

## Chapter C

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**[HISTORY: Approved by the voters of the Town of Smithfield at the general election held 11-3-1992. Amendments noted where applicable. Any words appearing in brackets have been added by the editor for clarity.]**

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ARTICLE I  
POWERS OF THE TOWN

**§ C-1.01. Powers of the Town.**

The Town of Smithfield shall have all powers possible for a Town to have under the Constitution and Laws of the State of Rhode Island as fully and completely as though they were specifically enumerated in this Charter.

**§ C-1.02. Construction.**

The powers of the Town of Smithfield under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power in this article.

**§ C-1.03. Intergovernmental Relations.**

The Town of Smithfield may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more States or any state civil division or agency, or the United States or any of its agencies.

ARTICLE II  
**TOWN COUNCIL**

**§ C-2.01. General Powers and Duties.**

All powers of the Town shall be vested in the Town Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law.

**§ C-2.02. Composition, Selection, Term.**

There shall be a Town Council of five (5) members elected by the voters of the Town at-large. The regular election of the Council members shall be held on the first Tuesday next after the first Monday in November every two (2) years beginning in 1994. The terms of the Council members shall begin on the first Monday following the certification of their election for two (2) years or until their successors have been elected and qualified.

**§ C-2.03. Eligibility.**

Only resident, qualified voters of the Town shall be eligible to hold the office of Council member.

**§ C-2.04. Council Officers.**

The Town Council shall at its first meeting elect from among its members, officers of the Town who shall have the titles of President and Vice President, each of whom shall serve at the pleasure of the Council. The President shall preside at meetings of the Council, represent the Town in intergovernmental relationships, present an annual "State of the Town Message", and other duties specified by the Council. The President shall be recognized as head of the Town government for all ceremonial purposes and by the Governor for purposes of military law but shall have no administrative duties. The Vice President shall act as President during the absence or disability of the President and if a vacancy should occur shall become President at the pleasure of the Council. The President and Vice President shall have a voice and vote in the proceedings of the Town Council.

**§ C-2.05. Compensation, Expenses.**

The Town Council may determine the annual salary of the President and Council members by Ordinance, but no Ordinance increasing such salary shall become effective until the date of commencement of the terms of Council members elected at the next regular election. The President and Council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

**§ C-2.06. Prohibitions. [Amended 11-4-2008]**

- (a) Other Office. Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the Council.

No Council member shall hold any other Town office or employment during the term for which the member was elected to the Council. No former Council member shall hold any compensated appointive office or employment with the Town until one (1) year after that member's departure from the Council. Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council member to represent the Town on the governing board of any regional or other intergovernmental agency.

- (b) Appointments and Removals. Neither the Town Council nor any of its members shall in any manner control or demand the appointment or removal of any Town administrative officer or employee whom the Town Manager or any subordinate of the Town Manager is empowered to appoint.
- (c) Interference with Administration. Except for the purpose of inquiries, and investigations under § C-2.09, the Council or its members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Manager solely through the Town Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

**§ C-2.07. Vacancies, Forfeiture of Office, Filling of Vacancies.**

- (a) Vacancies. The office of a Council member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- (b) Forfeiture of Office. A Council member shall forfeit that office if the Council member
  - (1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law;
  - (2) violates any express prohibition of this Chapter;<sup>1</sup>
  - (3) is convicted of a crime involving moral turpitude; or,
  - (4) fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.
- (c) Filling of Vacancies. If a vacancy shall occur on the Town Council one (1) year or more prior to the regular election, a special election shall be called by the Town Clerk to take place within sixty (60) days after such vacancy has occurred in a manner prescribed by State law. Any vacancy in the membership of the Town Council that shall occur less than one (1) year prior to the regular election may be filled for the unexpired term by the remaining members of the Council, provided that the person chosen by the Town Council to fill such vacancy shall be of the same political party as the prior incumbent, such political party allegiance to be verified in writing to the President of the Town Council by the Town Party Chairperson of such political party.

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1. Editor's Note: So in 1985 Code; probably should be "this Charter."

**§ C-2.08. Judge of Qualifications. [Amended 11-4-2008]**

The Town Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The Council shall have the power to set additional standards of conduct for its members beyond those specified in the Charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled upon request to the following:

- 1.) A public hearing;
- 2.) A statement of the specific charge or charges setting forth the conduct that constitutes grounds for the forfeiture of his office;
- 3.) The right to be represented by an attorney at his/her expense;
- 4.) An opportunity to present witnesses;
- 5.) The right to cross examine witnesses;
- 6.) The right to present evidence.

The notice of the public hearing shall be published in one (1) or more newspapers of general circulation in the Town at least one (1) week in advance of the public hearing.

If the charges of conduct constituting grounds for forfeiture of office shall be upheld by the Council, the member charged shall not participate in Council matters during the time the matter is under judicial review. Decisions made by the Council under this section shall be subject to judicial review.

**§ C-2.09. Investigations.**

The Town Council may make investigations into the affairs of the Town and the conduct of any Town department, office, commission, board, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Council shall be a misdemeanor.

**§ C-2.10. Independent Audit. [Amended 11-4-2008]**

The Town Council shall provide for an independent annual audit of all Town accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm or such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Town government or any of its officers. The Council shall require competitive bids and designate such accountant or firm annually, but the designation for any particular fiscal year shall be made no later than 180 (one hundred eighty) days prior to the subsequent fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this section.

**§ C-2.11. Procedure.**

- (a) Meetings. The Council shall meet regularly at least once every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the President or three (3) or more members. All meetings of the Town Council shall be open to the public; except that the Town Council may authorize an executive session in accordance with State law.
- (b) Rules and Journal. The Town Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.
- (c) Quorum. Three (3) members of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in § C-2.07, shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.
- (d) Voting. A record of all votes taken at all meetings shall be kept and made public as required by the State law.

**§ C-2.12. Action requiring an Ordinance. [Amended 11-4-2008]**

In addition to other acts required by law or by specific provision of this Charter to be done by Ordinance, those acts of the Town Council shall be by Ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any Town department, office, board, commission or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Regulate the rate charge for its services by a public utility;
- (4) Authorize the borrowing of money;
- (5) Convey or lease or authorize the conveyance or lease of any real estate of the Town;
- (6) Regulate land use and development, and adopt or amend a zoning Ordinance;
- (7) Enact, and amend, a personnel system in conformity with the provisions of this Charter;
- (8) Amend or repeal any Ordinance previously adopted; and
- (9) Adopt with or without amendment Ordinances proposed under the initiative provisions of this Charter.

Acts other than those referred to in the preceding sentence may be done either by Ordinance or by Resolution.

**§ C-2.13. Ordinances in General. [Amended 11-4-2008]**

- (a) Form. Every proposed Ordinance shall be introduced in writing and in the form required for final adoption. No Ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. The enacting clause shall be "The Town of Smithfield hereby ordains . . ." Any Ordinance which repeals or amends an existing Ordinance or part of the Town Code shall set out in full the Ordinance, Sections or Subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.
- (b) Procedure. An Ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any Ordinance, the Town Clerk shall distribute a copy to each Council member and to the Town Manager, shall file a reasonable number of copies in the office of the Town Clerk and such other public places as the Council may designate, and shall publish the Ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council.

The public hearing shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting, and may be adjourned from time to time; all persons interested shall have an opportunity to be heard.

After the hearing the Council may adopt the Ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the Council may not adopt it until the Ordinance or its amended Sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced Ordinance. As soon as practicable after adoption, the Clerk shall have the Ordinance and a notice of its adoption published and available at a reasonable price.

