

2024 -- H 8323

LC005697

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO THE TOWN OF JOHNSTON MUNICIPAL COURT

Introduced By: Representatives Cardillo, Costantino, Azzinaro, Lima, Perez, Noret,
O'Brien, Shanley, Batista, and Phillips

Date Introduced: May 30, 2024

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 120 of the Public Laws of 1964, entitled "An Act Providing for a
2 Police Court in the Town of Johnston" is hereby repealed in its entirety:

3 ~~Section 1. Police court Judges. There is hereby created a police court in the town of~~
4 ~~Johnston, consisting of as many judges, not exceeding two (2), as shall be elected by concurrent~~
5 ~~vote of the town council and all the jurisdiction, power and authority of said court shall be vested~~
6 ~~in any one justice thereof. Any judge elected or appointed to said court shall be required to have~~
7 ~~been a member of the bar of the state of Rhode Island at least four (4) years prior to his appointment~~
8 ~~and be a qualified elector of the town.~~

9 ~~Sec. 2. Seal Oaths. The police court shall have a seal which shall contain such words and~~
10 ~~device as the court shall adopt. The judges and clerk of the police court shall have power to~~
11 ~~administer oaths and affirmations.~~

12 ~~Sec. 3. Judges Election Terms. The town council shall elect in the month of January in~~
13 ~~each odd numbered year as many judges, not exceeding two (2), of the police court and the judge~~
14 ~~or judges so elected shall hold office until the first day of February in the second year next after his~~
15 ~~or their election and until his or their successor or successors are elected and qualified.~~

16 ~~Sec. 4. Vacancies in office of justice. In case there be a vacancy in the office of a justice,~~
17 ~~from any cause, the town council shall appoint some person to fill said vacancy for the balance of~~
18 ~~the unexpired term, and until his successor is elected and qualified.~~

19 ~~Sec. 5. Clerk Appointment Term. The judge or judges elected by the town council in the~~

1 ~~month of January in each odd-numbered year, as soon after his or their election, shall appoint a~~
2 ~~clerk of the police court. The person so appointed shall hold office until the first day of February~~
3 ~~in the second year next after his appointment and until his successor is appointed and qualified.~~
4 ~~The clerk shall be a qualified elector of the town but he shall not be required to be a member of the~~
5 ~~bar of the state of Rhode Island.~~

6 ~~Sec. 6. Vacancies in office of clerk. In case of a vacancy in the office of clerk, from any~~
7 ~~cause, the judge or judges of the police court, as the case may be, shall appoint some person to fill~~
8 ~~such vacancy for the balance of the unexpired term and until his successor is appointed and~~
9 ~~qualified.~~

10 ~~Sec. 7. Authority in absence of judge. In case of the sickness, absence from the town or~~
11 ~~other disability or ineligibility of the justices of the police court, the clerk of the police court shall~~
12 ~~have all the powers and duties of a justice of said court, and said clerk shall certify upon the records~~
13 ~~of said court the days and dates upon which, and the occasion for which the duties of the justice~~
14 ~~are performed by said clerk. In the absence or disability of the clerk of said court, or during such~~
15 ~~time as said clerk may be acting as justice of said court, the deputy clerk of said court shall have~~
16 ~~all the powers and duties of the clerk of said court.~~

17 ~~Sec. 8. Appointment of deputies. The clerk of the police court, with the approval of the~~
18 ~~justices of the police court, may appoint one or more deputy clerks who, being sworn, shall hold~~
19 ~~office until removal by said clerk or by the justices thereof. Said deputy clerks shall discharge all~~
20 ~~the duties of the clerk until removed by the clerk or the court. The clerk shall fix the compensation~~
21 ~~of his deputies within the amount appropriated therefor, and shall be liable for his misconduct or~~
22 ~~neglect of duty.~~

