

ORDINANCE AMENDMENT

THE TOWN OF SMITHFIELD HEREBY ORDAINS:

MUNICIPAL COURT

Creation of Municipal Court.

§60-1. Pursuant to R.I.G.L. § 45-2-5758, there is established a Municipal Court in the Town of Smithfield which shall assume jurisdiction of the subject matters set forth in Section 60-7 hereof on the date the Municipal Court Judge is appointed by the Town Council.

§60-2. Appointment; term; qualifications of Municipal Judge.

- (a) The Court shall be composed of one judge appointed by the Council. The judge shall serve until his or her successor shall be duly appointed.
- (b) The initial appointment, if made, shall terminate December 31, 2010. Each subsequent appointment, if made, shall be for a term of two years and shall be made by the Town Council at its (1st) meeting in January and terminate on December 31 of the even-numbered years. A judge shall hold office until his or her successor is appointed and qualified.
- (c) The Municipal Judge shall be an attorney-at-law in good standing who has been admitted to the practice of law in this State at least five (5) years prior to his/her appointment.
- (d) All the jurisdiction, power and authority of the Municipal Court shall be vested in the Municipal Judge who need not devote full time to the duties of the office.

§60-3. Witnesses; attendance; subpoenas.

The Court shall have the power to issue writs or summonses for witnesses, and compel their attendance, and to punish for contempt by fine or imprisonment. The Court may also execute search warrants to the extent the warrants could be executed by a judge of the District Court. ~~issue writs of habeas corpus and testificandum, upon continuance of any complaint or proceeding before it, may take recognizance to the state, with sureties in such sum as the court shall deem proper, with the condition to appear before the court and make further answer to such complaint or proceeding, and in the meantime to keep the peace, and, in want thereof, may commit the same to the state adult correctional institutions until such recognizance shall be given, or the parties lawfully discharged therefrom.~~

§60-4. Municipal Court Clerk; appointment and duties.

- (a) The Town Council ~~shall~~may appoint a clerk of the municipal court who shall serve at the pleasure of the Council.
- (b) ~~The term of the appointment for clerk shall be made in the same manner and shall be~~

~~concurrent with the term of office of the judge. The initial term of appointment shall terminate December 31, 2010. Each subsequent appointment shall terminate on December 31, 2010. Each subsequent appointment shall terminate on December 31 of the even numbered years.~~

~~(e)(b)~~ The clerk of court shall keep a regular docket of all cases disposed of; shall record the judgments, orders, and sentences of the court; and shall furnish certified copies of such documents when required, for which copies the clerk shall charge the same fees as are by law allowed to clerks of the superior court. The clerk shall keep the office open to the public during such hours as the Court shall determine.~~and shall also serve as magistrate and bail commissioner, setting bail for defendant until the court is in session.~~

~~(d)(c)~~ Nothing contained in this section shall prohibit the Town administration from providing the secretarial and administrative assistance necessary for the Court to perform its duties and responsibilities.

~~(e)(d)~~ Nothing contained in this section shall prohibit the Town Clerk from also becoming the Municipal Court Clerk.

§60-5. Seal; oaths.

(a) The Municipal Court shall have a seal which shall contain such words and device as the Council shall adopt and approve.

(b) The Judge ~~and the Municipal Court Clerk~~ shall have the power to administer oaths and affirmations.

§60-6. Sessions; time; place; and autonomy.

The Municipal Court shall be considered to be in session at all times and at such place or places in the Town as the Municipal Court or Judge holding Municipal Court shall determine subject to the provisions however that regular court sessions shall be held at such times and places as determined by the Town Council. With the exception of designating the regular location, dates and times of court sessions, the affairs of the Municipal Court shall not be subject to supervision by the Town Council or any other Town agency official.

§60-7. Jurisdiction.

(a) Effective on the date the Municipal Judge is appointed by the Town Council, the Council ~~hereby~~ confers on the Municipal Court original jurisdiction to hear and determine causes involving violations of:

- (1) The Smithfield Home Rule Charter and Any ordinance of the Town; and
- (2) Minimum housing ordinances, including any violation of G.L. 1956, § 45-24.3-1 et seq., the Rhode Island Housing, Maintenance and Occupancy Code.

