

**PART II**

**CODE OF ORDINANCES**

**Chapter 1**

**GENERAL PROVISIONS**

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**Sec. 1-1. Designation, citation of Code.**

The ordinances embraced in this and in the following chapters shall be designated and cited as the "Code of Ordinances, Town of North Smithfield, Rhode Island."

**Charter References:** Requirement and authority to codify, Art. XVI, § 9.

**Sec. 1-2. Rules of construction.**

In the construction of this Code and of all ordinances hereafter enacted, the following interpretations shall be placed on the words and phrases hereinafter mentioned, unless such construction or interpretation shall be manifestly inconsistent with the evident intent of the town council or repugnant to the context or to the evident purport of any ordinance:

*Computation of time.* The time in which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday or a legal holiday, that shall be excluded.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-13.

*Corporate limits, corporation limits, town limits.* Whenever the words "corporate limits," "corporation limits" or "town limits" are used they shall mean the legal boundary of the Town of North Smithfield.

*Council.* The words "the council" shall mean the town council of the Town of North Smithfield.

*County.* The words "the county" or "this county" shall mean the County of Providence in the State of Rhode Island.

**State Law References:** Included in Providence County, G.L. 1956, § 42-3-2.

*Delegation of authority.* Whenever a provision appears requiring the head of a department or other officer of the town to do some act or to make certain inspections, it is to be construed to authorize the head of the department or other officer of the town, as the case may be, to designate, delegate and authorize subordinates to

perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

*Gender.* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-3.

*Interpretation.* In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

*Joint authority.* All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-5.

*Keeper, proprietor.* The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

*Month.* The word "month" shall mean a calendar month.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-12.

*Municipal.* Whenever the word municipal is used it shall refer to and mean only the Town of North Smithfield as it owns, regulates, operates or maintains through its town council, boards, commissions, committees and/or agencies within said town limits.

*Name of officer.* Whenever the name of an officer is given it shall be construed as though the words "of the Town of North Smithfield" were added.

*Nontechnical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-4.

*Oath.* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

**State Law References:** Similar provisions, G.L. 1956, § 43-3-11.

*Or, and.* "Or" may be read "and," and "and" may be read "or," if the sense requires it.

*Owner.* The word "owner" applied to a building or land shall include any part owner, joint owner, tenant in

common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

*Person.* The word "person" shall include a corporation, firm, partnership, association, organization, club, society, body corporate or politic, or any other group acting as a unit, as well as a natural person.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-6.

*Personal property.* The term "personal property" shall include every species of property except real property, as herein described.

*Preceding, following.* The words "preceding" and "following" shall mean next before and next after, respectively.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-16.

*Premises.* Whenever the word "premises" is used it shall mean place or places.

*President.* Whenever the word "president" is used it shall mean the president of the town council.

*Property.* The word "property" shall include real and personal property.

*Public place.* The term "public place" shall include, without limitation, any park, cemetery, school yard or open space adjacent thereto, and all beaches, canals or other waterways, and any public street or way.

*Real property.* The term "real property" shall include lands, tenements and hereditaments and rights thereto and interests therein.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-10.

*Residence.* The term "residence" shall be construed to mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

*Seal.* Whenever the word "seal" is used it shall mean the town or corporate seal.

*Sidewalk.* The word "sidewalk" shall mean any portion of a street between the vertical curblineline or the edge of the pavement or the edge of a traveled way and the adjacent property line, intended for the use of pedestrians, excluding parkways; such portion or "sidewalk" is sometimes designated and known as the pavement "border" area.

*Signature, subscription.* The "signature" or "subscription" of a person shall include a mark when the person cannot write.

*State.* The words "the state" shall be construed to mean the State of Rhode Island.

*Streets, highways, ways.* The words "streets," "highways" and "ways" when used in an ordinance, shall be construed as including public boulevards, avenues, courts, lanes, alleys, squares, drives, roads, corners and sidewalks.

*Tenant.* The word "tenant" or "occupant" applied to a building or land shall include any person holding a written or oral lease of, or who occupies, the whole or a part of such building or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Town.* The words "the town" shall mean the Town of North Smithfield in the County of Providence and the State of Rhode Island.

*Week.* The word "week" shall be construed to mean seven days.

*Written, in writing.* The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

**State Law References:** Similar provisions, G.L. 1956, § 43-3-16.

*Year.* The word "year" shall mean a calendar year.  
(Ord. of 4-1-91)

### **Sec. 1-3. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section, and unless otherwise expressly so provided, shall not be deemed or taken to be titles of such sections, or as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

### **Sec. 1-4. Effect of repeal of ordinance.**

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

**State Law References:** Similar provisions, G.L. 1956, §§ 43-3-22--43-3-24.

### **Sec. 1-5. Severability of parts of Code.**

It is hereby declared to be the intention of the town council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the Code, since the same would have been enacted by the town council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

### **Sec. 1-6. Supplementation of Code.**

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed

whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the town council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-7. Prosecution where same act unlawful under different provisions.**

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the town, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

**Sec. 1-8. Altering Code.**

It shall be unlawful for any person in the town to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-9 hereof.

**Sec. 1-9. General penalty; continuing violations.**

(a) Whenever in this Code or in any ordinance or resolution of the town any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific punishment is provided therefor or where no greater punishment therefor is authorized by state law, the violation of any such provision of this Code or any such ordinance or resolution shall be punished by a fine of not more than \$100.00 or by imprisonment of not more than 30 days. Each day any violation of this Code or of any such ordinance or resolution shall continue shall constitute a separate offense.

(b) In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance or resolution shall be deemed a public nuisance and may be abated by the town as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. 1523, § 2, 12-16-92)

**State Law References:** Limitation on penalties, G.L. 1956, § 45-6-2; \$100.00 penalty authorized for violating a building ordinance, §§ 23-27-4, 23-28.4-4; limitation on penalty for hindering building inspector, § 23-28.5-6, and for failure to vacate unfit dwelling, § 23-19-8; violation by secondhand dealer, §§ 5-21-1, 5-21-5; itinerant vendors, § 5-15-5; failure to remedy nuisance, § 23-19-5; violation of housing standards, § 45-24.2-7; violating Sunday and holiday closing ordinance, § 5-23-4; keeper of bowling alley, etc., Ch. 5-2; sale of unapproved subdivision land, § 45-23-12.