

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO: 1791

AN ORDINANCE ESTABLISHING TEN ADDITIONAL ALCOHOLIC BEVERAGE PERMITS, ESTABLISHING THE CRITERIA FOR LICENSE ALLOCATION AND APPLICATION COMPLIANCE REQUIREMENTS AND REQUIRING A FORMAL WRITTEN COMMITMENT FOR LIQUOR LICENSES IN THE ST. JOHN RIVERFRONT DEVELOPMENT PROJECT AREA

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, on the 27th day of July, 2022, passed and adopted Resolution No. 2022-07-27A which established the Town of St. John Riverfront Development Project Area; and

WHEREAS, I.C. §7.1-3-20, et. seq. allows the Indiana Alcohol and Tobacco Commission to issue an additional ten (10) on premises alcoholic beverage permits in the St. John Riverfront Development Project Area; and

WHEREAS, pursuant to I.C. §7.1-3-19-17, the Town Council of the Town of St. John may adopt an ordinance which requires a formal written commitment as a condition of eligibility for all holders of district permits; and

WHEREAS, pursuant to §7.1-3-19-17 the formal written commitment may include requirements regarding the character or type of business that will be conducted at the business/restaurant; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana has considered the St. John Riverfront Alcoholic Beverage Licenses Criteria for License Allocation and Applicant Compliance Requirements (Exhibit "A") and the formal Written Commitment (Exhibit "B") as the criteria and requirements for issuance of district permits; and

WHEREAS, the intent of the Town Council of the Town of St. John is to: (1) ensure that any holder of a district permit operates a restaurant within the St. John Riverfront Development Project Area that provides a food orientated dining experience and is consistent with the holder's representations to the Town of St. John; and (2) prevents holders from operating a bar or similar establishment;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AS FOLLOWS:

SECTION ONE. The prefatory statements set out above are incorporated herein and made a part hereof.

SECTION TWO. That there are established and authorized an additional ten (10) three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to the proprietor's or restaurants in the St. John Riverfront Development Project Area.

SECTION THREE. The St. John Riverfront Alcoholic Beverage Licenses Criteria for License Allocation and Applicant Compliance Requirements (Exhibit A) is hereby adopted and, in all things, approved.

SECTION FOUR. All holders of district permits shall be required to execute a formal Written Commitment substantially similar to the formal written commitment attached as Exhibit "B".

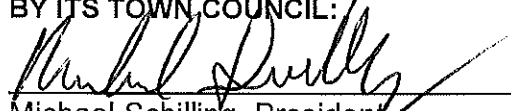
SECTION FIVE. That all existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal effect, and are specifically repealed.

SECTION SIX. If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

That this Ordinance shall take effect, and be in full force and effect, from and after its passage by the Town Council of the Town of St. John, Lake County, Indiana.

ALL OF WHICH IS PASSED AND ADOPTED THIS 22 DAY OF February, 2023, BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA.

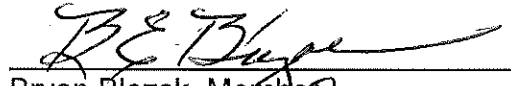
TOWN OF ST. JOHN, LAKE COUNTY, INDIANA
BY ITS TOWN COUNCIL:



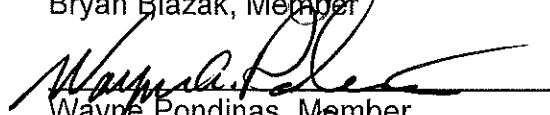
Michael Schilling, President

Absent


Gerald Swets, Vice President



Bryan Blazak, Member

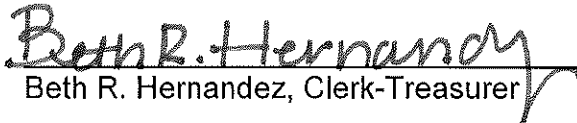


Wayne Pondinas, Member



Michael Aurelio, Member

ATTEST:



Beth R. Hernandez, Clerk-Treasurer

St. John Municipal Riverfront Development District Liquor License: Application and Review Process, Eligibility Requirements, and Evaluation Criteria

Application Process Steps:

1. Applicant completes the St. John Riverfront Development Liquor License Permit application and submits it to the Town Manager of the Town of St. John, Indiana, along with the Applicant's completed Indiana ATC permit application.
2. The St. John Riverfront License Review Committee will review the application electronically and will schedule a public meeting for the applicant to attend.
3. After the public meeting the Review Committee will recommend approval or denial of the application.
4. Review Committee approved applications will be forwarded to the Town Council for review and approval or denial.
5. If approved, the Applicant must enter into a written contract with the Town of St. John, agreeing to the terms and conditions placed upon operation of the establishment with the specialized liquor permit privileges (see eligibility and requirements below.)
6. Applicant will be provided with a letter from the St. John Town Council that is required for application to the Indiana ATC for the license.

