (d) If motor vehicles are to be used in conducting the solicitation, the description and registration number of all such vehicles.
- (e) The date or dates, and the hours of the solicitation and a brief outline as to the method or

methods to be used in conducting the solicitation.  
(Ord. of 9-17-84)

**Sec. 11-84. Issuance of permit.**

Upon compliance with the provisions of section 11-77, the town council shall issue a permit to the applicant for the period requested, which period shall not exceed one year.  
(Ord. of 9-17-84)

**Sec. 11-85. Permits not transferable.**

Any permit issued under this article shall be nontransferable and shall be returned to the town clerk within three days of its expiration, together with all facsimile copies thereof.  
(Ord. of 9-17-84)

**Sec. 11-86. No solicitations.**

Any person residing in the Town of North Smithfield may affix to the entrance of his residence a sign approximately four inches square containing the legend "No Solicitations." Any person required to be licensed under the provisions of this article who shall make or attempt to make any solicitation or sale at a residence so marked shall be deemed to have violated the provisions hereof.  
(Ord. of 9-17-84)

**Sec. 11-87. Time for solicitations.**

No solicitations shall be permitted anywhere in the town except between the hours of 9:00 a.m. and 8:00 p.m.  
(Ord. of 9-17-84)

**Sec. 11-88. Fees.**

The fee for any permit issued pursuant to this article shall be \$25.00. Provided, however, that no fee shall be charged in the case of solicitations conducted on behalf of any nonprofit, educational, charitable, or religious organizations.  
(Ord. of 9-17-84)

**Sec. 11-89. Violations.**

Any person who violates the provisions of this article or who files, or causes to be filed, an application for a permit under this article containing false or fraudulent statements, or who utilizes or employs fraudulent means in connection with any solicitation, shall be deemed to have violated this article. Such violation shall be deemed a misdemeanor and upon conviction thereof, such person or persons shall be fined not exceeding \$500.00.  
(Ord. of 9-17-84)

**Sec. 11-90. Separability.**

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part directly involved in the controversy in which such judgment shall have been rendered.  
(Ord. of 9-17-84)

**Secs. 11-91--11-100. Reserved.**

## **ARTICLE IX.**

### **PEDDLERS AND HAWKERS\***

---

\* **Editors Note:** Ord. of Sept. 17, 1984, amended this Code by adding provisions designated as Ch. 11, Art. VII, which provisions were redesignated by the editor as Art. IX, §§ 11-101--11-115, inasmuch as the Code already contained an Art. VII.

---

#### **Sec. 11-101. License--Required.**

No person (or business) shall hawk or peddle within the town or offer for sale, take orders for sale or sell on any street, highway, lane or alley, within the town, any goods, wares, merchandise, foodstuffs, flowers, magazines, subscriptions, books or any other articles or substances from any vehicle, cart, pushcart, basket or hand carried, without first obtaining a license from the town council.  
(Ord. of 9-17-84)

#### **Sec. 11-102. Same--Application; issuance; approval by state agencies for certain licenses; specifics required on application.**

All hawkers and peddlers and all persons or businesses offering for sale, taking orders for sale or selling any goods, wares, merchandise, or any other articles or substances on any street or other public way within the town shall make application to the town council for a license. Such application shall be made even if the applicant holds a state peddlers license, and upon approval of such application by the town council, the town clerk shall issue a license to such person or business respectively, to sell the articles or substances herein mentioned upon any street, highway, lane or alley in the town, provided, however, that no license to sell or offer to sell shall be issued for the sale of any meats, fruits, poultry, fish, vegetables or food products of a perishable nature unless all necessary state approvals have first been obtained by the applicant.

The application required above shall specify the days and hours of such day during which the applicant wishes to operate, the goods and articles which will be sold, the year, make, model and registration number of any vehicle to be used and the location or locations at which the operations shall take place.

The applicant shall, when making application for a license, provide two so-called passport-size photographs of the individual authorized to act under said license. Upon approval of such application by the town council, the town clerk shall in addition to the license specified above, issue an identification badge containing one of the photographs of the authorized individual along with the effective dates of the license and such other information as the town clerk shall deem appropriate. The town clerk shall maintain the other photograph with the application.

