

2018 -- H 8219

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO TOWNS AND CITIES -- GENERAL POWERS

Introduced By: Representatives O'Grady, Ackerman, and Costantino

Date Introduced: May 23, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-2-51 of the General Laws in Chapter 45-2 entitled "General
2 Powers" is hereby repealed.

3 ~~**45-2-51, Town of Lincoln -- Municipal court.**~~

4 ~~(a) The town council of the town of Lincoln may establish a municipal court and confer
5 upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to
6 hear and determine causes involving the violations of the town of Lincoln Charter, Code of
7 Ordinances, including minimum housing ordinances of the town and any violation of the
8 provisions of chapter 24.3 of this title, entitled the "Rhode Island Housing Maintenance and
9 Occupancy Code"; provided, however, that any defendant found guilty of any offense, excluding
10 violation of the minimum housing ordinances or chapter 24.3 of this title, may within seven (7)
11 days of conviction, file an appeal from the conviction to the superior court for Providence County
12 and be entitled in the latter court to a trial de novo; and provided further, however, that any
13 defendant found guilty of any violation of a minimum housing ordinance or of chapter 24.3 of
14 this title may, within seven (7) days of the conviction, file an appeal from the conviction to the
15 sixth division of the district court and be entitled to a trial de novo in accordance with §§ 8-8-
16 3(a)(4) and 8-8-3.2.~~

17 ~~(b) With respect to violations of either municipal ordinances dealing with minimum
18 housing or chapter 24.3 et seq. of this title dealing with housing maintenance and occupancy, the
19 town council may also confer upon the municipal court, in furtherance of the court's jurisdiction,~~

1 ~~the power to proceed according to equity:~~

2 ~~(1) To restrain, prevent, enjoin, abate or correct a violation;~~

3 ~~(2) To order the repair, vacation or demolition of any dwelling existing in violation; or~~

4 ~~(3) To otherwise compel compliance with all of the provisions of the ordinances and~~
5 ~~statutes.~~

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

14 ~~(d) The town council of the town of Lincoln is authorized and empowered to appoint a~~
15 ~~judge and clerk of the municipal court. The town council of the town of Lincoln is authorized and~~
16 ~~empowered to enact ordinances governing the personnel, operation and procedure to be followed~~
17 ~~in the court and to establish a schedule of fees and costs, and to otherwise provide for the~~
18 ~~operation and management of the court. The municipal court may impose a sentence not to~~
19 ~~exceed thirty (30) days in jail and impose a fine not in excess of five hundred dollars (\$500), or~~
20 ~~both. The court is empowered to administer oaths, compel the attendance of witnesses and punish~~
21 ~~persons for contempt and to execute search warrants to the extent the warrants could be executed~~
22 ~~by a judge of the district court.~~

23 SECTION 2. Chapter 45-2 of the General Laws entitled "General Powers" is hereby
24 amended by adding thereto the following section:

25 **45-2-51.1. Town of Lincoln -- Municipal court – Municipal housing court.**

26 (a) The town council of the town of Lincoln may establish a municipal court and confer
27 upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to
28 hear and determine causes involving the violations of the town of Lincoln charter, or code of
29 ordinances; provided, however, that any defendant found guilty of any offense, excluding
30 violation of the minimum housing ordinances or chapter 24.3 of this title, may within seven (7)
31 days of conviction, file an appeal from the conviction to the superior court for Providence County
32 and be entitled in the latter court to a trial de novo

33 (b) The town council of the town of Lincoln may establish a municipal housing court and
34 confer upon the court original jurisdiction, notwithstanding any other provisions of the general

1 laws, to hear and determine causes involving the violation of the zoning ordinances of the town
2 and any violation of the provisions of chapter 24 of this title (the Rhode Island zoning enabling
3 act of 1991); any violation of chapter 24.1 of this title (the historical zoning act); any violation of
4 chapter 24.2 of this title (minimum housing standards act); any violation of chapter 24.3 of this
5 title (housing maintenance and occupancy code); any violation of chapter 23 of this title
6 (subdivision and land development act); any violation of any local Lincoln ordinance or
7 regulation enacted pursuant to these chapters; and any violation of the provisions of chapter 27.3
8 of title 23 (the Rhode Island state building code); and any violation of the provisions of those
9 regulations promulgated by the state building code commission entitled SBC-1 Rhode Island state
10 building code; SBC-2 Rhode Island state one and two (2) family dwelling code; SBC-3 Rhode
11 Island state plumbing code; SBC-4 Rhode Island state mechanical code; SBC-5 Rhode Island
12 state electrical code; SBC-6 state property maintenance code; SBC-8 Rhode Island state energy
13 conservation code; and SBC-20 Rhode Island state fuel and gas code; and provided, further, that
14 any party aggrieved by a final judgment, decree, or order of the Lincoln housing court may,
15 within twenty (20) days after entry of this judgment, decree, or order, file an appeal to the
16 superior court and be entitled in the latter court to a trial de novo.

17 (c) With respect to violations falling under the jurisdiction of the Lincoln housing court,
18 as outlined in subsection (b) of this section, the town council may also confer upon the housing
19 court, in furtherance of the court's jurisdiction, the power to proceed according to equity:

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

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

1 (e) The town council of the town of Lincoln is authorized and empowered to appoint a
2 judge and clerk of the municipal court. The town council of the town of Lincoln is also authorized
3 to appoint a judge and clerk of the housing court, who may be, but is not required to be, the same
4 person(s) holding the judgeship and clerk position in the municipal court. The town council of the
5 town of Lincoln is authorized and empowered to enact ordinances governing the personnel,
6 operation and procedure to be followed in the court and to establish a schedule of fees and costs,
7 and to otherwise provide for the operation and management of these courts. The municipal and
8 housing courts may impose a sentence not to exceed thirty (30) days in jail and impose a fine not
9 in excess of five hundred dollars (\$500), or both. The courts are empowered to administer oaths,
10 compel the attendance of witnesses and punish persons for contempt and to execute search
11 warrants to the extent the warrants could be executed by a judge of the district court.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- GENERAL POWERS

1 This act would repeal the authorization for the town of Lincoln to establish a municipal
2 court (§ 45-2-51), and would adopt an extensive authorization for the town of Lincoln to establish
3 a municipal court – municipal housing court.

4 This act would take effect upon passage.

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