Riverfront License Review Committee Members: The St. John Redevelopment Commission

Applicant Eligibility Requirements:

In addition to complying with all building, health, zoning laws, ordinances and all rules and regulations of the Indiana State Alcohol and Tobacco Commission (ATC), local, state, and federal governments applicants must also meet the following local requirements annually in order to be eligible to apply or renew:

1. Applicant's establishment must be located within the St. John Municipal Riverfront Development District boundaries.
2. Focus of operation must be on a dining, entertainment or cultural experience rather than an alcohol consumption experience.
3. Patrons consume food at either a counter or table.
4. Must be a non-smoking establishment (possible exception made for upscale cigar lounge).
5. Cannot be a private club, nightclub, or adult entertainment venue.

6. No temporary exterior signage will be permitted. Permanent, attached signage is required.
7. Establishments located within the district with an existing 3-way license may not sell their existing license in order to apply for a 221-3 Riverfront license. There will be a minimum 1-year wait between the time any business with an existing license sells their license and will be able to apply for a new license.
8. Fees: Insert

Applicant Evaluation Criteria:

The recommendation to the Town Council will be based how strongly the committee determines:

1. Granting of the license will benefit the purposes of the district, i.e. to become an economically vibrant, cultural and dining destination for the region.
2. Granting of the license and the business activity will not be detrimental to the property values and business interest of others in the district.

The above will be evaluated based on the strength of the following:

1. The Physical Location of the Establishment
2. The Operation and Business Plan for the Establishment
3. The Potential Economic Impact of the Establishment
4. The Reputation and Experience of the Ownership and Applicant(s)

I/We certify that I/We have read and understand the above application process and eligibility requirements and evaluation criteria.

Applicant(s)

Date

**Application
St. John Municipal Riverfront District Liquor
License**

Business Entity Making this Application: _____

Applicant's Name: _____

Applicant's Address: _____ City: _____ State: _____ Zip: _____

Applicant's Phone (daytime): _____ Email: _____

1. In addition to the floor plan required in Step 7 of the Indiana ATC form, please include:
 - a. Any plans you have to improve the facility in which you will operate
 - b. The expected timetable for work and business commencement
2. Explain the overall concept and unique features of the proposed establishment.
3. Describe the level of control and participation the owners will have in the day to day operation of the business.
4. Describe how your operation will focus on a dining, entertainment or cultural experience rather than simply an alcohol consumption experience.
5. Explain any past restaurant experience you have had or other means by which the Riverfront License Review Committee will be able to obtain information on your preparedness for this venture.
6. Please outline any other factors that will aid the Riverfront License Review Committee in the consideration of your application.
7. Please provide information on the number of jobs this operation will add to or be retained within the Town of St. John.
8. Explain how you will jointly market your restaurant with other restaurants in the District, and how you will work with the community.

9. Describe how your venue/operation will draw people to the Municipal Riverfront Development District.

10. Please verify that you do not currently hold or have held an active 3-way license for any location within the Town of St. John within the past 12 months.

Please submit this form and all attachments to: Riverfront License Review Committee C/O Town Manager, St. John Town Hall, 10955 W. 93rd Avenue, St. John, Indiana 46373, or email to: jwyszowaty@stjohn.com.

Please attach:

1. Your completed Indiana State form entitled "Application for New or Transfer Permit" along with any attachments.
2. A signed copy of the Application Process, Eligibility Requirements & Evaluation Criteria sheet
3. A copy of the executive summary of your business plan (should include financial and ownership strengths)
4. A copy of your proposed permanent signage
5. A tentative menu

Permits are not transferable, not portable within or without the District and any renewal are subject to compliance with the terms of these local rules and any agreement negotiated with the Riverfront License Review Committee, and the Town of St. John. The permits shall not be pledged as collateral or subject to any lien, judgment, property settlement agreement, or third party claim.