(Ord. of 9-17-84)

**Sec. 11-103. Fees generally.**

A filing fee shall be charged for such application in accordance with the fee rate schedule of the town and shall be retained by the town whether said license is granted or denied.

For licenses issued pursuant to this article, the person receiving the same shall pay to the town a fee of \$25.00.

(Ord. of 9-17-84)

**Sec. 11-104. Exemptions from fees.**

In addition to the exemption from fees set forth in Chapter 11 of Title 5 of the Rhode Island General Laws, no license fee shall be charged to any person or business which qualifies as a nonprofit organization with tax-exempt status.

(Ord. of 9-17-84)

**Sec. 11-105. Transferability; possession; producing on request.**

No license issued pursuant to this article shall be transferable, nor shall it authorize any person other than the individual to whom it was issued and named therein to act thereunder. Every licensee shall carry with him such license while engaged in peddling and produce the same when required by an inhabitant of the state or any person having a license under this article, and failure on his part to produce the same within ten minutes shall be cause for the revocation of such license.

Every licensee shall wear, while engaged in any activity regulated by this article, the identification badge issued by the town clerk. Such identification badge shall be worn so that it is clearly visible. Violation of this section shall be cause for the revocation of the license issued under this article.

(Ord. of 9-17-84)

**Sec. 11-106. Failure to produce upon request to result in payment of costs on prosecution.**

Any peddler, hawker, or other person requiring a license under this article while engaged in any activity regulated by this article, who shall neglect or refuse to wear the identification badge specified in this article or who shall neglect or refuse for a space of ten minutes after demand by any inhabitant of the state or any person having a license under this article, to exhibit the license, issued pursuant to this article, and allow the same to be read, shall, if sued or prosecuted under Title 5, Chapter 11 of the General Laws of Rhode Island, 1956, and any amendment thereto, be adjudged to pay the costs of such suit or prosecution, although it shall appear on trial that he had a license duly issued and in force at the time of the alleged offense.

(Ord. of 9-17-84)

**Sec. 11-107. Inspection of vehicles and food peddlers.**

All peddlers, hawkers, or other persons requiring a license under this article, who sell food or beverages of any kind or product for human consumption shall, before the license is issued, have their truck, wagon, or



other equipment inspected and approved by all necessary state agencies; no beverages of any kind shall be sold other than in a single-service, disposable-type container.  
(Ord. of 9-17-84)

**Sec. 11-108. Sales prohibited during certain hours.**

No peddling, hawking, or other activity regulated by this article shall be permitted anywhere in the town, except between the hours of 9:00 a.m. to dusk in residential areas, and between the hours of 9:00 a.m. and 9:00 p.m. in business areas.  
(Ord. of 9-17-84)

**Sec. 11-109. Excessive nuisance prohibited.**

No peddler, hawker, or other persons requiring a license under this article shall attempt to sell or offer to sell his wares by means of any loudspeaker or other noise-making device intended to attract public attention, nor shall he create a nuisance situation.  
(Ord. of 9-17-84)

**Sec. 11-110. Regulations.**

Peddlers, hawkers, or other persons requiring a license under this article shall be moving at all times except to service customers and shall not remain in any location awaiting patrons. Stopping for servicing customers shall be in a manner not to impede the flow of traffic.

Provided however, that licensees who obtain the written consent of the owners of real estate may locate their activity on such real estate and remain stationary at such location. Such consent shall be nontransferable and personal to the licensee and effective for no longer than the duration of the license issued to such licensee under this article.

The chief of police may, from time to time, submit to the town council locations, streets and public ways throughout the town which in his opinion, because of excess traffic and congestion, are rendered unsafe for the public welfare to allow the selling or offering for sale of merchandise by peddlers, hawkers, or other person requiring a license under this article.