- (c) Effective Date. Except as otherwise provided in this Charter, every adopted Ordinance shall become effective at the expiration of 30 (thirty) days after adoption or at any later date specified therein.
- (d) "Publish" Defined. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the Town or as required by state law:
- (1) the Ordinance or a brief summary thereof, and
  - (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

**§ C-2.14. Emergency Ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the Town Council may adopt one (1) or more Emergency Ordinances, but such Ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in § C-5.09(b). An Emergency Ordinance shall be introduced in the form and manner prescribed for Ordinances

generally, except that it shall be plainly designated as an Emergency Ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An Emergency Ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least three (3) members shall be required for adoption. After its adoption the Ordinance shall be published and printed as prescribed for other adopted Ordinances. It shall become effective upon adoption or at such later time as it may specify. Every Emergency Ordinance except one made pursuant to 5.09 (b) shall automatically stand repealed as of the 61st (sixty-first) day following the date on which it was adopted, but this shall not prevent re-enactment of the Ordinance in the manner specified in this section if the emergency still exists. An Emergency Ordinance may also be repealed by adoption of a repealing Ordinance in the same manner specified in this section for adoption of Emergency Ordinances.

**§ C-2.15. (Reserved) <sup>2</sup>**

**§ C-2.16. Authentication and Recording; Codification; Printing. [Amended 11-4-2008]**

- (a) Authentication and Recording. The Town Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all Ordinances and Resolutions adopted by the Town Council.
- (b) Codification. Within three (3) years after adoption of this Charter and at least every five (5) years thereafter, the Town Council shall provide for the preparation of a general codification of all Town Ordinances and Resolutions having the force and effect of law.

The general codification shall be adopted by the Council by Ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Rhode Island and such Codes of Technical Regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Smithfield Town Code. Copies of the Code shall be furnished to Town officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

- (c) Printing of Ordinances and Resolutions. The Town Council shall cause each Ordinance and Resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed Ordinances, Resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the Council. Following publication of the first Smithfield Town Code and at all times thereafter, the Ordinances, Resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or

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2. Editor's Note: Former § C-2.15, Codes of Technical Regulations, was repealed 11-4-2008.

addition to the provisions of the Constitution and other laws of the State of Rhode Island, or the Codes of Technical Regulations and other rules and regulations included in the Code.

### ARTICLE III TOWN MANAGER

#### **§ C-3.01. Appointment and Qualifications.**

The Town Council by a majority vote of its total membership shall appoint a Town Manager for an indefinite term and fix the Manager's compensation. The Town Manager shall be appointed solely on the basis of executive and administrative qualifications. The Manager need not be a resident of the Town or State at the time of appointment but the Manager shall reside in the Town after his/her appointment. However, the Town Council may waive this residency requirement.

#### **§ C-3.02. Removal.**

The Town Manager can be removed at the discretion of the Council, by vote of a majority of all members of the Council with or without a public hearing, as the Council in its discretion shall determine. There shall be no right of appeal from the decision of the Council.

#### **§ C-3.03. Acting Town Manager.**

By letter filed with the Town Council through the Town Clerk, the Town Manager shall designate a Town officer or employee to exercise the powers and perform the duties of the Town Manager during the Manager's temporary absence or disability. The Town Council may revoke such designation at any time and appoint another officer of the Town to serve until the Town Manager returns. In the event of failure of the Manager to make such designation, the Council may appoint an officer of the Town to perform the duties of the Manager for the duration of the Manager's temporary absence or disability.

#### **§ C-3.04. Powers and Duties of the Town Manager. [Amended 11-4-2008]**

The Town Manager shall be the Chief Administrative Officer of the Town, responsible to the Council for the administration of all Town affairs placed in the Manager's charge by or under this Charter. The Town Manager shall:

- (1) Appoint and, when necessary for the good of the service, suspend or remove all Town employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided for by law, this Charter or personnel rules adopted pursuant to this Charter. The Town Manager may authorize any administrative officer, subject to the Manager's direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this Charter or by law.

- (3) Attend all Town Council meetings. The Town Manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this Charter and acts of the Town Council, subject to enforcement by the Town Manager or by officers subject to the Manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the Town Council;
- (6) Submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year;
- (7) Make such other reports as the Town Council may require concerning the operations of Town departments, offices and agencies subject to the Town Manager's direction and supervision;
- (8) Keep the Town Council fully advised as to the financial condition and future needs of the Town;
- (9) Make recommendations to the Town Council concerning the affairs of the Town;
- (10) Provide staff support services for the Council members; and
- (11) Perform such duties as are specified in this Charter or which may be required by the Town Council.
- (12) All contracts for municipal employment shall be approved by the Town Council and shall comply with the provision that certain appointees serve at the pleasure of the Town Manager.

ARTICLE IV  
**DEPARTMENTS, OFFICERS, AND AGENCIES**

**§ C-4.01. Finance Department.**

- (a) Organization. There shall be a Finance Department, the operating head of which shall be the Finance Director, who shall be appointed by the Town Manager and at whose pleasure the Finance Director shall serve. Within the Finance Department there shall be a Town Treasurer, a Tax Assessor, a Tax Collector, and such other offices and agencies as the Town Council may determine and place under the jurisdiction of the Finance Director.
- (b) Functions. The Finance Department shall supervise, direct and conduct the financial business and transactions of the Town, including but not limited to, accounting, budget preparation and administration, tax assessment and collection, control and disbursement of payments, purchasing, and such related functions as may be required now and hereafter by this Charter, Ordinance, State law, or which may be assigned by the Town Manager.
- (c) Finance Director. The Finance Director shall be the Town Treasurer who shall have general supervision and control of the operation of the Department of Finance and shall,

subject to the approval of the Town Manager, make rules and regulations relating to the operation and management of the Department. The Finance Director shall have no less than five (5) years supervisory experience in business or public finance, budgeting, financial control and accounting or experience that shall be substantially equivalent.

- (d) Tax Assessor. The Tax Assessor shall be appointed by the Town Manager at whose pleasure the Assessor shall serve. The Tax Assessor shall exercise and perform the powers and duties with respect to the assessment of taxes in the Town which are now or may hereafter be prescribed by law.
- (e) Tax Collector. The Tax Collector, unless and until the Town Council otherwise provides by Ordinance, shall be the Finance Director. The Tax Collector shall exercise and perform the powers and duties in the Town with respect to the collection of taxes, assessments, and other collections which now or may hereafter be prescribed by law.

**§ C-4.02. Board of Assessment Review. [Amended 11-4-2008]**

- (a) Organization. There shall be a Board of Assessment Review consisting of three (3) members appointed by the Town Council, each to serve a three (3) year term, all of whom shall be qualified voters and residents of the Town. No more than two (2) of the members of the Board of Assessment Review shall be members of the same political party at any one time, such political party allegiance to be verified in writing to the Town Manager by the Town Party Chairperson of such political party. The terms of the members of said Board shall be arranged in such a manner that the term of one member shall expire each year.
- (b) Functions. The Board of Assessment Review shall receive, hear, consider, and dispose of all appeals from any property owner concerning the amount of assessed valuation as determined by the Tax Assessor. The Town Council shall by Ordinance provide for the manner of receiving, considering, and disposing of appeals. Such procedure relating to appearances before the Board shall be informal and of a nature calculated to effect justice in as simple a manner as possible and conform to the following requirements:
  - (1) The Assessor shall attend all hearing[s] of the Board in order to explain the Assessor's valuation, but the Assessor shall have no vote.
  - (2) The Board shall keep an accurate record of its proceedings which shall be available for public inspection.
  - (3) No appeal shall be considered by the Board unless the tax due and payable has been paid under protest.
  - (4) If it shall appear that the valuation of any property has been incorrectly or inequitably assessed, the Board shall have the power to change the assessment and shall determine the correct valuation of such property. It shall be the duty of the Finance Director to make any refund that may be due to the property owner.
- (c) Appeals to the Board of Assessment Review. Appeals to the local tax board of review are to be filed not more than thirty (30) days after the Assessor renders a decision and notifies the taxpayer, or if the Assessor does not render a decision within forty-five (45)

days of the filing of the appeal, not more than ninety (90) days after the expiration of the forty-five (45) day period. The local tax board of review shall, within ninety (90) days of the filing of the appeal, hear the appeal and render a decision within thirty (30) days of the date that the hearing was held. Provided, that a city or town may request and receive an extension from the director of the Rhode Island Department of Administration.