APPLICANT'S CERTIFICATION

The Applicant certifies that all information in this application and all information furnished in support of this application are true and complete to the best of the Applicant's knowledge and belief. I have read and understand the procedures and agree to follow the Riverfront License Review Committee Process. I am submitting documentation as requested.

Applicant's Signature: _____ Date: _____

St. John Riverfront Alcoholic Beverage Licenses
Criteria for License Allocation and Applicant Compliance Requirements

During the 2005 legislative session, the Indiana General Assembly enacted Senate Enrolled Act 282 ("Act") which was codified at Ind. Code § 7.1-3-20-16(d). The Act permitted the Indiana Alcoholic and Tobacco Commission ("ATC") to issue liquor licenses (one, two, or three-way) ("Riverfront Liquor Licenses") in the area designated by the Town of St. John as a Riverfront District (the "Riverfront District"). Pursuant to the Act, the St. John Town Council ("Council"), as the fiscal body for the Town, is responsible for making recommendations to the ATC for locations that are eligible for Riverfront Licenses.

The Town Council has appointed the St. John Redevelopment Commission ("RDC") to recommend to the Council those locations and restaurant owners that meet the qualifications in this Policy and satisfy the requirements for Riverfront Licenses. The RDC is also responsible for making recommendations to the Council concerning both proposed changes to restaurants holding Riverfront Licenses and compliance issues.

Purposes and Goals

The purpose behind the Town of St. John establishing a Riverfront District was to further the strategic plan by encouraging the location and operation of upscale restaurants within the Riverfront District area, an area already designated for redevelopment or economic development by the Town. The Town's goal is to provide the finest dining environment in Northwest Indiana in a single district area.

The Act also intended to assist small business owners, who might be unable to secure a conventional Liquor License (because of lack of availability and/or cost), but otherwise have the ability to successfully operate an upscale restaurant within the Town of St. John. These business owners invest not only in their business but in our community. They are often active within the local business community, sit on civic boards, and more fully participate in the local community. This adds to the overall business vibrancy of the Town of St. John.

The Town, through implementation of the Riverfront Liquor Licenses and this Policy, seeks to achieve the following:

- A. Increase the number and variety of distinctive and unique restaurants, and liquor establishments that operate in the area designated a Riverfront District Area within the Town of St. John to a degree that distinguishes it as the best dining environment in Northwest Indiana.

- B. Assist local, talented restaurant owners, and liquor establishments to achieve success by providing them the ability to offer a full line of beverages to their clientele.
- C. Use the license allocation program to encourage recipients to make improvements to their buildings, participate in unified marketing efforts, encourage a healthy and fun atmosphere in the Town, and to generally improve the redevelopment area's commerce activity and the Town.

Preliminary Results

As of January 1, 2023, the Town Council is authorizing ten (10) Riverfront Licenses to be issued. On a whole, the Town is seeking to realize its goals in that the Riverfront Licenses contribute to new investment and the resurgence within the Redevelopment Area designated. To maintain the success will require the RDC's continued vigilance. Of most concern is maintaining the quality level of the restaurants and to avoid restaurants moving from fine dining establishment to bars that sell food. The holders of Riverfront Licenses must strive to make their restaurants a destination location where food is the primary driver and alcohol is an accessory. Of almost equal concern is insuring that the applicants who secured the Riverfront Licenses operate the restaurants and do not attempt to sell/transfer their Riverfront Licenses to individuals and entities that have not been properly vetted by Town staff and the RDC and may not be able to maintain the restaurant's quality level.

The RDC recognizes that restaurant ownership turnover is inevitable. As the RDC evaluates these events and opportunities, it will continue to follow its Guiding Factors.

Guiding Factors

Redevelopment Commission's recommendation will be based on several factors.

- Corporate Condition and Operations.** The RDC will consider the Applicant's:
- (1) Financial and ownership strength, which may best be demonstrated by a business plan,
 - (2) History of operation,
 - (3) General reputation in the St. John community and, if from other than St. John, the Applicant's reputation in other communities,
 - (4) The Applicant's owners' past participation in the St. John community and the likelihood of continued participation of the owners in the future,
 - (5) The control and participation of the owners of the Applicant in the day to day operation of the business, and
 - (6) The nature of the jobs added to or retained in the St. John employment base.