At no time shall any peddler, hawker, or other person requiring a license under this article impede the free flow of pedestrian or vehicular traffic, and the chief of police shall have the authority to suspend the operation of such licensee at any time and for such period of time where conditions exist that he deems it in the interest of public safety to do so, without prior request to the town council.  
(Ord. of 9-17-84)

**Sec. 11-111. Duration of license; revocation or suspension.**

Each license to peddle or hawk shall expire on the first day of December each year, but may be revoked or suspended at any time by the town council for violation of any of the provisions of this article or for any other good cause.  
(Ord. of 9-17-84)

**Sec. 11-112. Categories of license.**

(a) *Enumerated.* For the purpose of this article, the town shall have three categories of licenses:

- (1) Those persons or businesses selling or offering to sell perishable foodstuffs and soft beverages.
- (2) Those persons selling or offering for sale articles or goods made by their own hand.
- (3) Those persons or businesses selling or offering for sale other articles of general merchandise or manufacture, including flowers, magazines and subscriptions.

(b) *Limitations.* The town council shall allow a maximum of ten licenses in Category 1; a maximum of five licenses in Category 2; and a maximum of five licenses in Category 3.

(c) *Vacancies.* The town clerk shall maintain a list of persons interested in obtaining each category of license and upon the occurrence of a vacancy in such category, shall notify the person whose name appears first on the waiting list of such category of the availability of a license. If the person so notified fails to make application for said license within ten days after notification, the town clerk shall remove that person's name from the list and notify the person whose name appears next on said list until an application is received. In the event that the town council does not approve the application, the town clerk shall repeat the notification process until an application is approved.

(Ord. of 9-17-84)

**Sec. 11-113. Special licenses.**

In addition to the licenses hereinbefore referred to, the town council shall have the authority to issue daily licenses to residents of the town or other person having a permanent establishment located within the town. Such licenses shall authorize the holder to engage in activities similar to those regulated by this article and shall subject the holder thereof to all of the provisions of this article with respect to such activities. There shall be no license fee for the issuance of such special license.

(Ord. of 9-17-84)

**Sec. 11-114. Penalty for violations.**

Any person violating the provisions of this article shall be subject to a penalty of \$20.00 or imprisonment not exceeding ten days for each offense. Every individual sale, or offer for sale, made contrary to the provisions of this article shall be deemed and construed as a distinct and separate offense.

(Ord. of 9-17-84)

**Sec. 11-115. Separability.**

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or part directly involved in the controversy in which judgment shall have been rendered.

(Ord. of 9-17-84)

**Secs. 11-116--11-125. Reserved.**

**ARTICLE X.**

**BLASTING\***

---

\* **Editors Note:** Ord. of Dec. 7, 1987, §§ 1--7, amended the Code by adding provision to be included in Ch. 11, but did not specify the manner of inclusion, hence codification as Art. X, §§ 11-126--11-132, was at the discretion of the editor.

**Cross References:** Fire protection and prevention, Ch. 7.

---

**Sec. 11-126. Definitions.**

The terms contained herein shall be defined in accordance with the provisions of Rhode Island General Laws Title 23, Chapter 28.28, Section 1.

(Ord. of 12-7-88, § 1)

**Sec. 11-127. Blasting permit required.**

No person, firm or corporation shall use any explosives within the Town of North Smithfield unless a permit for said proposed use is granted by the town clerk upon application in writing setting forth the location at which said use is proposed, the time of said proposed use, the nature of said use, the amount of explosives to be used, the time span of detonation, the name and address of the proposed user, and an indication that the applicant has obtained clearance from Dig Safe for the use of explosives in the proposed area.

(Ord. of 12-7-87, § 2)

**Sec. 11-128. Issuance of permit.**

No permit for use of explosives shall be issued until such time as the town clerk receives a report in writing from the local fire marshal within whose district said use of explosives is proposed and from the director of the town department of public works, that said proposed use can be conducted with due regard to the safety of persons and property in the area. Said local fire marshall or director of public works may impose such terms and conditions for the use of explosives described in any application as are warranted by the need for public safety due to any conditions unique or peculiar in the area near the proposed site.