- (d) Judicial Appeal. Any taxpayer may appeal the decision of the Board of Assessment Review in accordance with R.I.G.L. 44-5-26.

#### **§ C-4.03. Fire Department.**

- (a) Organization. There shall be a Fire Department, the operating head of which shall be the Fire Chief, who shall be appointed by the Town Manager and at whose pleasure the Chief shall serve. In addition to the Chief, there shall be such subordinate officers and personnel as the Town Council by Ordinance shall from time to time determine.
- (b) Functions. The Fire Department shall be responsible for the adequate protection of life and property from fire and other hazards normally within the jurisdiction of a Fire Department, including but not limited to, those powers and duties, now and hereafter vested in fire personnel by Ordinance or State law.
- (c) Qualifications and Duties of Chief. The Chief shall have no less than five (5) years supervisory and administrative experience in the field of fire fighting and fire prevention, or experience that shall be substantially equivalent. The Chief shall be in direct command of the Fire Department and shall, subject to the approval of the Town Manager, make rules and regulations relating to the operation and management of the Fire Department.

#### **§ C-4.04. Police Department.**

- (a) Organization. There shall be a Police Department, the operating head of which shall be the Police Chief, who shall be appointed by the Town Manager and at whose pleasure the Chief shall serve. In addition to the Chief, there shall be such subordinate officers as the Town Council shall from time to time determine.
- (b) Functions. The Police Department shall be responsible for the preservation of the public peace and all other matters normally within the jurisdiction of a Police Department, including, but not limited to, those powers and duties now and hereafter vested in such officers by Ordinance or State law.
- (c) Qualifications and Duties of Chief. The Chief shall have no less than five (5) years supervisory and administrative experience in law enforcement or experience which shall be substantially equivalent. The Chief shall be in direct command of the Police Department and shall, subject to the approval of the Town Manager, make rules and regulations relating to the operation and management of the Police Department.

**§ C-4.05. Public Works Department.**

- (a) Organization. There shall be a Public Works Department, the operating head of which shall be the Director of Public Works, who shall be appointed by the Town Manager and at whose pleasure the Director shall serve.
- (b) Functions. The Public Works Department shall be responsible for the functions and services of the Town relating to streets, highways, sidewalks, bridges, street lighting, storm sewers, public parking lots, and such other related functions as may be required now, or hereafter, by this Charter, Ordinance, or State law.
- (c) Qualifications and Duties of Director. The Director of Public Works shall have no less than five (5) years supervisory and administrative experience in private industry and/or public agencies, engineering and/or construction, or substantially equivalent experience. The Director shall have general control and supervision of the operation of the Public Works Department and shall, subject to the approval of the Town Manager, make rules and regulations relating to the operation of the Department.

**§ C-4.06. Town Solicitor.**

- (a) Organization. There shall be a Town Solicitor appointed by the Town Council to serve at its pleasure. The Solicitor need not be required to devote full time to the duties of the office.
- (b) Functions. The Town Solicitor shall be the attorney for the Town and chief legal advisor to the Town Council, Town Manager and all Town departments, offices, boards, commissions, and agencies. The Solicitor's duties and functions shall include representing the Town in all legal proceedings and performing such related functions as may be required now and hereafter by Ordinance, State law, or which may be assigned by the Town Council.

Nothing in this section shall prohibit the appointment of a law firm to perform the duties of the Town Solicitor; nor shall anything in this section prohibit the Town Council from providing for the appointment of Assistant Town Solicitors if in its judgment the work load of the Town Solicitor's office shall justify such appointment; nor shall anything in this section prohibit the Council from making provision for the hiring of special counsel to assist or act in place of the Town Solicitor, in extraordinary and limited circumstances, when in the judgment of the Council such provision will best serve the interests of the Town. Nothing in this section shall prohibit the School Department from retaining counsel to be compensated from funds provided in its budget.

**§ C-4.07. Town Clerk.**

There shall be a Town Clerk appointed by the Town Council to serve at the pleasure of the Council. The Town Clerk shall give notice of Council Meetings to its members and the public, keep the journal of Council proceedings, serve as Clerk for the Board of Canvassers

and Probate Court, and perform such other related functions as may be required now and hereafter by this Charter, Ordinance, State law, or which may be assigned by the Town Council.

**§ C-4.08. Town Moderator.**

There shall be a Town Moderator appointed by the Town Council to serve a two (2) year term concurrent with the term of the Town Council. The Town Moderator shall be a qualified voter in the Town, and shall preside over the Financial Town Meeting or any Special Town Meetings. If during the term of office the Moderator dies, resigns, or ceases to be a qualified voter and resident of Smithfield, the office shall thereupon be declared vacant by the Town Council and the vacancy in the office shall be filled for the remainder of the unexpired term by appointment by the Town Council.

**§ C-4.09. Town Sergeant.**

There shall be a Town Sergeant appointed by the Town Council to serve at the Council's pleasure. The Town Sergeant shall be a qualified voter in the Town, and shall perform all the duties as may be required now and hereafter by Ordinance or State law.

**§ C-4.10. Welfare Director.**

There shall be a Director of Welfare appointed by the Town Manager to serve at the Manager's pleasure. The Director shall have all the powers and duties relating to the poor, needy, and dependent persons, and such related functions as may be required now and hereafter by Ordinance, State law, or which may be assigned by the Town Manager.

**§ C-4.11. Building Official.**

There shall be a Building Official appointed by the Town Manager to serve at the Manager's pleasure. The Building Official shall issue all building, plumbing and drainage permits in accordance with existing or future Ordinances passed by the Town Council and enforce the State Building Code and corresponding Minimum Housing Regulations, as well as the Town Zoning Ordinance, and such related functions as may be required now and hereafter by Ordinance, State law, or which may be assigned by the Town Manager.

**§ C-4.12. Planning Board.**

There shall be a Planning Board consisting of nine (9) members, appointed by the Town Council from among the qualified voters of the Town, each to serve a term of three (3) years, and with terms so arranged that the terms of one-third of the members shall expire each year. The Planning Board shall act in an advisory capacity to the Town Council in all matters concerning the physical growth and development of the Town and affecting the health, safety, and general welfare of the people and the economy of the Town, and shall perform such related functions as may be required now and hereafter by Ordinance or State law.

**§ C-4.13. Zoning Board of Review.**

There shall be a Zoning Board of Review consisting of five (5) members, appointed by the Town Council from among the qualified voters of the Town each to hold office for a term of five years with terms so arranged that one (1) member shall be appointed each year. The Council shall each year name two (2) alternate members of said Board who shall sit as active members whenever required. The Zoning Board of Review shall have such powers and duties as may be required now and hereafter by Ordinance or State law.

