

TOWN OF PORTSMOUTH, RI
Ordinance # 2023-2-27

**AN ORDINANCE AMENDING THE TOWN CODE OF THE
TOWN OF PORTSMOUTH**

Be it ORDAINED by the Town Council of the Town of Portsmouth:

Section 1. Chapter 12 of the Town Code entitled “Court, Municipal” is hereby amended as follows:

§ 12-1 Establishment.

Pursuant to R.I.G.L. § 45-2-62.1, there is established: (1) a Municipal Court in the Town of Portsmouth which shall assume jurisdiction of the subject matters set forth in § 12-7.A; and (2) a Municipal Housing Court which shall assume jurisdiction of the subject matters set forth in § 12-7.B hereof. The two courts shall sit concurrently as the “Portsmouth Municipal and Housing Court” under a single docket to hear and determine causes involving violations within their respective jurisdiction.

§ 12-2 Appointment, term, and qualifications of Judge.

- A. The Municipal and Housing Court shall be composed of one Judge appointed by the Town Council who shall serve as the Judge of both Courts. The Judge shall serve at the pleasure of the Town Council.
- B. The Judge shall be a lawyer admitted to practice law in this state by the Rhode Island Supreme Court, shall be in good standing, and shall have not less than five years' experience in the active practice of law.

§ 12-3 Witnesses; attendance; subpoenas.

The Municipal and Housing 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 issue writs of habeas corpus ad testificandum, upon continuance of any complaint or proceeding before it, may take recognizance to the state, with surety or 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.

§ 12-4 Municipal and Housing Court Clerk; appointment and duties.

- A. The Town Council shall appoint a Clerk of the Municipal and Housing Court who shall serve at the pleasure of the Council.

- B. The Clerk of the Municipal and Housing 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 thereof 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 be responsible for the administration of the Court.
- C. Nothing contained herein shall prohibit the Police Department or the Town administration from providing the secretarial and administrative assistance necessary for the Municipal and Housing Court to perform its duties and responsibilities.
- D. Nothing contained herein shall prohibit the Town Clerk from also becoming the Municipal and Housing Court Clerk.

§ 12-5 Seal; oaths.

- A. The Municipal and Housing Court shall have a seal, which shall contain such words and device as the Town Council shall adopt and approve.
- B. The Municipal and Housing Court Judge and the Municipal and Housing Court Clerk shall have the power to administer oaths and affirmations.

§ 12-6 Sessions; time; place.

The Municipal and Housing Court shall be considered to be in session at all times and at such place or places in the Town as the Court, or Judge holding same, shall appoint.

§ 12-7 Jurisdiction.

- A. The Town Council hereby confers on the Municipal Court original jurisdiction to hear and determine causes involving violation of the Portsmouth Code of Ordinances; provided, however, that any defendant found guilty of any offense, excluding violations outlined in subsection B of this section, may within seven (7) days of conviction, file an appeal from the conviction to the Superior Court and be entitled to a trial de novo.
- B. The Town Council hereby confers on the Municipal Housing Court original jurisdiction to hear and determine causes involving the violation of the zoning ordinances of the town and any violation of the provisions of R.I.G.L. chapter 24 of title 45 (Rhode Island zoning enabling act of 1991); any violation of R.I.G.L. chapter 24.1 of title 45 (historical zoning act); any violation of R.I.G.L. chapter 24.2 of title 45 (minimum housing standards act); any violation of R.I.G.L. chapter 24.3 of title 45 (housing maintenance and occupancy code); any violation of R.I.G.L. chapter 23 of title 45 (subdivision and land development act); any violation of any local Portsmouth ordinance or regulation enacted pursuant to these chapters; and any violation of the provisions of chapter 27.3 of title 23 (Rhode Island state building code); and any violation of the provisions of those regulations promulgated by the state building code commission entitled SBC-1 Rhode Island state building code; SBC-2 Rhode Island state one- and two-family (2) dwelling code; SBC-3 Rhode Island state plumbing code;

SBC-4 Rhode Island state mechanical code; SBC-5 Rhode Island state electrical code; SBC-6 state property maintenance code; SBC-8 Rhode Island state energy conservation code; and SBC-20 Rhode Island state fuel and gas code; and provided, further, that any party aggrieved by a final judgment, decree, or order of the Portsmouth Municipal Housing Court may, within twenty (20) days after entry of this judgment, decree, or order, file an appeal to the Superior Court and be entitled to a trial de novo.