Any applicant for a permit under this section shall provide to the town clerk, prior to issuance of any permit for use of explosives, written evidence of liability insurance in an amount not less than \$500,000.00, which insurance specifically covers damages due to the use of explosives and which contains an endorsement naming the Town of North Smithfield, its agents, servants or employees as additional insureds.

(Ord. of 12-7-87, § 3)

**Sec. 11-129. Mandatory conditions.**

In addition to any terms or conditions imposed by the local fire marshal or the director of the department of public works, the following conditions shall apply to the use of explosives when applicable:

- (1) Where the applicant proposes a use of explosives wherein the quantity of explosives to be detonated within one minute equals or exceeds 1,500 pounds, a preblast survey of all property other than that of the applicant within a 250 foot radius of the blast site shall be conducted by the applicant.
- (2) Where the applicant proposes a use of explosives wherein the quantity of explosives to be detonated per delay exceeds that recommended within the U.S. Bureau of Mines Bulletin No. 656, seismographic monitoring of the blast area, and a preblast survey, at locations to be determined by the local fire marshal, shall be conducted. The expense of said monitoring shall be borne by the applicant.
- (3) No blasting shall be conducted at any time unless a person duly licensed by the State of Rhode Island to use explosives shall be physically present to direct and supervise such blasting operation.
- (4) Vibration limits. Blasting shall be so conducted that vibrations adjacent to any structure not controlled by the blaster do not exceed the following amounts:

<i>Frequency of Ground Vibrations in Cycles per Second</i>	<i>Maximum Amplitude of Ground Motion in Inches</i>
Up to 10	0.0305
20	0.0153
30	0.0102
40	0.0076
50	0.0061
60	0.0051
70	0.0043
80	0.0038

- (5) When it is necessary to blast in close proximity to a building or other structure, light face blasts only, with short lines of resistance and small charges, shall be used. The blasting of rotten or decomposed rock is forbidden.
- (6) The use of bulk explosives such as prilled ammonium nitrate shall not be permitted unless the quantities of such explosives poured into a hole are measured and recorded to the nearest 25 pounds.
- (7) Quarry blasting shall be permitted within 500 feet of building used for human habitation subject to these regulations as further modified by the following rules:
  - (a) A series of durable warning signs shall be erected along the entire perimeter of any rock face more than six feet high. They shall be spaced not more than 75 feet apart and set

back a reasonable distance from the face. Each sign shall contain the words "WARNING--BLASTING AREA--DANGER" in letters at least three inches in height.

- (b) The use of bulk explosives such as prilled ammonium nitrate shall be prohibited unless authorized in writing by the head of the fire department.
- (c) Vibration limits. Blasting shall be so conducted that vibrations adjacent to any structure controlled by the blaster do not exceed the following amounts:

not

<i>Frequency of Ground Vibrations in Cycles per Second</i>	Maximum Amplitude of Ground Motion in Inches
Up to 10	.0204
20	.0103
30	.0068
40	.0051
50	.0041
60	.0034
70	.0029
80	.0026

- (8) Any person, firm or corporation who performs blasting operations in the Town of North Smithfield shall maintain a log setting forth time of each blast and the total weight of explosives used in the blast. Said record shall be available to the fire marshal or his designee.

(Ord. of 12-7-87, § 4)

**Sec. 11-130. Revocation of permit.**

The town clerk is hereby authorized to revoke any permit whenever notice is given to said clerk by the local fire marshal or director of the department of public works that continued use of explosives according to said permit would constitute an unreasonable threat to public health or safety or welfare, or that the applicant has used explosives pursuant to said permit in a manner inconsistent with any of the requirements contained herein, or in violation of any terms and conditions imposed by the state or local fire marshal or director of the department of public works.

(Ord. of 12-7-87, § 5)

**Sec. 11-131. Penalties for violations.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise who violates any of the provisions of this article shall upon conviction be fined in an amount not to exceed \$500.00, or by imprisonment not to exceed 30 days, or both, and that restitution may be ordered in an amount not to exceed \$2,500.00 for damage to persons or property directly caused by said violation.