**§ C-4.14. Sewer Board of Review.**

There shall be a Sewer Board of Review consisting of three (3) members, appointed by the Town Council from among the qualified voters of the Town each to hold office for a term of three (3) years. The Sewer Board of Review shall hear, consider, and dispose of all appeals to sewer assessments and shall perform such related functions as may be required now and hereafter by Ordinance or State law.

**§ C-4.15. Conservation Commission.**

There shall be a Conservation Commission consisting of seven (7) members, appointed by the Town Council from among the qualified voters of the Town each to hold office for a term of three (3) years and so arranged that vacancies shall not occur at the same time. The Conservation Commission shall promote and develop the natural resources, protect the watershed resources, and preserve natural aesthetic areas within the Town and shall perform such related functions as may be required now and hereafter by Ordinance or State law.

**§ C-4.16. Asset Management Commission. [Amended 11-4-2008]**

There shall be an Asset Management Commission appointed by the Town Council, the terms and membership to be set by the Town Council. Qualifications shall include, however not limited to, experience in construction and facilities management, architectural and civil engineering, real estate and finance. The Commission shall be responsible for the following:

- 1.) Compiling an inventory of all land and buildings owned by the Town.
- 2.) Assess the condition of all buildings and establish and prioritize the need for major repairs or renovations.
- 3.) Prepare and present to the Council a list of Town-owned property that could be sold or transferred. The Commission shall identify and recommend sites to be acquired for projects identified on the priority list.
- 4.) Prepare with input from all departments of Town government, a list of projected capital expenditures for five and ten year periods; prioritize the list and recommend sources of funding. The Commission shall annually report to the Town Manager and Town Council its recommendations.
- 5.) Any project for which a Town department seeks funding the initial review of the request including planning, cost estimates for the project, and future operating costs associated

with the project shall be done by the Commission with assistance of the department making the request. Any building committee designated to build the project shall include representatives from the Asset Management Commission. All building committees shall be appointed by the Town Council.

- 6.) The Commission on request of the Town Council may perform other specified tasks. The Town Manager shall provide necessary resources to the Commission to carry out its responsibilities.

**§ C-4.17. Vacancies in Boards and Commissions.**

If during a term of office a Board or Commission member dies, resigns, or ceases to be a qualified voter and resident of Smithfield, 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 manner as [of] the original appointment, unless otherwise provided by this Charter.

**§ C-4.18. Creation of Departments, Offices, Boards, Commissions, or Agencies. [Amended 11-4-2008]**

The Town Council in order to make efficient use of Town resources may by ordinance establish Town departments, offices, boards, commissions or agencies in addition to those created by this Charter including reassigning functions assigned by this Charter to a particular department, office, board, commission or agency. The Town Council may by ordinance contract with any private or public entity, or combination of entities, to perform a function or functions assigned in this Charter to a particular department, office, board, commission or agency.

**§ C-4.19. Direction by Town Manager**

All departments, offices, and agencies under the direction and supervision of the Town Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of the Town Council, the Town Manager may serve as the head of one or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them.

**§ C-4.20. Personnel System. [Amended 11-4-2008]**

- 1.) Organization. There shall be a Personnel Board consisting of three (3) members. The Board shall organize annually by electing a chairman, vice chairman and secretary.
- 2.) Appointments, Terms and Vacancies. The members shall be appointed by the Town Council for terms of three (3) years, initial appointment shall be for periods of one (1), two (2) and three (3) years. Appointees shall have experience in private or government personnel administration. No member shall hold or be a candidate for any other government office or position. No more than two (2) members of the Board shall be members of the same political party. The Council shall fill any vacancy in the Board

within sixty (60) days of a vacancy. Compensation, if any, shall be set by the Town Council.

- 3.) Duties of the Personnel Board. It shall be the duty of the Personnel Board to recommend rules and regulations for:
  - (A) A position classification plan for all full time permanent employees who work thirty-five (35) hours per week. The Plan shall include classified and non-classified positions. The plan shall include a pay plan for both classified and unclassified positions. The plan shall define generally the duties, responsibilities and types of work involved for each class of position, the skills and knowledge necessary for each position.
  - (B) It shall determine the minimum qualifications necessary to qualify for appointment to each position. The plan shall identify positions to which competitive examinations shall apply and those to which non-competitive or qualifying examinations shall apply. The pay plan shall establish pay grades that shall equalize pay for similar jobs for all Town employees, excluding certified employees of the School Department.
- 4.) Adoption by Ordinance. The Personnel Board shall submit its recommendations for the classifications and pay plans to the Town Manager who shall forthwith submit them to the Town Council, along with the Manager's comments and recommendations. The Town Council shall hold a public hearing upon the proposed ordinance and, after considering the recommendations of the Town Manager and those presented at the public hearing, adopt the plan as recommended or with modifications proposed by the Manager or at the Public Hearing.
- 5.) Recruitment and Hiring.
  - (A) The Personnel Board shall determine the process for recruitment and hiring for all positions in the classified and unclassified service after consultation with the Town Manager, except as may be specified in collective bargaining agreements.
  - (B) The Town Manager or his/her designee may provide to the Personnel Board whatever input he/she deems necessary to establish the skills, duties, responsibilities, background and experience, qualifications and the needs and requirements of the department to which the position will be assigned.
  - (C) Formulate and administer such tests that together with the qualifications previously determined for the position, that will establish an applicant's capability for positions in the classified and unclassified service.
  - (D) Certify to the appointing authority candidates for appointment or promotion that possess the qualifications required by the position. Certification lists shall show the names of the three (3) persons rated highest in qualifications who are available for appointment or promotion. If there are less than three names on the list, those names may be certified. However, if the appointing authority determines that the candidates are unsatisfactory, he may request the Personnel Board to seek additional qualified applicants.

- 6.) The following positions shall be in the Unclassified Service:
  - (A) Town Manager;
  - (B) Department Directors;
  - (C) Confidential Secretaries;
  - (D) Positions appointed by the Town Council; and
  - (E) Any position determined by the Personnel Board and listed in the Classification Plan adopted by Ordinance.
- 7.) Assistance to the Personnel Board. The Human Resources Administrator shall provide technical and staff service to the Personnel Board. The service may include but is not limited to administering tests determined by the Board.
- 8.) Present employees continued in office. All persons, who at the time this change in the Charter takes effect, are holding full time positions in Town employment shall be placed in the Classified or Unclassified Service as set forth in the Classification Plan, and hold such positions as though appointed in accordance with the provisions hereof, but any vacancies thereafter occurring shall be filled in the manner herein provided.
- 9.) Collective Bargaining Agreements. Nothing in this article is to be interpreted as altering agreements reached through negotiations between the Town and any recognized unions and associations of employees.
- 10.) Requests by Town Council. Whenever the Town Council determines that the special expertise of the Personnel Board can be of assistance in developing policies concerning personnel rules and procedure, serving as a search committee or designating a member to serve on such committee, the Council may vote to request such assistance.
- 11.) Personnel Policies. Nothing in this article shall limit the authority of the Town Council to adopt Personnel Rules and Policies that are not in conflict with this article.

ARTICLE V  
**FINANCIAL PROCEDURES**

**§ C-5.01. Fiscal Year. [Amended 11-4-2008]**

The fiscal year of the Town shall begin on the first (1<sup>st</sup>) day of July and end on the last day of June or such other dates set by the Town Council by Ordinance.