C. With respect to violations falling under the jurisdiction of the Municipal Housing Court, as outlined in subsection B of this section, the Town Council hereby confers upon the Municipal Housing Court, in furtherance of the aforementioned jurisdiction, the power to proceed, according to equity:

- (1) To restrain, prevent, enjoin, abate, or correct a violation;
- (2) To order the repair, vacating, or demolition of any dwelling existing in violation;
- (3) To otherwise compel compliance with all provisions of ordinances, regulations, and statutes; and
- (4) To order a dwelling into receivership and to order the removal of any cloud on the title to the building or property that shall be binding upon all those claiming by, through, under, or by virtue of any inferior liens or encumbrances pursuant to R.I.G.L. chapter 44 of title 34.

§ 12-8 Fines; penalties.

The Municipal and Housing Court may impose fines not in excess of \$500 per violation, and shall be empowered to punish persons for contempt.

§ 12-9 Complaints; warrants; writs.

It shall be lawful for the Judge of the Municipal and Housing 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, and 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; and they may be served by any constables of the Town who are authorized to serve process in civil or criminal cases.

§ 12-10 Costs.

- A. The Municipal and Housing Court shall be authorized to assess court costs in the amount of \$50 for each offense charged, 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.

- C. The costs incurred by the Town in securing a police officer's presence, upon the request of the defendant, shall be charged to the defendant in the event he or she should fail to appear.

§ 12-11 Compensation of Municipal and Housing Court Judge and Clerk.

- A. The compensation of the Judge of the Municipal and Housing Court shall be set by the Town Council.
- B. The compensation of the Clerk of the Municipal and Housing Court shall be set by the Town Council.

§ 12-12 Acting Judge; Acting Clerk.

- A. In cases of sickness, absence, or other disability or ineligibility of the Municipal and Housing Court Judge or Clerk which shall be less than 45 days, the Town Council may appoint an Acting Judge or an Acting Clerk, respectively, at the same compensation or at such salary as the Town Council may determine for the term of such sickness, absence, disability or ineligibility of the Judge or Clerk. An Acting Municipal and Housing Court Judge or Acting Municipal and Housing Court Clerk shall perform all duties of the Municipal and Housing Court Judge or Municipal and Housing Court Clerk, respectively.
- B. In case of a prolonged sickness, absence, or other disability or ineligibility of the Municipal and Housing Court Judge or the Municipal and Housing Court Clerk that shall be in excess of 45 days, the Town Council may, by resolution, appoint an Acting Municipal and Housing Court Judge or an Acting Municipal and Housing Court Clerk, respectively, for the term of such sickness, absence, disability or ineligibility of the Municipal and Housing Court Judge or the Municipal and Housing Court Clerk, respectively, at the same compensation or at such salary as the Town Council may determine. An Acting Municipal and Housing Court Judge or Acting Municipal and Housing Court Clerk shall perform all duties of the Municipal and Housing Court Judge or Municipal and Housing Court Clerk, respectively, and in the performance of those duties shall have the same effect as if performed by the Municipal and Housing Court Judge or Municipal and Housing Court Clerk, respectively.
- C. In case the Municipal and Housing Court Judge must recuse due to a conflict in a specific case, the Portsmouth Probate Court Judge shall sit as the Municipal and Housing Court Judge.

Section 2. This Ordinance shall take effect upon passage.

**ADOPTED BY TOWN COUNCIL
ACTION ON: February 27, 2023**


Jennifer M. West, Town Clerk