(Ord. of 12-7-87, § 6)

**Sec. 11-132. Fees.**

Explosive permits will be \$10.00 per occurrence, quarry permits will be \$100.00 per year, payable to the Town of North Smithfield.  
(Ord. of 12-7-87, § 7)

**Secs. 11-133--11-140. Reserved.**

**ARTICLE XI.**

**ADULT CABARETS\***

---

\* **Editors Note:** An ordinance adopted May 18, 1992, added provisions designated as § 11-5.1-2. For purposes of classification, such provisions have been redesignated as Ch. 11, Art. XI, §§ 11-141--11-144 at the discretion of the editor.

---

**Sec. 11-141. Definitions.**

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

- (1) *Adult cabaret* means a night club, bar, restaurant, or similar establishment that regularly or occasionally features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- (2) *Specified anatomical areas* as used herein, means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) *Specified sexual activities* as used herein, means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as noted above.

(Ord. of 5-18-92)

**Sec. 11-142. Licensing.**

All persons desiring to operate an adult cabaret shall first make application to the town council for an adult cabaret license.  
(Ord. of 5-18-92)

**Sec. 11-143. Requirements for issuance of new license.**

In consideration of the application for a license, the town council shall specifically require that the following conditions be met:

- (1) That the applicant has access to sufficient off-street, privately-owned parking for use by patrons. For purposes of determination of sufficiency, one parking space shall be provided for each two patrons. The total number of patrons is to be determined by utilizing the rated capacity of the establishment as determined by the fire marshal.
- (2) That the premises which is the subject of the application is located a minimum of 1,000 feet from the nearest residential district, a house of worship, or a public or nonpublic school, or a playground.
- (3) That the premises has in service full ventilation/air conditioning systems for purposes of noise reduction.
- (4) There shall be no sexually explicit signage located on the premises.

(Ord. of 5-18-92; Amend. of 10-17-94)

**Sec. 11-144. Prior uses.**

Those applicants operating an establishment providing entertainment regulated under this article, which entertainment was being provided on a continuous basis prior to the passage of this article shall be exempt from the provisions of sections 11-141 and 11-142 for such time as the use remains continuous. Said applicants shall immediately comply with the provisions of this section and shall, before December 1, 1992, comply with the provisions of section 11-143.

(Ord. of 5-18-92)

**Sec. 11-145. Public welfare.**

In considering an application under this article, the town council may additionally give consideration to any factors consistent with promoting the general welfare of the public.

(Ord. of 5-18-92)

**ARTICLE XII.**

**ADULT ENTERTAINMENT SPECIALTY SHOPS**

**Sec. 11-146. Definition.**

Adult entertainment specialty shops shall include establishments whose products consist primarily of adult video (sale, rental, or on site viewing), adult magazines, adult still photographs which show or depict explicit sexual activity, or the sale of adult novelties including, but not limited to, reproductions of the human anatomy.

(Ord. of 10-17-94)

**Sec. 11-147. Licensing.**

All persons desiring to operate an adult entertainment specialty shop shall first make application to the town council for a license. Cost of said license shall be \$5,500.00 per year and \$1,500.00 per year per adult

entertainment viewing machine.  
(Ord. of 10-17-94)

**Sec. 11-148. Requirements for issuance of new license.**

- (a) There shall be no live performances.
- (b) Adequate parking must be provided as required in our zoning laws.
- (c) Adult entertainment specialty shops shall not be located within 1,000 feet of a residential district, a house of worship, a school, or a playground. No explicit materials or advertising shall be visible from the exterior of the building.
- (d) No one under the age of 18 shall be permitted on the premises.  
(Ord. of 10-17-94)

**Sec. 11-149. Public welfare.**

In considering an application under this article, the town council may additionally give consideration to any factors consistent with promoting the general welfare of the public.  
(Ord. of 10-17-94)

**Sec. 11-150. Enforcement provisions.**

Any violation of this article shall be subject to a fine of \$500.00 for each offense; each and every violation and nonconformance of this ordinance, or each day that any provision shall have been violated, shall be construed as a separate and distinct violation thereof. All such fines shall inure to the benefit of the town.  
(Ord. of 10-17-94)

**ARTICLE XIII.**

**FIRE SAFETY INSPECTIONS**

**Sec. 11-151. New liquor licenses--Inspection required.**

Upon application for a new liquor license, the assistant deputy state fire marshall shall inspect the premises of the proposed location.