**§ C-5.02. Submission of Budget and Budget Message. [Amended 11-4-2008]**

On or before the second (2<sup>nd</sup>) Thursday in April of each year, the Town Manager shall submit to the Town Council a budget for the ensuing fiscal year and an accompanying message. All departments, officials and agencies of the Town, including the School Committee, shall submit to the Town Manager and make available to the Council no later than the fourth (4<sup>th</sup>)

Thursday of February of each year, estimates of operating expenditures for the fiscal year beginning on the subsequent July 1<sup>st</sup> (first).

**§ C-5.03. Budget Message.**

The Town Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position and include such other material as the Town Manager deems desirable.

**§ C-5.04. Budget.**

The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Town Manager deems desirable or the Town Council may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for the budgeted and revised income and expenditures of the current fiscal year and actual income and expenditures of the preceding two (2) fiscal years. It shall indicate in separate sections:

- (1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit; program, purpose or activity; and, the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and
- (3) The anticipated income and expense and profit and loss for the same four (4) fiscal years outlined in § C-5.04 for each utility or other enterprise fund operated by the Town, including, but not limited to, the Smithfield Sewerage System, Smithfield Water Department, and Smithfield Ice Rink.

For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance, exclusive of reserves.

**§ C-5.05. Town Council Action on Budget.**

- (a) Notice and Hearing. The Town Council shall publish in one (1) or more newspapers of general circulation in the Town the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public; and
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.
- (b) Amendment Before Adoption. After the public hearing, the Town Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income, less any required reserve.

**§ C-5.06. Adoption — Financial Town Meeting. [Amended 11-4-2008]**

The annual Financial Town Meeting shall convene on the second Thursday in June at such time and place as shall be prescribed by the Town Council for the purpose of considering the current operations section of the Town budget and acting on a proposed budget recommended by the Town Council. All Financial Town Meetings shall be conducted, and shall have the powers, as prescribed by State law, not inconsistent with the provisions of this Charter.

- (a) Eighty-Percent (80%) rule. In the event any person shall desire to present a Motion or Resolution at the Financial Town Meeting, the purpose or effect of which is to make any appropriation or expenditure of money greater than the amount recommended for the various departments and Enterprise Funds in the budget proposed by the Town Council, that person shall first sign and present the Motion or Resolution in writing to the Town Council at the public hearing provided for in § C-5.05. In the event that this Motion or Resolution is rejected by the Town Council, the person may then present the same Motion or Resolution at the Financial Town Meeting in accordance with the rules of procedure established by the Town Moderator, providing that the person files in writing a copy of the Motion or Resolution with the Town Clerk at least ninety-six (96) hours prior to the Financial Town Meeting. The Motion or Resolution may then be considered by the Financial Town Meeting if, and only if, a minimum of eighty-percent (80%) of the qualified electors at the Financial Town Meeting give their consent to consider it.
- (b) Failure to Adopt. If the Town Financial Meeting fails to adopt the operating budget before the last day of current fiscal year, the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Town Financial Meeting adopts a budget for the ensuing fiscal year.

**§ C-5.07. Reserve Funds. [Amended 6-22-2000]**

There are hereby established a Capital Reserve Fund and a Land Trust Reserve Fund. The Capital Reserve Fund shall be available to the Town as necessary for expenditures relating to certain capital expenditures pursuant to local ordinance. The Land Trust Reserve Fund shall be used exclusively by the Smithfield Land Trust for the acquisition and preservation of real property pursuant to the legislative charter of said land trust.

Notwithstanding any provision to the contrary, total appropriations enacted at any state of the operating budget process shall not exceed ninety-three and one-half percent (93.5%) of total resources. Resources shall be defined as projected revenues and undesignated fund balances. After each fiscal year, to the extent that the undesignated fund balance exceeds five percent (5%) of the subsequent fiscal year appropriations, commencing with fiscal year 2001, sixty-six and two-thirds [percent] (662/3%) of the excess amount in the undesignated fund balance shall be transferred to the Capital Reserve Funds and thirty-three and one-third percent (331/3%) of the excess amount in the undesignated fund balance shall be transferred to the Land Trust Reserve Fund. Expenditures from the Capital Reserve Fund and Disbursements from the Land Trust fund shall be considered at the annual Financial Town Meeting.

**§ C-5.08. Appropriation and Revenue Ordinances. [Amended 11-4-2008]**

To implement the adopted budget, the Town Council shall adopt, prior to the beginning of the ensuing fiscal year:

- (1) An Appropriation Resolution making appropriations by department or major organizational unit and authorizing a single appropriation for each program or activity;
- (2) A Tax Levy Resolution authorizing the property tax levy or levies and setting the tax rate or rates; and
- (3) Any other Resolutions required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

**§ C-5.09. Amendments After Adoption. [Amended 11-4-2008]**

- (a) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Town Council may make Emergency Appropriations. Such appropriations may be made by Emergency Ordinance in accordance with the provisions of § C-2.14. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such Emergency Ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the Emergency Appropriation was made. Furthermore, the amount of the Emergency Appropriation cannot exceed two percent (2%) of the current operating budget.
- (b) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the Town Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Manager shall report to the Town Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the Manager and recommendations as to any other steps to be taken. The Council shall then take such further action to prevent any deficit and for that purpose it may by Ordinance reduce one or more appropriation, excluding the School Department.

- (c) **Transfer of Appropriations.** At any time during the fiscal year, the Town Manager may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the Council in writing within fifteen (15) days.
- (d) **Limitation Effective Date.** No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the encumbered balance thereof. The supplemental and Emergency Appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.
- (e) **Limitation Utility or Enterprise Funds.** Furthermore, no utility or enterprise fund shall exceed its adopted budget or the income raised by it, whichever is lower, without the approval of the Town Council. Moreover, the Town Council shall not divert any funds collected by an enterprise fund without first adopting an Emergency Ordinance. Any such diverted funds shall be restored not later than the close of the ensuing fiscal year.

#### **§ C-5.10. Lapse of Appropriations.**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

#### **§ C-5.11. Administration of the Budget. [Amended 11-4-2008]**

The Town Council shall provide by Resolution the procedures for administering the budget.

#### **§ C-5.12. Overspending of Appropriations Prohibited.**

No payment for any item over one thousand dollars (\$1,000.) for any Town department, including the School Department, shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Town Manager or the Manager's designee, or in the case of the School Department the School Superintendent or the Superintendent's designee, first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the Town for any amount so paid. Except where prohibited by law, however, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by Ordinance.

However, if at any time during the fiscal year the Town Manager shall ascertain that the remaining unexpended balance of appropriations of the School Department for the year will be insufficient to cover proposed work programs for the School Department, the Town Manager shall advise the School Department to reconsider their work programs and allotments and to revise their allotments so as to forestall the making by them of expenditures in excess of appropriations.

**§ C-5.13. Capital Program.**

- (a) Submission to Town Council. The Town Manager shall prepare and submit to the Town Council three (3) months before the operating budget submission date, a six-year (6-year) Capital Program.
- (b) Contents. The Capital Program shall include:
  - (1) A clear general summary of its contents;
  - (2) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the six (6) fiscal years ensuing, with appropriate supporting information as to the necessity for each;
  - (3) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
  - (4) Method of financing, upon which each capital expenditure is to be reliant; and
  - (5) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The Capital Program shall be revised and extended every two (2) years in the odd numbered years with regard to capital improvements still pending or in process of construction or acquisition.

- (c) Life of Assets. Whenever the Town shall issue bonds to finance a capital project, the useful life of the asset shall be at least equal to the life of the bonds.

**§ C-5.14. Town Council Action on Capital Program.**

- (a) Notice of Hearing. The Town Council shall publish in one (1) or more newspapers of general circulation in the Town the general summary of the Capital Program and a notice stating:
  - (1) The times and places where copies of the Capital Program are available for inspection by the public and;
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the Capital Program.