23 ~~Sec. 9. Employment of clerical assistance by clerk. The clerk of the police court, with the~~
24 ~~approval of the justices thereof, is hereby authorized and empowered to employ such clerical~~
25 ~~assistants in addition to said deputy clerks, as he may require in his office in copying, recording,~~
26 ~~indexing and attending upon the files of said court.~~

27 ~~Sec. 10. Sessions Time Place. The police court shall be considered to be in session at all~~
28 ~~times, and at such place or places in said town as the said court or the justice holding the same shall~~
29 ~~appoint.~~

30 ~~The police court shall have original jurisdiction of all offenses against the ordinances, by-~~
31 ~~laws, rules and regulations of the freemen of the town of Johnston, of the town council of said town,~~
32 ~~where the fine, penalty, pecuniary forfeiture, for forfeiture of personal property, punishment or~~
33 ~~imprisonment, for any one offense shall not exceed two hundred dollars (\$200) and six (6) months~~
34 ~~imprisonment, or two hundred dollars (\$200) in value. The proceedings in all cases in said court,~~

1 ~~except as provided in section 18 hereof, shall be commenced by complaint and war rant, and all~~
2 ~~said fines, penalties, pecuniary forfeitures, forfeitures of personal property, punishments and~~
3 ~~imprisonments may be prosecuted for, recovered and im posed on complaint and warrant before~~
4 ~~said court, and on appeal therefrom before any proper court in any appellate proceedings.~~

5 ~~Sec. 12. Docket of cases. The clerk of said court shall keep a regular docket of all cases~~
6 ~~therein, including a record of all cases disposed of under section 18 hereof, shall record the~~
7 ~~judgments, orders and sentences of said court and shall furnish certified copies thereof when~~
8 ~~required, for which copies said clerk shall charge the same fees as are by law allowed to clerks of~~
9 ~~the superior court. He shall keep his office open to the public during such hours as the court shall~~
10 ~~determine.~~

11 ~~Sec. 13. Witnesses Attendance Subpoenas. Said court shall have power to issue writs of~~
12 ~~summons for witnesses, and compel their attendance, and to punish for contempt by a fine not~~
13 ~~exceeding twenty (\$20) dollars, or by imprisonment not exceeding ten (10) days. Said court may~~
14 ~~also issue writs of habeas corpus ad testificandum, and may commit to the state adult correctional~~
15 ~~institution or to the state training school for boys at Howard in Cranston, and, upon continuance of~~
16 ~~any complaint or proceeding before it, may take recognizance to the state, with surety or sureties~~
17 ~~in such sum as said court shall think proper with condition to ap pear before said court and make~~
18 ~~further answer to such complaint or proceeding, and in the meantime ,to keep the peace; and in~~
19 ~~want thereof may commit to the said state adult correctional institution or state training school for~~
20 ~~boys, until such recognizance shall be given or the parties be lawfully discharged therefrom.~~

21 ~~Sec. 14. Complaints, warrants, writs. It shall be lawful for any justice of said court so to~~
22 ~~prescribe and vary the form of all complaints, warrants, writs or other process, as to make the same~~
23 ~~consistent with the organization, style and jurisdiction of said court; and such complaints, warrants,~~
24 ~~writs and other process shall have the same effect, validity and extent, and be served, obeyed,~~
25 ~~enforced and returned, in the same manner and by the same officers, as if issued from the district~~
26 ~~courts; and they may also "be served by any constables of said town who are authorized to serve~~
27 ~~process in civil or criminal cases.~~

28 ~~Sec. 15. Appeal. Every person aggrieved by any sentence of said police court may appeal~~
29 ~~from such sentence to the superior court in and for Providence county, in the same manner and with~~
30 ~~the same procedure, and such appeal shall be disposed of in said superior court in like manner as is~~
31 ~~prescribed in the case of appeals in criminal cases from the sentence of any district court.~~

32 ~~Sec. 16. Costs. Costs taxed by the said police court costs shall be the same as those taxed~~
33 ~~by district courts, and the payment of the costs shall be a part of the sentence to the extent they~~
34 ~~would be in the district court.~~