Prior to approval of said application by the town council, the assistant deputy state fire marshall shall certify that (1) he has inspected the premises within 60 days and (2) that there are no outstanding fire code violations and (3) that the proposed use of the premises will not violate any provisions of the fire code.  
(Ord. of 5-19-03)

**Sec. 11-152. Liquor license renewals--Inspection required.**

Upon application for a renewal of a liquor license, the assistant deputy state fire marshall shall inspect



the premises which is the location of the license.

Prior to approval of said application by the town council, the assistant state fire marshall shall certify that (1) he has inspected the premises at least once during the year immediately preceding (2) that there are no outstanding fire code violations and (3) the use of the premises will not violate any provisions of the fire code then prevailing.

(Ord. of 5-19-03)

**Sec. 11-153. Liquor license relocation--Inspection required.**

Upon application for the relocation of a liquor license, the assistant deputy state fire marshall shall inspect the premises of the proposed location.

Prior to approval of said application by the town council, the assistant deputy state fire marshall shall certify that (1) he has inspected the premises within 60 days and (2) that there are no outstanding fire code violations and (3) that the proposed use of the premises will not violate any provisions of the fire code.

(Ord. of 5-19-03)

**Sec. 11-154. New business license--Inspection required.**

Upon application pursuant to the provisions of section 11-19, for any new license or permit to carry on a business, wherein flammable and/or combustible liquids are stored, and/or dispensed, the assistant deputy state fire marshall shall inspect the premises.

Prior to approval of said application by the town council, the assistant deputy state fire marshall shall certify (1) that he has inspected the premises within the past 60 days and (2) that there are no outstanding fire code violations and (3) that the proposed use of the premises will not violate any provisions of the fire code.

(Ord. of 5-19-03)

**Sec. 11-155. Business license renewals--Inspection required.**

Upon application pursuant to the provisions of section 11-19, for any renewal of any license to carry on a business wherein flammable and/or combustible liquids are stored, and/or dispensed, the assistant deputy state fire marshall shall inspect the premises.

Prior to approval of said application by the town council, the assistant deputy state fire marshall shall certify (1) that he has inspected the premises at least once during the year immediately preceding and (2) that there are no outstanding fire code violations and (3) that the continued use of the premises will not violate any provisions of the fire code.

(Ord. of 5-19-03)

**ARTICLE XIII.**

**REGISTRATION OF BUSINESSES AND PROFESSIONS\***

---

\* **Editors Note:** Ord. of Feb. 25, 2005, amended the Code by adding a new Art. XIII, §§ 11-151, 11-152. For purposes of classification and in order to preserve the style of the Code and facilitate indexing the editor has redesignated these provisions as Art.

**Sec. 11-156. Registration of businesses and professions.**

(a) All persons, corporations, partnerships or other business organizations operated for profit (hereafter in this article collectively referred to as "entity") transacting or conducting business from any situs in the town shall obtain a registration certificate stating the name under which the entity is transacted or conducted, its business address, a specific description of the business activity and any other reasonable information deemed necessary by the town clerk.

(b) The registration certificate shall be filed with the town clerk by May 1, 2005 together with a \$25.00 filing fee. In addition, the registration certificate shall be renewed annually by December 1 of each calendar year together with a \$25.00 filing fee, beginning December 1, 2005.

(c) This article shall be deemed retroactive in its application so that it applies to each entity already transacting or conducting business from any situs in the town.