- (b) Adoption. The Town Council by Resolution shall adopt the Capital Program with or without amendment after the public hearing and on or before the third (3rd) Thursday of February of the current fiscal year.

**§ C-5.15. Public Records.**

Copies of the budget, Capital Program and Appropriation and Revenue Ordinances, and the annual audit shall be public records and shall be made available to the public at suitable places in the Town.

**§ C-5.16. Borrowing.**

The Town Council shall exercise all powers and perform all functions which it may properly exercise and perform under State law regarding the issuance of bonds and promissory notes, provided that all bond issues and any issue of promissory notes which during the fiscal year shall amount to a sum in excess of five percent (5%) of the current operating budget of the Town, shall be approved by a majority of the voters voting thereon at a general or special election.

**§ C-5.17. Banking. [Amended 11-4-2008]**

The Town of Smithfield shall maintain any and all of its funds in Federally insured banks, savings and loan companies, credit unions, and/or in notes and securities issued by the United States Government or as otherwise provided by State Law.

**§ C-5.18. Purchasing. [Amended 11-4-2008]**

- (a) Central Purchasing. All supplies, materials and equipment required by any department, office, agency, board or commission of the Town, including the School Department, shall be purchased centrally under the direction of the Finance Director, provided, however, that items specific to instructional needs, including, but not limited to, textbooks, workbooks, and curriculum materials, may be purchased directly by the School Department with the costs thereof charged to the appropriate budget item. Central purchasing shall occur in such manner and under such procedures not inconsistent with the provisions of this article, as may be prescribed by the Town Council by Ordinance. Nothing in this section shall prohibit the Town from participating in a cooperative purchasing agreement with the State, other municipalities, agencies, or States.
- (b) Competitive Bidding. No purchase of supplies, materials, or equipment, nor any contract for work performed for the Town whose costs shall exceed an amount set at the annual Financial Town Meeting, shall be authorized except after competitive bidding that will comply with state law.

Potential suppliers or contractors shall be notified publicly to submit bids in such a manner and under such general rules and regulations as the Town Council may prescribe by Ordinance. All such purchases and contracts shall be awarded to the lowest responsible bidder except that the Finance Director may be directed by the Town Manager to reject all bids and readvertise. Bids, specifications, and all other factors being equal, preference shall be given to the bidder whose place of business is in the Town. No transaction which is essentially a unit shall be divided into a series of orders for the purpose of circumventing this requirement or State Law. All contracts for municipal employment shall be approved by vote of the Town Council. Contracts for municipal employment, with the exception of the Town Manager, shall comply with Charter provisions that provide that certain appointees serve at the pleasure of the Town Manager.

- (c) Purchases and Emergencies. In the event of an emergency of sufficient gravity that compliance with the competitive bidding requirements set forth in subsection (b) of this section would endanger the health or welfare of the community or a portion thereof or would involve significant financial risk or loss to the Town, and upon certification by the Town Manager that such emergency conditions exist, a purchase whose cost would exceed the minimum bid limit may be made without competitive bidding. In any such case in which the gravity of the emergency permits, and in all cases of purchases whose cost shall exceed the minimum bid limit, three (3) or more verbal quotations followed by written confirmation shall be solicited and purchases made on the basis of the lowest feasible quotation received. Notation of said verbal quotations shall be entered in the record of each such purchase.
- (d) Whenever any department, office, or agency of the Town shall purchase or contract for any supplies, materials, equipment or contractual services, independent and contrary to the provisions of this Charter or the rules and regulations made thereunder, such order or contract shall be voidable by the Town Council.

## ARTICLE VI SCHOOL COMMITTEE

### **§ C-6.01. Composition, Selection, Term.**

There shall be a School Committee of five (5) members, elected by the voters of the Town at large, on a partisan basis. The regular election of the School Committee members shall be held on the first (1st) Tuesday next after the first (1st) Monday in November. Members of said Committee shall be elected to serve four-year (4-year) terms, with their terms arranged in such manner that three (3) members are to be elected in November, 1994 and two (2) members are to be elected in November, 1996. The terms of the School Committee shall begin on the first (1st) Monday following the certification of their election. All members of the School Committee in office at the time of the taking effect of this Charter shall continue to serve until the expiration of their respective terms or until their successors are elected and qualified.

**§ C-6.02. Eligibility.**

Only resident, qualified voters of the Town shall be eligible to hold office of School Committee member. School Committee members shall hold no other paid public office or employment in the service of the Town, and no member of the School Committee shall be eligible to accept any other paid appointed School Department office until one (1) year after that member's departure from the School Committee.

**§ C-6.03. Organization.**

The School Committee shall determine its own rules and its order of business and the time of its meeting. Furthermore, the School Committee shall elect from its membership a Chairperson and a Vice Chairperson.

**§ C-6.1. Compensation.**

The School Committee may determine the annual salary of the School Committee members, provided that any increase shall not become effective until after completion of the term of any member of the School Committee at the time the motion for said increase was approved. In no case shall the School Committee set the rate of annual compensation of its members at a level that will permit School Committee members to receive an annual compensation greater than that which is in effect during the same time period for the members of the Town Council.

**§ C-6.05. Vacancies, Forfeiture of Office, Filling of Vacancies. [Amended 11-4-2008]**

- (a) Vacancies. The office of a School Committee member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- (b) Forfeiture of Offices. A School Committee member shall forfeit that office if that member.
  - (1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law;
  - (2) violates any express prohibition of this Charter; or
  - (3) is convicted of a crime involving moral turpitude.
- (c) Any vacancy in the membership of the School Committee shall be filled by the Town Council within thirty (30) days, and such person shall serve until the next regular Town election, when the office shall be filled for the unexpired term thereof, provided that the person selected by the Council to fill said vacancy shall be a member of the same political party as the person whose position he/she is selected to fill, such political party allegiance to be verified in writing to the President of the Town Council by the Town Party Chairperson of such political party.

**§ C-6.06. Powers and Duties.**

The School Committee shall:

- (1) Determine and control all policies affecting the administration, maintenance and operation of public schools and shall have all the powers and be subject to all duties prescribed by State law and may provide rules and regulations for the use, operation and maintenance of public school properties;
- (2) Have the power to inquire into the conduct of any office, department or activity of the public schools and make investigations as to school affairs;
- (3) Appoint and establish the compensation of a Superintendent of Schools who shall be its chief administrative agent, and who shall have, under the direction of the School Committee, the care and supervision of the public schools. The Superintendent shall be subject to removal at the discretion of the School Committee by a majority vote of its members.
- (4) Appoint and remove all school employees upon recommendation of the Superintendent of Schools, except as otherwise provided by State law. Except for the purpose of inquiry, the School Committee and its members shall deal with the administration of the public schools solely through the Superintendent of Schools and neither the School Committee nor any member thereof shall give orders to any subordinates of the Superintendent of Schools, either publicly or privately.
- (5) Submit budget estimates in the same manner provided by State law as other departments, but the budget estimates and appropriations shall be considered by the Town Council and in the Town's budget process in total only. The allocation of the amounts appropriated shall be determined by the School Committee.
- (6) Prepare a complete report of its finances and activities within a reasonable period of time after the close of each fiscal year. Such reports shall be included as a separate section in the annual Town report.
- (7) Exercise such other powers and perform such other duties as prescribed by State law and as are not inconsistent with this Charter.

