

**TOWN OF SMITHFIELD
ORDINANCE NO. 518-2023**

**TO AMEND CHAPTER 17 OF THE TOWN OF SMITHFIELD CODE OF
ORDINANCES: STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES TO ALLOW
FOR A SOCIAL DISTRICT**

WHEREAS, N.C.G.S. 160A-205.4 authorizes local governments to create and designate one or more "social districts" under N.C.G.S § 18B-300.1 within their jurisdictions; and

WHEREAS, a "social district" under N.C.G.S § 18B-300.1 is "a defined outdoor area in which a person may consume alcoholic beverages sold by" businesses holding one or more permits issued by the Alcoholic Beverage Commission; and

WHEREAS, local business owners within Downtown Smithfield have expressed interest in creating a social district to aid in economic development and downtown revitalization, and

WHEREAS, the Downtown Smithfield Social District shall be created and managed by the Town of Smithfield; and

WHEREAS, the Town of Smithfield desires to limit its social district to a walkable geographic area in the downtown where local restaurants and bars can sell alcoholic beverages to be consumed throughout the district, subject to certain rules and limitations; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Smithfield, North Carolina, that it does hereby adopt and approve the Ordinance amending Section 17-7 "Alcohol Consumption on Public Property" and creating section 17-8 "Social District" as follows:

(All new language is denoted in red)

Section 17-7 is written as follows:

Sec. 17-7. - Alcohol consumption on public property.

Except as permitted in the Downtown Social District in Section 17-8 below, it shall be illegal to sell, serve, or otherwise consume any alcoholic beverage on any property or rights-of-way or other area owned or in the possession of the Town of Smithfield unless the town specifically authorizes such by the issuance of a special events permit and such conduct is not otherwise prohibited by law. Upon the filing of a special events application with the town's planning department, the Smithfield Town Council shall consider the approval of a special events permit at the first meeting that is more than two (2) weeks after the filing of the application. The town council shall consider the nature, location, time,

impact of adjoining properties, parking availability, and public health and safety factors when considering the issuance of a special events permit. The town council shall authorize the permit only if the event is compatible with the proposed time and location according to the factors in the preceding sentence. The town will issue a special event permit upon the following procedure and subject to the following conditions:

(1) This section applies only to the downtown business district, defined, for the purpose of this section, as the properties and areas between and including Fifth Street to Front Street and Bridge Street to Johnston Street in Smithfield, North Carolina.

(2) The event coordinator applies for and is issued a special events permit from the town. Upon approval by the town council, the city manager is authorized to issue the permit upon compliance with the applicable requirements of this section and state law.

(3) The event coordinator applies for and has been issued all necessary health department and ABC licenses and permits as required by law.

(4) The permit issued by the town clearly states and defines the area for which the alcoholic beverages may be sold or served and the boundaries of the area are clearly delineated in the application and the times of the event. No event shall continue past 12:00 a.m. The event coordinator is responsible for providing waiters or servers for the beverages so that those consuming the same are not serving themselves. The application must specify the location of the event with a drawing of sufficient detail for the town to locate the boundaries of the event on the ground. Before commencement of the event, the event coordinator must have visibly roped or ribboned boundaries surrounding the event area. Signs will be visible at all exit points that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises. If the event is held entirely within the boundaries of the Downtown Smithfield Social District, it is at the discretion of the Chief of Police to determine if rope/ribbon boundaries surrounding an event area or signs at exits are required.

(5) The application must specify in the drawing the location of all tables, chairs, signs and other furnishings during the event. The event coordinator must remove such personally within two (2) hours after the event closes and may not install the items until twelve (12) hours before the event. If such items are not removed within two (2) hours after the event, the town shall have the right to remove such items that will become upon removal the property of the town and subject to discard as trash.

(6) The event coordinator is responsible for maintaining decorum and order and shall provide adequate security staff. A security plan will be presented to the chief of police

prior to approval of a permit. The chief of police will then forward his/her approval/recommendations to the city manager for consideration.