1 ~~Sec. 17. Appeal costs.— All moneys derived from such appeals, whether for fine and costs,~~
2 ~~or otherwise, including costs imposed in said police court on such appealed cases shall be paid over~~
3 ~~and disposed of in like manner as moneys obtained in cases of appeal from district courts to said~~
4 ~~superior courts in criminal cases are paid over and disposed of.~~

5 ~~Sec. 18. Parking ticket violations Payment of fine. A person charged with a violation of~~
6 ~~any rule, regulation, resolution or ordinance relating to stopping, standing and parking of vehicles~~
7 ~~and notified in writing by a police officer to appear on a day and hour stated in such notice to~~
8 ~~answer such charge before the police court, instead of personally appearing in court, may in person~~
9 ~~or by one duly authorized by him in writing appear before the clerk of said court, admit the truth~~
10 ~~of said charge and pay to said clerk such fine as the town council shall from time to time by~~
11 ~~resolution or ordinance establish as a fixed penalty for such violation. Appearance, admission and~~
12 ~~payment shall be made at the office of said clerk during the office hours of said clerk within seven~~
13 ~~(7) days of such notification, and failure to appear within said time shall be deemed a waiver of the~~
14 ~~right to dispose of such charge without personal appearance in court. The payment of the fine to~~
15 ~~the clerk in the manner herein provided shall operate as a final disposition of such charge and~~
16 ~~such proceedings shall not be deemed criminal. The notice above provided shall indicate the offense~~
17 ~~charged and shall also contain such information as will enable the person charged to take advantage~~
18 ~~of the provisions of this clause. The right to dispose of such a charge without personal appearance~~
19 ~~in court may not be exercised by any person who in any consecutive period of twelve months next~~
20 ~~preceding such charge, has been three times in the aggregate adjudged guilty by said court of any~~
21 ~~violation relating to stopping, standing, and parking of vehicles or has admitted the truth of charges~~
22 ~~made against him, under the provisions of this clause.~~

23 ~~Sec. 19. Traffic violations Power of town council.— The town council shall have exclusive~~
24 ~~power to provide for the punishment of any person violating any rule, regulation, resolution or~~
25 ~~ordinance relating to stopping, standing and parking of vehicles by a fine of not less than one~~
26 ~~(\$1.00) dollar, nor more than twenty (\$20.00) dollars, and for the punishment of any person~~
27 ~~committing any other traffic offense with the jurisdiction of the police court by penalties not to~~
28 ~~exceed those authorized by this act.~~

29 ~~Sec. 20. Effect of town charter.— The provisions the town charter shall apply to the police~~
30 ~~court of the town and to the functions within the jurisdiction of the court to the extent that such~~
31 ~~provisions are consistent with this act. To the extent that such provisions are inconsistent with this~~
32 ~~act, the provisions of this act shall control, notwithstanding any legislative validation of the town~~
33 ~~charter. Without limiting the generality of the foregoing, the following rules shall apply:~~

34 ~~(a) The affairs of the police court shall not be subject to supervision by the town~~

1 ~~administrator. Clauses (1), (3), and (4) of section IV 6 of the town charter shall not apply.~~

2 ~~(b) The police court may act with respect to the compensation, classification and personnel~~
3 ~~policies applicable to its subordinates, but no such action shall be taken which is inconsistent with~~
4 ~~any applicable proceedings of the town council. Clause (7) of section III 8 and article XVI of the~~
5 ~~town charter shall apply.~~

6 ~~(c) Clause (3) (relating to terms of office) of section XIX 4 of the town charter shall not~~
7 ~~apply to the police court.~~

8 ~~Sec. 21. Severability. If any of the provisions of this act or their application to any~~
9 ~~particular circumstances should be held invalid, the remaining provisions or the application of the~~
10 ~~provisions to other circumstances shall not be affected there by.~~