Restaurant Operations. The RDC will consider the Applicant's:

- (1) Experience operating a restaurant similar to that proposed,
- (2) The upscale nature of the restaurant and its proposed menu,
- (3) The unique features of the proposed restaurant,
- (4) The restaurant's ability to draw people to St. John and, specifically, the area designated a Redevelopment Area (Riverfront Area), and
- (5) The focus of the restaurant to provide a dining experience rather than an alcohol consumption experience.

Community Participation and Commitment. The RDC will consider the Applicant's:

- (1) Commitment to the area and the St. John community in general, and
- (2) The proposed/actual impact of the business on the commercial and St. John area in general.

Location and Physical Elements. The RDC will consider:

- (1) The location of the restaurant,
- (2) The size, floor plan, and layout of the restaurant and exterior dining areas, if any,
- (3) The Applicant's plans to improve the facility in which they will operate and the consistency of such plans with the nature and architecture of the downtown area,
- (4) Any physical improvements to the restaurant, and
- (5) The expected timetable for work and business commencement.

Other Considerations. The RDC encourages Applicants to include in the Application any other factors that will aid the RDC and Town staff to evaluate the application. All other relevant considerations, favorable and unfavorable, will be considered.

Dining Experience. Consistent with the objectives and goals of the Town, it is not the intention of the RDC to encourage the establishment and/or recommend to the IATC any restaurant establishment that focus, whether intentionally or otherwise, on alcohol sales. Alcohol sales must compliment an upscale food menu and dining experience. Businesses that seek to establish a bar/restaurant environment have the option to seek a conventional Liquor License from the IATC. The Town staff and RDC cannot stress more the importance of this factor.

Application/Renewal Process

The Application Process is as follows:

1. The Applicant should meet with the Town Manager to review the application requirements and the proposed/current location prior to submitting a proposal for consideration. The RDC may establish a date for a public meeting of interested parties for the purpose of having questions answered. All communications concerning the application process shall be made through the Building and

Planning Director. No direct communication will be made by the applicant or others associated with the applicant to any RDC members. The Building and Planning Director will review the application with the Town Manager prior to submission to the RDC.

2. The Applicant will file, consisted with process outlined in the notice, a completed Application the St. John Riverfront Development Liquor License Permit and submit it to the Town Manager of the Town of St. John, along with the Applicant's completed Indiana IATC permit application. The Town application will be in the form promulgated by the RDC. Where appropriate, the form may include forms used by the IATC.
3. After review of the application, the Applicant may be invited to attend a public meeting of the RDC to present its project and to offer evidence to support its Application. The RDC reserves the right to limit public presentations to those applications it determines to be within the general parameters of the Guiding Factors.
4. Upon completion of the public meeting(s) and receipt by the RDC of all requested information from the Applicant(s) that the RDC believes is necessary to make an informed decision; the RDC will issue a written determination. As part of the Application process, the RDC may request the Applicant to accept certain requirements/conditions that will memorialize the representation made to the RDC. Such requirements/conditions shall be executed by the Applicant and attached to the written determination that is provided to the Clerk-Treasurer, the Town Manager and Building and Planning Director. The RDC may approve, reject or defer action on issuing a permit/license.
5. Upon an approval from the RDC and execution of the approved written commitment, the Applicant will move forward to the IATC to secure its Riverfront License.
6. If, in the opinion of the RDC, Town Manager and/or the Building and Planning Director, the Applicant fails to adhere to the requirements of the Criteria for License Allocation and Application Compliance Requirements (as amended); violates any requirements/conditions accepted as part of the Applicant's Application, and/or breaches any provision of the Written Commitments, the RDC, Town Manager and/or the Town's Building and Planning Director may object to the issuance of the Riverfront License and/or take any other action, including legal enforcement, to seek compliance and/or revocation of the Riverfront License.

The Renewal Process is as follows:

1. Under the terms of I.C. 7.1-3-19-17 and I.C. 7.1-3-19-9.5, as amended from time to time, holders seeking a renewal of their Riverfront License must forward a copy of all filings to the Town.
2. Notwithstanding any other notice requirements established by rule, regulation and/or the IATC, a holder of a Riverfront License shall notify the Building and Planning Director or his designee, in writing, at least 45 days prior to the expiration of its Riverfront License of its intent to seek renewal. This notice shall be in addition to any requirements under I.C. 7.1-3.19 et seq.
3. The RDC may, in its sole discretion, request that the holder of the Riverfront License appear before the RDC to address their and/or public questions prior to the IATC's action on the renewal of its Riverfront License.
4. The Town, RDC and/or the Town's Building and Planning Director may appear before the IATC to support, object, or otherwise participate in any proceeding.
5. If, in the opinion of the Town Council, RDC and/or the Town's Building and Planning Director, the Applicant fails to adhere to the requirements of the Criteria for License Allocation and Applicant Compliance Requirements (as amended); violates any requirements/conditions accepted as part of the Applicant's Application, and/or breaches any provision of the Written Commitments, the Town Council, RDC and/or the Town's Building and Planning Director may object to the reissuance of the Riverfront License and/or take any other action, including legal enforcement, to seek compliance and/or revocation of the Riverfront License.