(7) The area on town property where alcoholic beverages are proposed to be served or sold must not restrict access or interfere with the operation of any business in the immediate vicinity.

(8) All alcohol shall be poured into or otherwise consumed from non-breakable cups or shatterproof glasses. If the event is held within the boundaries of the Downtown Smithfield Social District, the containers must meet the requirements as outlined in Section 17-8. All empty bottles or cans shall be handled and stored in such a manner as not to be broken or left on town property. The event coordinator shall be responsible for the complete cleanup of the event area and shall have all trash or debris collected and removed from the area immediately following the end of the event.

(9) The event coordinator must possess or secure for the special event liability insurance with liquor or alcoholic beverage coverage with minimum limits of one million dollars (\$1,000,000.00) per claimant and with aggregate coverage of not less than three million dollars (\$3,000,000.00). When the event is conducted on a town property or right-of-way, the town shall be identified as an additional insured on the referenced insurance policy. The event coordinator shall also agree to hold harmless and indemnify the Town of Smithfield from any liability arising from the event.

(10) Violation of any of the terms and conditions of the permit will entitle the town to immediately terminate the permit and order the immediate disbandment of all persons, as well as serve as a possible prohibition for future special event permitting for the event coordinator.

(11) The event coordinator must assume full personal responsibility in the written application for the reasonable operation of the event and agrees to indemnify town from any reasonably foreseeable damage to the town or third parties.

(12) The event coordinator shall not allow any permanent alteration or encroachment on property owned or possessed by the town. The event coordinator will be responsible for repairing any incidental damage to town property from the event.

(13) The event coordinator shall post a five-hundred-dollar (\$500.00) cash bond with the town as security for the faithful management of the event and the obligation of the event coordinator to take reasonable measures to prevent damage to town property or to third parties.

(14) A permit may be denied if it is found that the granting of the permit would not be in the public interest, lack of harmony of the event as planned with the neighborhood at the time requested; or

(15) The city manager or his designee may revoke a permit issued pursuant to this section, if he finds that the event coordinator has:

- a. Deliberately misrepresented or provided false information in the permit application;
- b. Violated any provision of this Code;
- c. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
- d. Operated the event or prior events in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or
- e. Failed to maintain any health, business or other permit or license required by law for the operation of a business. Before the revocation of a permit, the city manager shall notify the permit holder of his intent to revoke the permit and the reasons therefore and shall afford the permit holder an immediate opportunity to appear and be heard on the question of such revocation.
- f. The town must protect its properties from perceived emergencies and thus the town may within its sole discretion in extraordinary circumstances cancel the event and remove event property at any time without notice and without justifying cause. While this may be harsh, any applicant agrees to this condition.

(16) Permits issued in accordance with the provisions of this section shall:

- a. Be issued separately for each event;
- b. Not be transferable or assignable.

Sec. 17-8. - Social District.

Pursuant to the provisions of North Carolina Statute 160A-205.4, one or more social districts may be created within the municipal limits of the Town of Smithfield. The Downtown Smithfield Social District shall be created, designated and managed in accordance with the requirements contained in N.C.G.S. 160A-205.4. The boundaries of the Downtown Smithfield Social District are designated as shown on the map contained within the Downtown Smithfield Social District Management and Maintenance Plan, which is available in Town Hall and on the Town's website.

(a) Definitions. The following definitions shall apply in this section:

- (1) Social District. A defined outdoor area in which a citizen may consume alcoholic beverages sold by a permittee. This term does not include the permittee's licensed premise, or an extended area allowed under N.C.G.S. 18B-904(h).
- (2) Permittee. A person holding any of the following ABC permits issued by the North Carolina Alcoholic Beverage Control Commission established under N.C.G.S. 18B-200:
 - (i) An on-premises malt beverage permit issued pursuant to N.C.G.S. 18B-1001(1).
 - (ii) An on-premises unfortified wine permit issued pursuant to N.C.G.S. 18B-1001(3).
 - (iii) An on-premises fortified wine permit issued pursuant to N.C.G.S. 18B-1001(5).
 - (iv) A mixed beverages permit issued pursuant to N.C.G.S. 18B-1001(10).
 - (v) A distillery permit issued pursuant to N.C.G.S. 18B-1001(5).