11 ~~Sec. 22. Referendum. The question of the approval of this act shall be submitted to the~~
12 ~~electors of the town of Johnston qualified to vote upon a proposition to impose a tax or for the~~
13 ~~expenditure of money at a general election to be held November 3, 1964. The question to be voted~~
14 ~~upon shall be submitted in substantially the following form: "Shall an act passed at the January~~
15 ~~1964 session of the general assembly, entitled, 'An act providing for a police court in the town of~~
16 ~~Johnston' be approved?" The local board, as defined in section 17-1-2 of the general laws, shall~~
17 ~~forthwith after the election notify the secretary of state of the result of the vote upon the question~~
18 ~~submitted. The election shall be held in conformity with the election laws of the state.~~

19 ~~Sec. 23. Effective date. This section and section 22 of this act shall take effect upon the~~
20 ~~passage of this act and the remainder of this act shall take effect upon the approval of this act by a~~
21 ~~majority of those voting on the question at the election prescribed by section 22 hereof. Section 20~~
22 ~~hereof shall become effective when the town of Johnston home rule charter becomes generally~~
23 ~~effective. All acts and parts of acts inconsistent with any section of this act shall stand repealed~~
24 ~~upon the effective date of the inconsistent section of this act; provided, that all acts, proceedings~~
25 ~~and processes, civil and criminal heretofore existing and pending before the eighth district court~~
26 ~~prior to the passage of this act, shall be heard and determined by that court until the actual transfer~~
27 ~~of the functions herein established and upon the establishment of the police court, and thereafter,~~
28 ~~those actions, proceedings and processes, civil and criminal, (and in criminal cases irrespective of~~
29 ~~the dates when the acts giving rise to said actions, proceedings and processes shall have been~~
30 ~~committed) pending and undetermined shall be heard de novo by the police court without the~~
31 ~~necessity of any further filings; and provided, further, all records of the eighth district court relating~~
32 ~~to matters heretofore within the jurisdiction of the said district court shall be transferred to the clerk~~
33 ~~of the police court to be maintained and administered as the police court shall by rule determine;~~
34 ~~and provided, further, that forthwith upon the approval of this act by the qualified electors of the~~

1 ~~town of Johnston as provided in section 22 hereof, the town council shall appoint as many judges~~
2 ~~of the po-lice court, not exceeding two (2) to serve until February 1, 1965 and until his or their~~
3 ~~successor or successors are elected and qualified; and provided, further, that forthwith upon the~~
4 ~~appointment of such judge or judges, said judge or judges shall appoint a clerk of said police court~~
5 ~~who shall hold office until February 1, 1965 and until his successor is appointed and qualified.~~

6 SECTION 2. Chapter 2 of title 45 of the General Laws entitled "General Powers" is hereby
7 amended by adding thereto the following section:

8 **45-2-68. Town of Johnston - Municipal court - Municipal housing court.**

9 (a) Municipal court jurisdiction.

10 The town council of the town of Johnston may establish a municipal court and confer upon
11 that court original jurisdiction, notwithstanding any other provisions of the general laws, to hear
12 and determine cases involving the violation of any ordinance; provided, however, that any
13 defendant found guilty of any offense, excluding violations outlined in subsection (b) of this
14 section, may, within seven (7) days of the conviction, file an appeal from the conviction to the
15 superior court and be entitled, in the latter court, to a trial de novo.

16 (b) Municipal housing court jurisdiction.