ARTICLE VII  
**TOWN ELECTIONS**

**§ C-7.01. Town Elections.**

Elections for all Town offices which are filled by the vote of the electors of the Town, shall be held on the first (1st) Tuesday after the first (1st) Monday in November in each even numbered year, provided however, that special elections shall be scheduled as prescribed by law. All such Town elections shall be conducted pursuant to applicable provisions of the election laws of the State.

**§ C-7.02. Canvassing Authority.**

There shall be a bi-partisan Canvassing Authority appointed by the Town Council as provided by the Constitution and laws of the State. The Canvassing Authority shall be known as the Board of Canvassers, and shall be vested with all the powers and duties now or hereafter vested by law in the Canvassing Authority or Board of Canvassers of the Town. All members of said Authority or Board now in office shall continue as members thereof until their successors have been appointed and qualified. All members shall be qualified voters and residents of the Town during their terms of office.

ARTICLE VIII  
**INITIATIVE AND REFERENDUM**

**§ C-8.01. General Authority.**

- (a) Initiative. The qualified voters of the Town of Smithfield shall have power to propose Ordinances to the Town Council and, if the Council fails to adopt an Ordinance so proposed without any change in substance, to adopt or reject it at a Town election, but such power shall not extend to the budget or Capital Program or any Ordinance relating to appropriation of money, levy of taxes or salaries of Town officers and employees, or zoning.
- (b) Referendum. The qualified voters of the Town of Smithfield shall have power to require reconsideration by the Council of any adopted Ordinance and, if the Council fails to repeal an Ordinance so reconsidered, to approve or reject it at a Town election, but such power shall not extend to the budget or Capital Program or any Emergency Ordinance or Ordinance relating to appropriation of money or levy of taxes or zoning.

**§ C-8.02. Commencement of Proceedings, Petitioners' Committee, Affidavit. [Amended 11-4-2008]**

Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the Town Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing in it proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative Ordinance or citing the Ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall issue the appropriate petition blanks to the petitioners' committee. Any such petition issued by the Clerk shall be filed with the Clerk within ninety (90) days of issuance.

**§ C-8.03. Petitions. [Amended 11-4-2008]**

- (a) Number of Signatures. Initiative and Referendum Petitions must be signed by qualified Town voters equal in number to at least ten percent (10%) of the total number of voters registered to vote at the last regular election.

- (b) Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name and address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the Ordinance proposed or sought to be reconsidered.
- (c) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating the number of signatures thereon and affirming that he/she personally circulated the paper, that all the signatures were affixed in the presence of the circulator, that he/she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the Ordinance proposed or sought to be reconsidered.

#### **§ C-8.04. Procedure after Filing.**

- (a) Certificate of Clerk, Amendment. The Town Clerk shall forthwith refer the filed petition to the Board of Canvassers which shall within twenty (20) days prepare a certificate as to its sufficiency, specifying, if it is sufficient and specifying if insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of § C-8.03. Within five (5) days after it is filed, the Board of Canvassers shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review within the time required, the Board of Canvassers shall promptly present a certificate to the Council which shall then be the final determination as to the sufficiency of the petition.

Notwithstanding the above, every such signature shall be accepted as valid if it can be reasonably identified to be the signature of the voter it purports to be; and provided, further, that variation of the voter's signature by the insertion or omission of identifying titles or by the substitution of initials for the first or middle names or both shall not in itself be grounds for invalidation of such signature. Any voter who is unable to write may sign by making his/her mark (X) on the petition in the presence of two (2) witnesses who shall subscribe their names on the paper as witnesses to the signing.

- (b) Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has

been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Town Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

- (c) Court Review, New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

**§ C-8.05. Referendum Petitions, Suspension of Effect of Ordinance.**

When a Referendum Petition is filed pertaining to an Ordinance that has not taken effect, the Ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition, or
- (2) The petitioners' committee withdraws the petition, or
- (3) The Council repeals the Ordinance, or
- (4) Upon certification of the election results.

However, Ordinances which are in existence and in effect shall not be suspended until the Town Council either repeals the Ordinance or until after the Referendum Petition has been approved by a majority of voters voting on the petition and the election results certified.

**§ C-8.06. Action on Petitions.**

- (a) Action by Town Council. When an Initiative or Referendum Petition has been finally determined sufficient, the council shall promptly consider the proposed Initiative Ordinance in the manner provided in Article II or reconsider the referred Ordinance by voting its repeal. If the Council fails to adopt a proposed Initiative Ordinance without any change in substance within 60 (sixty) days or fails to repeal the referred Ordinance within 30 (thirty) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred Ordinance to the voters of the Town.
- (b) Submission to Voters. The vote of the Town on a proposed or referred Ordinance shall be held not less than 30 (thirty) days and not more than one (1) year from the date of the final council vote thereon. If no regular Town election is to be held within the period prescribed in this subsection, the Council shall provide for a special election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred Ordinance shall be made available at the polls and Town Hall.

- (c) **Withdrawal of Petitions.** An Initiative and Referendum Petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote on the Town by filing with the Town Clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**§ C-8.07. Results of Election.**

- (a) **Initiative.** If a majority of the qualified voters voting on a proposed Initiative Ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as Ordinances of the same kind adopted by the Town Council. If conflicting Ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (b) **Referendum.** If a majority of the qualified voters voting on a referred Ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE IX  
**RECALL**

**§ C-9.01. General Authority.**

The registered voters of the Town of Smithfield shall have power to remove elected members of the Town Council and School Committee and other elected officials from office by recall, provided that the recall may not be initiated during the last six (6) months of an incumbent's term.

**§ C-9.02. Commencement of Proceedings; Petitioners Committee; Affidavit.**

Any five (5) qualified voters may commence recall proceedings by filing with the Town Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed name and office of the elected official to be recalled.

Promptly after the affidavit of the petitioners' committee is filed, the clerk shall issue the appropriate blanks to the petitioners' committee.

**§ C-9.03. Petitions.**

- (a) **Number of Signatures.** Recall petitions must be signed by qualified Town voters equal in number to at least fifteen percent (15%) of the total number of persons registered to vote at the last regular election.
- (b) **Form and Content.** All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or

indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the name and office of the official for whom recall is sought.

- (c) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating the number of signatures thereon and affirming that he/she personally circulated the paper, that all the signatures were affixed in the presence of the circulator, and that he/she believes them to be the genuine signatures of the persons whose names they purport to be.
- (d) Time for Filing Recall Petitions. Recall petitions must be filed with the Town Clerk within 30 (thirty) days after the clerk's issuance of the blank petition.

#### **§ C-9.04. Procedure After Filing.**

- (a) Certification of Petition. The Town Clerk shall forthwith refer the filed recall petition to the Board of Canvassers which shall within 10 (ten) days prepare a certificate as to its sufficiency, specifying if it is sufficient and specifying if it is insufficient, the particulars wherein it is defective. The Board of Canvassers shall promptly send a copy of the certificate to the petitioners' committee by return mail. In reviewing the petition, the Board shall accept every signature as valid if it can be reasonably identified to be the signature of the voter it purports to be; and provided, further, that variation of the voter's signature by the insertion or omission of identifying titles or by the substitution of initials for the first or middle names or both shall not in itself be grounds for invalidation of such signature. Any voter who is unable to write may sign by making his or her mark (X) on the petition in the presence of two (2) witnesses who shall subscribe their names on the paper as witnesses to the signing.
- (b) Court Review, New Petition. A determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### **§ C-9.05. Submission to Voters.**

The vote of the Town on a recall petition shall be held not less than 30 (thirty) days and not more than 60 (sixty) days from the date that the Board of Canvassers certified the petition as sufficient.