~~(3) — Any other jurisdiction conferred by state law.~~

(b) Any defendant found guilty of any offense, excluding violations of the minimum housing ordinances, or G.L. 1956, § 45-24.3-1 et seq., may within seven days of such conviction file an appeal from such conviction to the Providence County Superior Court and be entitled in the latter court to a trial de novo; and provided further, however, that any defendant found guilty of any violation of a minimum housing ordinance, or of G.L. 1956, § 45-24.3-1 et seq. within seven days of such conviction file an appeal from such conviction to the Sixth Division of the District Court and be entitled to a trial de novo in accordance with G.L. 1956, §§ 8-8-3(a)(4) and 8-8-3.2.

(c) With respect to violations of municipal ordinances dealing with minimum housing, or G.L. 1956, § 45-24.3-1 et seq., the Council hereby confers upon the Municipal Court, in furtherance of such jurisdiction, the power to proceed according to equity to:

- (1) Restrain, prevent, enjoin, abate, or correct a violation;
- (2) Order the repair, vacating, or demolition of any dwelling existing in violation; or
- (3) Otherwise compel compliance with all provisions of such ordinances and statutes.

§60-8. Fines; penalties; imprisonment.

The Municipal Court may impose a sentence not to exceed 30 days in jail and impose a fine not in excess of \$500.00, or both, and shall be empowered to punish persons for contempt.

§60-9. Complaints; warrants; writs.

It shall be lawful for the Judge of the Court to prescribe and vary the form of all complaints, warrants, writs, or other process as to make the same consistent with the organization, style, and jurisdiction of the Court. Such complaints, warrants, writs, and other process shall have the same effect, validity, and extent, and be served, obeyed, enforced, and returned, in the same manner and by the same officers, as if issued from the District Courts. They may be served by any constables of the Town who are authorized to serve process in civil or criminal cases.

§60-10. Costs.

- (a) The Municipal Court shall be authorized to impose court costs in the amount which shall be set by the Council by resolution, and the payment of such costs shall be a part of the sentence.
- (b) All payments shall be deposited in the general treasury of the Town, and the Treasurer shall remit to the State those assessments required by the General Laws.

§60-11. Compensation of Municipal Court Judge and Municipal Court Clerk.

- (a) The compensation of the Judge of the Municipal Court shall be set by the Council.
- (b) The compensation of the Clerk of the Municipal Court shall be set by the Council.

§60-12. Acting judge and acting clerk; vacancy.

~~(a) In cases of sickness, absence, or other disability or ineligibility of the Municipal Court Judge or the Municipal Court Clerk that shall be less than 14 days, the Judge may appoint an acting Judge, and the Clerk may appoint an acting Clerk, at the same compensation, or at such salary as the Council may determine, for the term of such sickness, absence, disability or ineligibility of a Judge or Clerk.~~

~~(b) An acting Municipal Court Judge or acting Municipal Clerk shall perform all duties of the Municipal Court Judge or Municipal Court Clerk, respectively.~~

~~(e)~~(a) In case of a ~~prolonged~~temporary sickness, absence, or other disability or ineligibility of the Municipal Court Judge or the Municipal Court Clerk that shall be in excess of 14 days, the Council may appoint an acting Municipal Court Judge or an acting Municipal Court Clerk, respectively, for the term of such sickness, absence, disability, or ineligibility of the Municipal Court Judge or Municipal Court Clerk, respectively, at the same compensation or at such salary as the Council may determine. The actions of an acting Municipal Court Judge or Municipal Court Clerk, respectively, in the performance of their duties, shall have the same effect as if performed by the Municipal Court Judge or Municipal Court Clerk, respectively.

(b) If during a term of office a Municipal Court Judge dies, resigns, or ceases to meet the qualifications of the office, the position shall thereupon be declared vacant by the Town Council and the vacancy shall be filled for the remainder of the term in the same manner as the original appointment by the Town Council.

THIS ORDINANCE AMENDMENT WILL BECOME EFFECTIVE AT THE EXPIRATION OF THIRTY (30) DAYS AFTER ADOPTION.

ORDINANCE INTRODUCED BY
TOWN COUNCIL PRESIDENT
RONALD F. MANNI

ORDINANCE AMENDMENT
APPROVED AS TO FORM:

EDMUND L. ALVES, JR.

TOWN SOLICITOR