

ARTICLE IV. TOWN COUNCIL

Sec. 1. Number, selection, terms.

The town council shall consist of five members elected from the town at large, each to serve for a term of two years, such term to begin on the first day of December next following their election, or until their successors are elected and qualified.

Sec. 2. Qualifications.

Members of the town council shall be qualified electors of the Town of North Smithfield and shall hold no other public office or employment in the service of the town or an elective office in the state or federal government. Current service as notary public, justice of the peace, membership in the national guard or naval, air or military reserve shall not disqualify persons for council membership. If a member of the town council shall cease to possess any of these qualifications his office shall immediately become vacant.

Sec. 3. Vacancies.

Any vacancy in the membership of the town council may in the discretion of said council be filled for the unexpired term, except that if a vacancy in the council shall occur more than one year prior to the time for the holding of an election, the council shall, within 30 days after the vacancy occurs call a special election for the purpose of filling such vacancy.

Sec. 4. Presiding officer.

At its organization meeting, upon the election of a new town council, the town council shall elect one of its members as town council president. The president shall preside at meetings of the council, but he shall have no administrative duties. Such office shall not deprive the council president of his vote on any question. At said meeting the council shall elect from its members a president pro tempore who shall perform the duties of the president in the absence or disability of the president.

Sec. 5. Compensation.

The president of the town council and the members shall receive such annual compensation as the council shall fix by ordinance, provided that no change in compensation shall take effect until after the next biennial election and installation of the newly elected town council.

(Amend. of 11-2-2010)

Sec. 6. Quorum.

Three members of the town council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least 48 hours notice of the holding of an adjourned meeting shall be given all members who were not present at the meeting from which the adjournment was taken.

Sec. 7. Meetings.

The first meeting of the newly elected town council for induction into office and organization shall be held at 8:00 p.m., on the first day of December. Thereafter, the town council shall meet regularly at such time and at such place as may be prescribed by its rules but not less frequently than once each month. A special meeting of the town council shall be called by the town clerk at the request of the town council president or a majority of the members of the town council. Notice of a special meeting shall be given to each member at least 48 hours previous to the time of such meeting. The town council may meet upon shorter notice by unanimous consent of all its members which shall be entered in the record of proceedings. The purpose of a special meeting shall be stated in the notice of the meeting and no business shall be transacted at any special meeting other than that which has been stated in the notice. All meetings of the town council shall be open to the public, and citizens shall have a reasonable opportunity to be heard, except that this provision shall not be deemed to prevent the holding of executive sessions, provided that all votes are taken in public.

State law reference-Emergency location of town government, G.L. 1956, § 30-15.2-1.

Sec. 8. Powers.

The town council shall be the policy-determining body of the town. All powers of the town excepting such as may belong to the town meeting or to other agencies as provided in the charter and by law shall be vested in the town council. Without limitation of the foregoing grant or of other powers given to it by this charter, the town council shall have the power:

- (1) To determine its own rules and order of business and keep a journal of its proceedings which shall be open to public inspection in the office of the town clerk;
- (2) To judge the eligibility of its own members subject to review by the courts on questions of fact and law;
- (3) To enact, amend or repeal rules, ordinances and resolutions for the government of the town which have to do with the preservation of the public peace, health, safety, welfare and comfort of the inhabitants and the protection of persons and property, and other municipal functions. The town council may provide reasonable penalties in accordance with the law for the violation of any ordinances;
- (4) To create, change and abolish departments, offices and agencies other than those established by this charter and distribute the work among them, and assign additional functions or duties to departments, offices and agencies established by or under this charter, but may not discontinue or assign to any other department, office or agency, any function or duty assigned by this charter to a particular department, office or agency;
- (5) To inquire into the conduct of any office or officer, department or agency of the town;
- (6) To fill all vacancies in all elective or council appointive offices, boards and commissions for the remainder of the respective terms thereof except as specifically provided otherwise

in this charter;

- (7) To establish by ordinance the compensation that may be paid to all elective or appointive officers and employees, including board and commission members of the town and stipulate the amount in each instance, except where specifically provided otherwise in this charter;
- (8) To provide by ordinance for a personnel classification system in conformity with provisions of this charter and applicable general and special laws;
- (9) To act as a board of personnel review in receiving, considering and disposing of appeals from dismissals, suspensions, demotions, transfers and layoffs of appointive officers and employees of the town;
- (10) To provide rules and regulations with respect to vacations of town officials and employees, except those of the school department;
- (11) To fix the amount of the official bonds of all officers of the town, who in the opinion of the town council should be bonded, the premium of such bonds to be paid by the town;
- (12) To approve the annual budget after a public hearing;
- (13) To amend budget recommendations submitted by the budget committee;
- (14) To take any action necessary to give effect to any vote of the town's electors at a regular or special election authorizing the issuance of bonds for any purpose and to complete all the details of the bond transaction;
- (15) To review any special assessment upon request of a property owner and order correction or confirmation of same;
- (16) To enact and amend, as prescribed by statute, the zoning ordinance;
- (17) To elect such number of constables to serve civil process as it shall from time to time determine and charge and collect for licenses issued to such constables such fees as the town council shall fix by ordinance but such fees shall not be less than \$5.00 nor more than \$25.00;
- (18) To grant, suspend or revoke licenses in accordance with law;
- (19) To provide for the audit at any time of the accounts of the town or any of its departments and to provide for an annual audit as hereinafter prescribed;
- (20) To enact and amend ordinances relating to the town's property, affairs and government not inconsistent with the state constitution and laws;

- (21) To issue subpoenas to compel witnesses to testify and produce records as prescribed by law;
- (22) To appoint committees of the council which may investigate and report on any matter referred to it and make a recommendation thereon but no committee shall have any executive or legislative powers and all matters shall be determined by the council as a whole;
- (23) The Town Council shall have the authority to ratify all collective bargaining agreements negotiated for the Town, including all collective bargaining agreements under School Committee jurisdiction, after a public hearing;
- (24) No department, agency, board or commission of the Town, including the School Department, shall modify the health, retirement and pension benefit programs of its employees resulting in increased costs or expenditure to the town without prior approval of the Town Council. Approval shall be by a vote of the Town Council. A minimum of three (3) affirmative votes is required to approve modification(s). Modifications made by the providers of the health, retirement and pension plans do not require approval of the Town Council.