17 (1) The town council of the town of Johnston may establish a municipal housing court and
18 confer upon the court original jurisdiction, notwithstanding any other provisions of the general
19 laws, to hear and determine causes involving the violation of the zoning ordinances of the town and
20 any violation of the provisions of chapter 24 of title 45 ("zoning ordinances"); any violation of
21 chapter 24.1 of title 45 ("historical zoning act"); any violation of chapter 24.2 of title 45 ("minimum
22 housing standards act"); any violation of chapter 24.3 of title 45 ("housing maintenance and
23 occupancy code"); any violation of chapter 23 of title 45 ("subdivision of land and occupancy
24 code"); any violation of any local Johnston ordinance or regulation, enacted pursuant to these
25 chapters; and any violation of the provisions of chapter 27.3 of title 23 ("state building code"); and
26 any violation of the provisions of those regulations promulgated by the state building code
27 commission entitled SBC-1 Rhode Island state building code; SBC-2 Rhode Island state one- and
28 two-family (2) dwelling code; SBC-3 Rhode Island state plumbing code; SBC-4 Rhode Island state
29 mechanical code; SBC-5 Rhode Island state electrical code; SBC-6 state property maintenance
30 code; SBC-8 Rhode Island state energy conservation code; and SBC-20 Rhode Island state fuel and
31 gas code; and provided, further, that any party aggrieved by a final judgement, decree, or order of
32 the Johnston housing court may, within twenty (20) days after entry of this judgment, decree, or
33 order, file an appeal to the superior court and be entitled in the latter court to a trial de novo.

34 (2) With respect to violations falling under the jurisdiction of the Johnston housing court,

1 as outlined in subsection (b)(1) of this subsection, the town council may also confer upon the
2 housing court, in furtherance of the court's jurisdiction, the power to proceed according to equity:

3 (i) To restrain, prevent, enjoin, abate, or correct a violation;

4 (ii) To order the repair, vacation, or demolition of any dwelling existing in violation;

5 (iii) To otherwise compel compliance with all of the provisions of the ordinances and
6 statutes; and

7 (iv) To order a dwelling into receivership and to order the removal of any cloud on the title
8 to the building or property that shall be binding upon all those claiming by, through, under; or by
9 virtue of any inferior liens or encumbrances pursuant to chapter 44 of title 34.

10 (c) Concurrent jurisdiction.

11 The municipal court shall have concurrent jurisdiction with the Rhode Island traffic
12 tribunal to hear and adjudicate those violations conferred upon the municipal court and enumerated
13 in § 8-18-3. Adjudication of summons by the municipal court shall be in conformance with § 8-18-
14 4. The municipal court shall hear and decide traffic matters in a manner consistent with the
15 procedures of the traffic tribunal, and subject to review by the chief magistrate of the traffic tribunal
16 in accordance with § 8-18-11. Any person desiring to appeal from an adverse decision of the
17 municipal court for violations enumerated in § 8-18-3, may seek review thereof pursuant to the
18 procedures set forth in § 31-41.1-8.

19 (d) Appointment of municipal court judge and housing court clerk.

20 The town council of the town of Johnston is authorized and empowered to appoint a judge
21 of the municipal court, with the advice and consent of the mayor. The town council of the town of
22 Johnston is also authorized to appoint a judge and clerk of the housing court, with the advice and
23 consent of the mayor, who may be, but is not required to be, the same person(s) holding the
24 judgeship over the municipal court.

25 (e) Operation, management and powers of the municipal court and housing court.

26 The town council is authorized and empowered to enact ordinances governing the
27 personnel, operation, and procedure to be followed in the court and to establish a schedule of fees
28 and costs and to otherwise provide for the operation and management of the court. The municipal
29 court may impose fines not in excess of five hundred dollars (\$500) and is empowered to administer
30 oaths; compel the attendance of witnesses; and punish persons for contempt.

31 (f) Severability.

32 If any of the provisions of this section or their application to any particular circumstances
33 should be held invalid, the remaining provisions or the application of the provisions to other
34 circumstances, shall not be affected thereby.

1 SECTION 3. This act shall take effect upon passage.

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LC005697
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO THE TOWN OF JOHNSTON MUNICIPAL COURT

1 This act would totally repeal the 1964 public law, which established the Johnston
2 Municipal Court and which has never been amended and would enable the town of Johnston to
3 establish a municipal court and housing court with expanded legal and equitable powers.

4 This act would take effect upon passage.

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