(d) Payment of all applicable taxes and assessments shall be a precondition to the issuance of a registration certificate and to the right to conduct or transact business in the town, and no registration certificate shall be issued to any entity currently in arrears in any tax or assessment levied by the town, or by the state, or for use upon any premises for which any such taxes or assessment are unpaid.  
(Ord. of 2-25-05, § 11-151)

**Sec. 11-157. Penalties.**

(a) Any entity transacting or conducting business from any situs in the town that fails to comply with this article shall be fined in an amount not exceeding \$500.00.  
(Ord. of 2-25-05, § 11-152)

**ARTICLE XIV**

**MOBILE FOOD ESTABLISHMENTS**

**Sec. 11-158 Definitions.**

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

(1) "Department" means the Rhode Island Department of Business Regulation.

(2) "Event permit" means a permit that a city or town issues to the organizer of a public mobile food establishment event located on public property.

(3) "Fire Safety Code" shall have the meaning set forth in Chapter 28.1 of Title 23 and shall include any regulations promulgated thereunder.

(4) "Mobile food establishment" means a food service operation that is operated from a movable motor-driven or propelled vehicle, portable structure, or watercraft that can change location. Mobile food establishments specifically include, but is not limited to, food trucks, food carts, ice-cream trucks/carts, and lemonade trucks/carts.

(5) "Mobile food establishment event" means an event where an individual has ordered or commissioned the operation of one or more mobile food establishments at a private or public gathering.

(6) "Mobile food establishment operator" or "operator" means a person or corporate entity who owns, manages, or controls, or who has the duty to manage or control the operation of a mobile food establishment.

(7) "Mobile food establishment vendor" or "vendor" means a person who prepares, sells, cooks, or serves food or beverages from a mobile food establishment.

(8) "Municipal mobile food establishment permit" or "permit" means a permit issued by the town to a mobile food establishment operator that possesses a current state mobile food establishment registration.

(9) "Permit Holder" means the holder of a "municipal mobile food establishment permit".

(10) "Registrant" means the holder of a "state mobile food establishment registration."

(11) "RIDOH" means the Rhode Island Department of Health.

(12) "State mobile food establishment registration" or "registration" means a registration issued by the department which authorizes a mobile food establishment to operate in the state.

(13) "Temporary mass gathering":

(i) Means an actual or reasonably anticipated assembly of five hundred (500) or more people that continues, or reasonably can be expected to continue, for two (2) or more hours per day; or an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

(ii) Includes, but is not limited to, "special events" as defined in the food code regulations promulgated by RIDOH and festivals and concerts.

(iii) Shall not include an assembly of people at a location with permanent facilities designed for that specific assembly.

(14) "Town" means the Town of North Smithfield.

(15) "Town Clerk" means the Town Clerk of the Town of North Smithfield.

(16) "Town Council" means the Town Council of the Town of North Smithfield.

**Sec. 11-159. Practices for which permit is required.**

No person, business, or entity shall operate a mobile food establishment in the town without first having obtained a registration from the department pursuant to Title 5, Chapter 11.1 of the Rhode Island General Laws, as amended, and a municipal mobile food establishment permit from the town. Mobile food establishments shall not be regulated as hawkers or peddlers.

**Sec. 11-160. Restrictions on Municipal Mobile Food Establishment Permit.**

The qualifications for a municipal mobile food establishment permit shall not exceed the qualifications for a state mobile food establishment registration, as determined by the department. The fee for a municipal mobile food establishment permit shall not exceed the maximum fee set by the department and established by regulations. The municipal mobile food establishment permit shall expire on the same day that the state mobile food establishment registration expires. A single municipal mobile food establishment permit shall be required to operate within the town and additional permits shall not be required for operation on more than one day and/or in more than one location in the same calendar year.

**Sec. 11-161. Grounds for Denial, Suspension, or Revocation of Municipal Mobile Food Establishment Permit.**

The town may deny, suspend, or revoke a municipal mobile food establishment permit if the operation of the registrant within the town violates or would violate the town's land use regulations, zoning, noise, or other ordinances in relation to the operation of a mobile food establishment. The holder of a municipal mobile food establishment permit against whom disciplinary action is taken shall notify the department in writing and provide documentation of such discipline within three business days of the initiation of such disciplinary action.