Additional Requirements for Restaurants

1. The Act provides that an Applicant is not eligible to obtain a liquor license if, less than two years before the date of application, the applicant sold a retailer's permit that was subject to Indiana Code 7.1-3-22 et seq. and that was for a site within the downtown district or within 500 feet of the district. *Riverfront Licenses are nontransferable.*
2. All restaurants must be fully non-smoking and in full compliance with the State law and the Town's Smoking Ordinance.
3. The restaurant must comply with all building, health, and zoning laws and ordinances. The restaurant shall also comply with the architectural standards for the Town of St. John and US-41 Overlay District and, upon request, provide evidence of the restaurant's architectural approval by the Building and Planning Department.

4. The Holder/Applicant will enter into a Written Commitment with the Town of St. John to comply with the rules and any conditions that the Town places on the restaurant. Failure to abide by Written Commitment shall constitute grounds for the Town to seek suspension/termination of Applicant's ability to offer alcohol in its restaurant.
5. Upon request, Holder shall provide information and documentation to the Town that is requested for the purpose of determining compliance with the Written Commitment.

Compliance/Review/Enforcement

Successful Applicants that obtain Riverfront Licenses from the IATC are responsible for at all times operating their restaurants in compliance with their Application, Written Commitments and supporting information presented to the RDC and Town officials. Successful Applicants shall not change the name, location, ownership and/or otherwise make substantial changes in the operation of their restaurants (i.e. change in type of restaurant and/or cuisine, etc.) without notifying the Town's Building and Planning Director and, if deemed necessary, obtaining the approval of the RDC and Town. Requests for approval of the above changes must be submitted in writing to the St. John Building and Planning Director. Each Applicant will designate one key individual, who will maintain a direct association with the Town, while the Applicant maintains a Riverfront License.

Successful Applicants for Riverfront Licenses shall, upon request, be responsible for attending a meeting of the RDC and providing a report to the Commission concerning their operations. Applicants will be notified by the RDC in advance of the scheduling of a meeting. Applicants may be requested to provide documentation to the RDC in advance of the meeting including, but not limited to, alcohol/food sales, menu, hours of operation, documentation provided to the IATC in support of a request for a renewal of the Riverfront License.

Sale of Restaurant

The RDC has considered the issue of restaurant owners who wish to sell their restaurant. It is not the intent of the Town that the Riverfront Licenses would be transferred at a profit. Besides being an unearned windfall to the previous holder, it defeats one of the primary goals – make a Liquor License available to a restaurant entrepreneur at a nominal fee, so that funds that might have been needed to secure a Liquor License could be invested into the restaurant and food offerings. That said, the RDC appreciates that restaurant owners will, at some point, want to sell their business to new ownership and that, in certain circumstances, there may be value to the redevelopment area to have the Riverfront License transferred to another holder. In keeping with Purposes and Goals as

well as of Guiding Facts of the Riverfront License program contained herein, the RDC notes the following:

The RDC is willing to consider a request from a holder of a Downtown License to transfer to another entity if:

- i) the current holder is in good standing;
- ii) the current holder has operated their restaurant with a Riverfront License for a minimum of 5 years;
- iii) the proposed holder intends to maintain and operate the restaurant in a substantially similar manner;
- iv) the proposed owner submits an Application, as required by the RDC;
- v) the current holder and proposed owner provide documents and information requested by the RDC to substantiate that a substantial portion of the value of the Riverfront License is not included in the purchase price; and,
- vi) the current holder and proposed owner follow all applicable rules relating to the issuance of a Riverfront License.

Nothing in this provision shall be interpreted to suggest that a current holder has any right or the Town/RDC has any obligation to approve (or even consider) a transfer and such shall be at the sole and absolute discretion of the Town and RDC.