#### **§ C-9.06. Results of Election.**

If a majority of the votes cast on the question of removal is affirmative, the person whose removal is sought shall thereupon be deemed removed from office upon certification of the election results.

ARTICLE X  
COURTS

**§ C-10.01. Probate Court.**

- (a) **Organization.** There shall be a Probate Court consisting of one (1) Judge who shall be appointed by the Town Council at its first (1st) meeting in January, to serve for a term of two (2) years. All the jurisdiction, power, and authority of said court shall be vested in said Judge who need not be required to devote full time to the duties of the office.
- (b) **Qualifications.** The Probate Judge shall be an attorney-at-law in good standing who has been admitted to the practice of law in the State at least five (5) years prior to his/her appointment.
- (c) **Powers and Duties.** The Probate Judge shall have such powers and duties as may be prescribed by State law.
- (d) **Clerk of Probate Court.** The Town Clerk or the Clerk's Deputy shall serve as the Clerk of the Probate Court.
- (e) **Compensation.** The Probate Judge shall receive such compensation as may be set by the Town Council at the time of the Judge's appointment.
- (f) **Vacancies.** If during the term in office the Probate Judge dies, resigns, or fails 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.
- (g) **Acting Judge of Probate.** Whenever the Probate Judge is a party to or interested in any proceeding about to be heard by the Probate Court or is absent or unable to perform the duties of the office, or there is a vacancy in such office, the duties of the Judge shall be performed by the Town Solicitor. The fact of such interest, absence, inability or vacancy shall be recorded in the records of the Probate Court.

**§ C-10.02. Municipal Court.** <sup>3</sup> [Amended 11-4-2008]

- (a) **Creation.** The Town Council may, by Ordinance, create a Municipal Court, consisting of one (1) Judge who shall be appointed by the Town Council at its first (1<sup>st</sup>) meeting in January to serve a term of two (2) years. All the jurisdiction, power, and authority of said court shall be vested in said Judge who need not be required to devote full time to the duties of the office.
- (b) **Qualifications.** 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.
- (c) **Seal, Oaths.** The Municipal Court shall have a Seal which shall contain such words and device as the Court shall adopt. Any Judge shall have the power to administer oaths and

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**3. Editor's Note: See also Ch. 60, Municipal Court.**

affirmations, compel the attendance of witnesses, punish persons for contempt, and impose fines and other penalties as provided by Ordinances, by-laws, and regulations of the Town and General Laws of the State of Rhode Island.

- (d) Jurisdiction. The Municipal Court shall have jurisdiction of all offenses and violations against the Ordinances, by-laws, rules, and regulations of the Town and shall have jurisdiction as provided for under the laws of the State of Rhode Island.
- (e) Costs. The Town Council may, by ordinance, assess court costs consistent with the General Laws of the State of Rhode Island.
- (f) Compensation/Fees. The Municipal Court Judge shall receive such compensation as may be set by the Town Council at the time of the Judge's appointment. Records shall be kept by the Clerk of the Municipal Court of all fees and money collected by said Court which shall then be remitted to the Finance Director.
- (g) Clerical Assistance. The Town Council shall have authority to provide clerical assistance to the Municipal Court to record, copy, index, and attend to the usual duties and files of the court.
- (h) Autonomy. The affairs of the Municipal Court shall not be subject to supervision by the Town Council or any other Town agency official, provided, however, that the Town Council shall designate the location, dates, and times of the sessions of the Court.
- (i) Vacancy. 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.

## ARTICLE XI CHARTER AMENDMENT

### **§ C-11.01. Proposal of Amendment.**

This Charter may be amended at any time, or a new Charter adopted, in the manner provided by the Constitution of the State. No amendment or proposed new Charter shall be placed before the electors for a vote thereon by the Council until a public hearing has been held on all such amendments or on such new Charter.

### **§ C-11.02. Charter Review Commission. [Amended 11-4-2008]**

In the fifth (5<sup>th</sup>) year following the year of the adoption of this Charter, and in each subsequent fifth (5<sup>th</sup>) year, the Town Council shall appoint, no later than the first month of the fifth year after the previous election proposing charter revisions, a Charter Review Commission of nine (9) members, all of whom shall be electors and residents of the Town and who shall be broadly representative of the community. Said Commission shall review the operation of the Charter of the Town, and propose to the Council such amendments, if any, as it may deem necessary and advisable. The Town Council may appoint additional Charter Review Commissions at any time in the same manner as aforesaid. A public hearing shall be

held on any and all recommendations emanating from a Charter Review Commission, prior to any decision by the Town Council to accept or reject said recommendations.

**§ C-11.03. Vote on Amendment; Adoption of Amendment.**

- (a) **Vote.** Proposed amendments to this Charter shall be submitted to the voters of Smithfield at either a special or general election in the manner prescribed by State law. It shall not be necessary for the full text of proposed amendments, or of a proposed new Charter, to be printed on the ballot. A digest or description thereof, or any statement or question which substantially expresses the purpose or identifies the subject matter to be voted upon shall be sufficient. The Town Council shall approve of the wording of any such digest, description, statement or question as it shall appear upon the ballot. A copy of the full text of the proposed amendments, or of the proposed new Charter, shall be posted in each polling place, Town Hall and such other places as may be designated by the Canvassing Authority.
- (b) **Adoption.** If a majority of the qualified voters of the Town voting upon a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 (thirty) days after its adoption by the voters. Should two (2) or more amendments adopted at the same time have conflicting provisions, the one receiving the largest affirmative vote shall prevail. The section of any amendment added to this Charter shall be numbered by the Town Clerk and inserted in its appropriate place.

ARTICLE XII  
MISCELLANEOUS PROVISIONS

**§ C-12.01. Public Records.**

All records and accounts of every department, office, agency, board, and commission of the Town shall be public records as defined by State law, with such exceptions as are set forth in State law. Public records shall be open to inspection by any person so requesting in accordance with the provisions of State law.

**§ C-12.02. Open Meetings.**

All meetings of all public bodies in the Town shall be open to the public, except as may otherwise be provided by State law.

**§ C-12.03. Ethics and Conflict of Interest.**

The provisions of State law relating to conflict of interest and ethics shall apply to all officials of the Town, in accordance with all prohibitions and definitions therein contained. The Town Council may at its discretion adopt additional conflict of interest and code of ethics regulations by Ordinance.

**§ C-12.04. Dual Office Holding.**

No elected or appointed member of the Town government shall hold more than one (1) position, elective or appointive, at the same time, unless otherwise provided in this Charter. No employee of the Town shall hold an elective office in the Town government. For the purpose of this article, call fire personnel, notaries public, and members of the police reserve shall be considered neither elected nor appointed officials of Town government, nor as Town employees.

**§ C-12.05. Term of Office.**

Every elected or appointed officer and member of a board, commission, or committee who is elected or appointed for a specific term, shall continue to hold such position until a successor is elected and qualified.

**§ C-12.06. Availability of Town Budget. [Amended 11-4-2008]**

The Town Clerk's Office and the local libraries will make available a limited number of copies of the Town budget book to all residents at least ten (10) days prior to the public hearing on the budget as prescribed in § C-5.05 of Article V of this Charter. The Town Budget will also available on the Town's web site in its entirety.

**§ C-12.07. Technical Changes. [Added 11-4-2008]**

The Town Clerk with the approval the Town Solicitor may make technical and grammatical changes to the Charter provided they do not affect the substance of the Charter.

ARTICLE XIII  
**SEPARABILITY PROVISION**  
[Amended 11-4-2008]

**§ C-13.01. Separability.**

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