**Sec. 11-162. Hours of Operation.**

No mobile food establishment shall be permitted to operate anywhere in the town, except between the hours of 9:00 a.m. to dusk in residential areas, and between the hours of 9:00 a.m. and 9:00 p.m. in business areas or as otherwise permitted by the Town Council.

**Sec. 11-163. Location of Operation.**

No mobile food establishment shall be permitted to operate at any location in the town (public or private property), except as permitted by the Town Council.

The Chief of Police may, from time to time, submit to the Town Council, locations, streets and public ways throughout the town which in the Chief's opinion, because of excess traffic and congestion, are rendered unsafe for the public welfare to allow a mobile food establishment.

At no time shall any mobile food establishment impede the free flow of pedestrian or vehicular traffic, and the Chief of Police shall have the authority to suspend the operation of such permit at any time and for such period of time where conditions exist that he deems it in the interest of public safety to do so, without prior request to the Town Council.

**Sec. 11-164. Permit for events proposed to be located on public property.**

For any event where an individual has ordered or commissioned the operation of one or more mobile food establishments at a gathering proposed to be located on public property, the organizer must obtain a separate event permit prior to the event. The fee for such a permit shall be \$300. All event permits shall be issued on the condition that the organizer of the event must leave sufficient space for emergency vehicles in compliance with the Rhode Island Fire Safety Code. Applications for an event permit must be received 90 days in advance of the proposed event.

**Sec. 11-165. Temporary Mass Gathering Permit.**

For any temporary mass gathering located on private property, the organizer must obtain a separate temporary mass gathering permit prior to the event. The fee for such a permit shall be \$300. All temporary mass gathering permits shall be issued on the condition that the organizer of the event must leave sufficient space for emergency vehicles in compliance with the Rhode Island Fire Safety Code. Applications for a temporary mass gathering permit must be received 90 days in advance of the proposed event. For the purpose of this section, a temporary mass gathering is defined as an actual or reasonably anticipated assembly of five hundred (500) or more people that continues, or reasonably can be expected to continue, for two (2) or more hours per day; or an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks. This term shall include, but shall not be limited to, 'special events' as defined in the food code regulations promulgated by the Rhode Island Department of Health, and festivals and concerts. This term shall not include an assembly of people at a location with permanent facilities designed for that specific assembly.

**Sec. 11-166. Excessive Nuisance Prohibited.**

No mobile food establishment shall attempt to sell or offer to sell food by means of any loudspeaker or other noise-making device intended to attract public attention nor shall he create a nuisance situation.

**Sec. 11-167. Display of Municipal Mobile Food Establishment Permit.**

The municipal mobile food establishment permit shall be affixed to the mobile food establishment in a conspicuous place.

**Sec. 11-168. Compliance with Other Laws and Regulations.**

Mobile food establishments shall comply with all applicable statutes, rules, regulations, and policies relating to food safety and, additionally, shall comply with the fire safety code, if applicable.

**Sec. 11-169. Electronic Submission of Permit Applications.**

An application for a municipal mobile food establishment permit may be submitted by email or other electronic means to the Town Clerk.

**Sec. 11-170. Permit Fee.**

The annual fee for a municipal mobile food establishment permit shall be \$75

**Sec. 11-171. Permitting Authority and Procedure.**

The Town Council shall serve as the permitting authority for all permit applications relating to mobile food establishments. The Town Council shall hold a public hearing on all applications for an event permit or a temporary mass gathering permit.

**Sec. 11-172. Penalties**

Any person violating the provisions of this article shall be subject to a penalty not exceeding an amount of five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days for each offense. Every individual sale, or offer for sale, made contrary to the provision of this article shall be deemed and construed as a distinct and separate offense.

**Sec. 11-173. Jurisdiction.**

Any matters related to this chapter shall be referred to the Town of North Smithfield Municipal Court.

**Sec. 11-174. Separability.**

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or part directly involved in the controversy in which judgment shall have been rendered.

(Ord. of 8-5-2019)