(Amend. of 11-4-75; Amend. of 11-7-89, § 3; Amend. of 11-4-2014 § 23 and 24)

Sec. 9. Procedures.

(1) *Ordinances:* The town council may act by rule, ordinance or resolution. In addition to the case in which an ordinance is required by any specific provision of this charter or any applicable law, any action taken under the provisions of Article IV (section 8 (3), (8), (16)) shall be by ordinance only.

(2) *Passage of ordinances:* Every proposed ordinance shall be filed with the town clerk by a member of the town council or the town administrator not later than four business days previous to the day of the meeting at which it is to be introduced. The town clerk shall forthwith provide each member of the council and the town administrator with a copy thereof and shall post one copy of such ordinance in some place accessible to the public in the Town Hall.

Every ordinance, other than an emergency ordinance, shall be read the first time by title and explained by its proponent at the meeting at which it is introduced and then referred to a subsequent regular (or special) meeting for action. If, in the meantime, a petition signed by at least 20 qualified voters be filed with the town clerk requesting a public hearing, a public hearing shall be held at the meeting next following introduction of the ordinance, and no action shall be taken on the ordinance until the conclusion of the hearing. A public hearing shall be mandatory on any ordinance amending the zoning ordinance, granting a franchise or creating or amending a personnel classification system and no such ordinance shall be passed as an emergency ordinance.

The affirmative vote of three councilmen present shall be necessary for the passage of any

ordinance. The vote upon any ordinance shall be by roll call and entered on the record of proceedings. A vote by roll call shall be taken on any other matter at the request of any two members.

(3) *Publication of ordinance:* After passage there shall be published within fifteen days in a newspaper with general circulation in the town, a notice describing the ordinance in brief and general terms and within the same period the entire ordinance shall be made available for public inspection in the office of the town clerk.

(4) *Effective date of ordinance:* Every ordinance, unless it shall specify another date, shall become effective at the expiration of 20 days after such publication following passage.

(5) *Emergency measures:* The power to declare an emergency affecting the public peace, health, safety, comfort and welfare of the inhabitants of the town and for the protection of persons and property is placed in the town administrator by this charter but the town council may by ordinance ratify the action of the administrator and/or direct him to take additional or different action in dealing with the emergency and may by resolution declare the emergency closed. Enactments by the town council dealing with an emergency or emergencies may be adopted on the day of introduction without a previous filing with the town clerk, shall contain a declaration of the existence of the emergency which declaration shall be conclusive as to the existence of such emergency, and shall take effect upon their passage.

(6) *Ordinance enacting clause:* The enacting clause of all ordinances shall be: "*It is Ordained by the Town Council of North Smithfield, Rhode Island, as follows:*"
(Amend. of 11-4-75)

Sec. 10. Audits.

(1) *Annual town audit:* The town council shall provide for an annual detailed audit of the financial records of the town for the preceding fiscal year, such audit to be made within four months after the close of such fiscal year. Such audit may be conducted either by state auditors or by a certified public accountant. Audits shall be made without competitive quotes and shall conform with the bidding practices for professional service as prescribed by this Charter and other town ordinances and standards as promulgated by the American Institute of Certified Public Accountants. A copy of the audit report for each year shall be filed with the town clerk and shall be a public record.
(Amend. of 11-2-2010)

(2) *Audits of nonbusiness corporations:* The town council shall annually request all nonbusiness corporations in the Town of North Smithfield receiving funds appropriated by the annual financial town meeting to submit to it an audit report by one or more independent certified public accountants holding a certificate from the State of Rhode Island. A copy of such audit to be placed on file in the office of the town clerk.

Sec. 11. Probate court.

(1) *Authority:* The powers and duties of a probate court for the town shall be exercised and performed by a judge of probate.

(2) *Appointment:* The town council by resolution shall appoint a judge of probate to serve for a term of office concurrent with that of the council and until his successor is appointed and qualified.

(3) *Qualifications:* The judge of probate shall be an attorney-at-law in good standing who has been admitted to the practice of law in this state, with preference given to a qualified elector of the town.

(4) *Acting probate judge:* In the absence, disability or disqualification of the judge of probate so that he is unable to perform his duties, the town solicitor shall serve acting judge of probate and when so serving shall have and exercise all the powers and duties of the judge of probate; provided that, if the vacancy caused by the absence of the judge of probate is to be or has been more than 90 days, the town council by resolution shall appoint another judge of probate to fill out the unexpired term.

(5) *Clerk of probate court:* The clerk of probate court shall be the town clerk. All fees paid into the probate court shall inure to the benefit of the town and shall be paid over to the director of finance by the clerk of the probate court.

(6) *Compensation:* The town council shall determine and fix the salary of the judge of probate.

(7) *Sessions:* The sessions of the probate court shall be held at least once each month.