(b) Application.

- (1) The provisions and terms contained in Section 17-8 shall be applicable between the hours of 3:00 pm until 10:00 pm Wednesday – Friday and 12:00 pm until 10:00 pm on Saturday. At all other times, the provisions and terms contained in this Article are not in effect and all provisions of State and local laws concerning the possession and consumption of alcohol shall be in full force and effect.
- (2) Any alcoholic beverage purchased for consumption in the Downtown Smithfield Social District shall:
 - (i) Only be consumed in the Downtown Smithfield Social District.
 - (ii) Be disposed of before the person in possession of the alcoholic beverage exits the Downtown Smithfield Social District.
 - (iii) Establishments within the Downtown Smithfield Social District may opt-out of allowing alcoholic beverages purchased within the Social District to be brought into their establishments.

(c) Requirements for the Sale of Alcoholic Beverages.

- (1) A permittee located in or contiguous to the Downtown Smithfield Social District may sell alcoholic beverages for consumption within the Downtown Smithfield Social District it is located in or contiguous to in accordance with the following requirements:
 - (i) The permittee shall only sell and serve alcoholic beverages on its licensed premises.
 - (ii) The permittee shall only sell alcoholic beverages for consumption in the Downtown Smithfield Social District that meets all of the following requirements:
 - a) The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - b) The container clearly displays a logo or some other mark that is unique to the Downtown Smithfield Social District.
 - c) The container is not comprised of glass.
 - d) The container displays, in no less than 12-point font, the statement, "Drink Responsibly - Be 21."
 - e) The container shall not hold more than 16 fluid ounces.

- (iii) Nothing in this section shall be construed as authorizing the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in N.C.G.S. 18B-1010.
- (d) Requirements for Possession and Consumption of Alcoholic Beverages.
 - (1) Only alcoholic beverages purchased from a permittee located in or contiguous to the Downtown Smithfield Social District may be possessed and consumed.
 - (2) Alcoholic beverages shall only be in containers meeting the requirements set forth in this section.
 - (3) Alcoholic beverages shall only be possessed and consumed within the boundaries of the Downtown Smithfield Social District during the days and hours set forth in this section.
 - (4) Nothing in this section shall be construed as authorizing the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in N.C.G.S. 18B-1010.
 - (5) A person shall dispose of any alcoholic beverage in the person's possession prior to exiting the Downtown Smithfield Social District.
- (e) Requirements for the Sale and Serving of Alcoholic Beverages at Special Events.
 - (1) The NC ABC Commission may issue special one-time permits to a nonprofit organization to allow the retail sale of malt beverages, unfortified wine, fortified wine, or to allow brown bagging, at a single fund-raising event of that organization.
 - (i) Events issued special one-time permits from the NC ABC Commission must meet the requirements set forth in Section 17-7.
 - (2) Alcoholic beverage drinks may be sold or served by permittees holding a winery special event permit, malt beverage special event permit, or spirituous liquor special event permit at special events taking place in the Downtown Smithfield Social District. A permittee holding a mixed beverages catering permit may serve spirituous liquor to guests at events taking place in a social district.
 - (3) Holders of special one-time permits, winery special event permits, malt beverage special event permits, spirituous liquor special event permits, and mixed beverages catering permits will be required to purchase Social District containers meeting the requirements set forth in this section from the Downtown Smithfield Development Corporation, and affix a sticker to each container sold to a customer that identifies from where the alcoholic beverage was purchased.

Adopted by a motion made by Councilman Stevens, seconded by Councilman Dunn and approved by a vote of 4 in favor and 0 against.

Adopted this the 16th day of July, 2024.

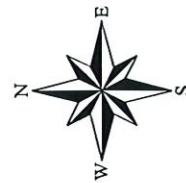
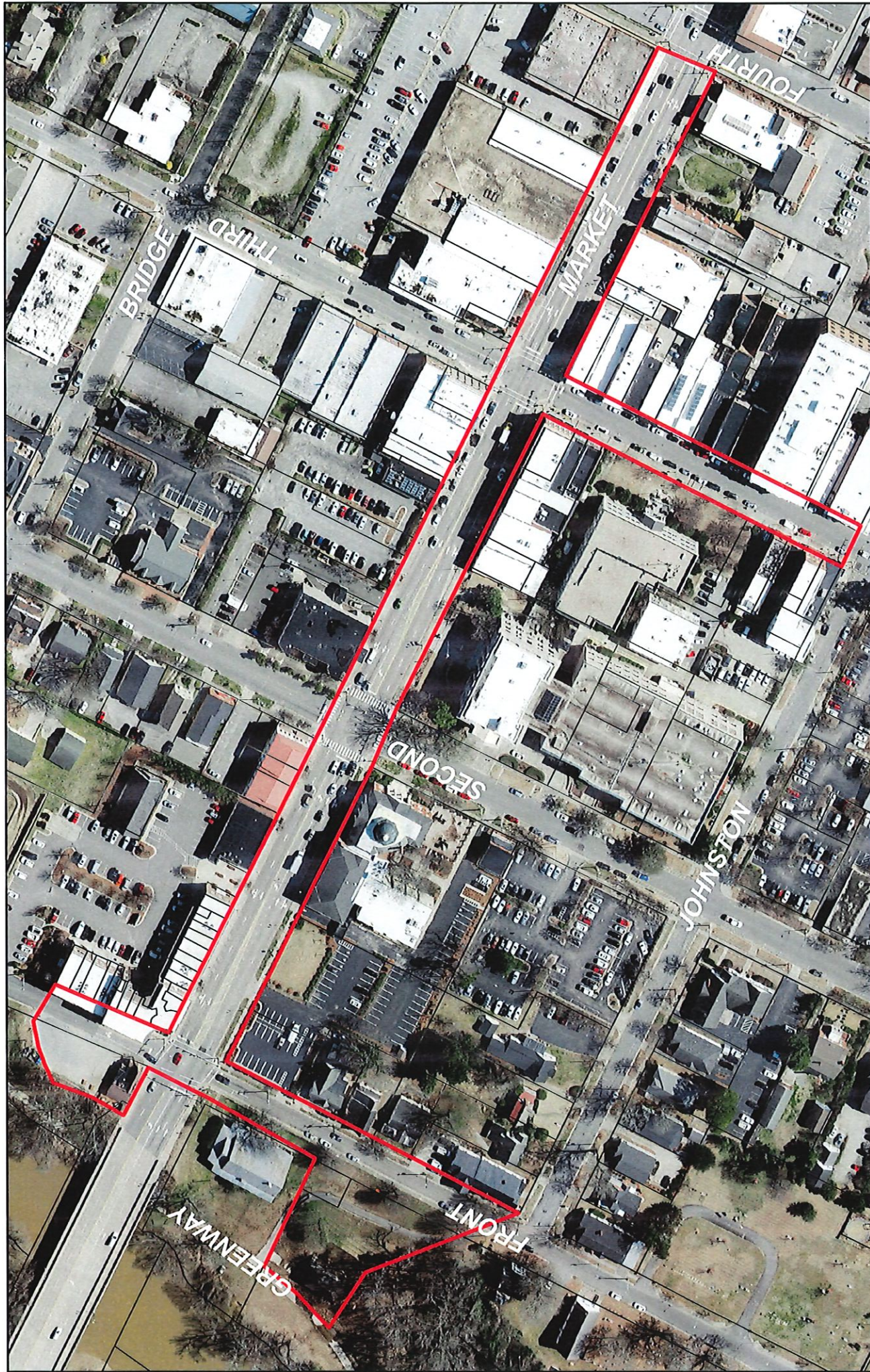
M. Andy Moore
M. Andy Moore, Mayor

ATTEST:

Shannan L. Parrish

Shannan L. Parrish
Town Clerk





Town of Smithfield Downtown Social District

