

Chapter 15. COURT, MUNICIPAL

[HISTORY: Adopted by the Town Council of the Town of Westerly 8-13-1991 by Ch. No. 983 as §§ 2-201 through 2-216 of the 1991 Code (as amended by Ch. No. 1307). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art. II.
Juvenile Hearing Board — See Ch. 5, Art. IX.
Town Sergeant — See Ch. 34, Art. III.

§ 15-1. Establishment.

Pursuant to Title 45, Chapter 2, Section 29 of the General Laws of the State of Rhode Island, 1956, as amended, (1980 Reenactment) there is established a Municipal Court for the Town of Westerly. The Court shall commence on December 1, 1989.

§ 15-2. Appointment, term and qualifications of Judge.

- A. The Municipal Court shall be composed of one Judge appointed by the Town Council for a two-year term. The first term for the Judge shall commence on January 1, 1989.
- B. The Municipal Court Judge shall be a lawyer admitted to practice before the Supreme Court of the State of Rhode Island in good standing and shall have not less than five years of experience in the active practice of law in the State of Rhode Island.
- C. The Municipal Court Judge shall not hold any other Town office or Town position during his/her term, whether the same is elected or appointed.
- D. The Municipal Court Judge shall not be permitted to appear before any court, board or agency within the Town of Westerly, including but not limited to the Town Council, Zoning Board of Review, Planning Board, School Committee, Probate Court, District Court or Superior Court, wherein the matter to be before said court, board or agency concerns a local matter or case. **[Amended 8-17-2009 by Ch. No. 1684]**

§ 15-3. Municipal Court Clerk.

- A. The Town Manager shall appoint the Clerk of the Court to serve for an indefinite term beginning January 1, 2001.
- B. The Clerk of the Court shall keep a regular docket of all cases disposed of, shall record the

judgments, orders and sentences of said Court, and shall furnish certified copies thereof, when required, for which copies said Clerk shall charge the same fees as are allowed by law to be charged by Clerks of the District Court of the State of Rhode Island. The Clerk's office shall be open to the public during such hours as the Court shall determine from time to time.

- C. The Town Manager may appoint an acting Municipal Court Clerk when it is deemed necessary during the absence of the Municipal Court Clerk who shall meet the same qualifications and shall perform all duties of the Municipal Court Clerk and in the performance of said duties shall have the same effect as if performed by the Municipal Court Clerk.
- D. In addition to the duties of Municipal Court Clerk, the Town Manager may assign additional duties to the Clerk, but in no way shall the additional duties interfere with the primary duties of the Municipal Court Clerk.

§ 15-4. Seal; administering of oaths.

- A. The Municipal Court shall have a seal which shall contain such words and devises as the Town Council shall adopt and approve.
- B. The Municipal Court Judge and/or the Municipal Court Clerk shall have the power to administer oaths and affirmations.

§ 15-5. Sessions of Municipal Court.

The Municipal Court shall be considered to be in session at all times and in such place or places in the Town of Westerly as said Court or Justice holding said sessions shall so appoint and determine, subject, however, to the provisions that the Court shall be in session on each and every Thursday in the Westerly Town Hall Building, and shall be held on such days, times and places to be determined by the Municipal Court Judge.

§ 15-6. Jurisdiction.

- A. The Municipal Court shall have original jurisdiction to hear and determine cases involving violations of any ordinance of the Town of Westerly, Minimum Housing Ordinances of the Town of Westerly, and any violations of Chapter 24.3 of the Rhode Island General Laws entitled, the "Rhode Island Housing Maintenance and Occupation Code," and any other jurisdiction conferred upon the court by state law. *Editor's Note: See Ch. 145, Housing Standards.*
- B. Any defendant found guilty of any offense, excluding violations of said minimum housing ordinances or Chapter 24.3 within the jurisdiction of the Court, may within seven days of such conviction, file an appeal from said conviction to the Washington County Superior Court and be entitled in that Court to a trial de novo; and provided, further, however, that any defendant found guilty of any violation of a Minimum Housing Ordinance or of said Chapter 24.3 may, within seven days of such conviction, file an appeal from said conviction to the Fourth Division District Court and be entitled to a trial de novo in accordance with RIGL 8-8-3(a)(4) and 8-8-3.2.
- C. With respect to violations of either municipal ordinances dealing with minimum housing or

§ 45-24.3 et seq. of the Rhode Island General Laws dealing with housing maintenance and occupancy the Town Council hereby confers upon said Municipal Court, in furtherance of the aforementioned jurisdiction, the power to proceed according to equity:

- (1) To restrain, prevent, enjoin, abate or correct a violation;
- (2) To order the repair, vacation or demolition of any dwelling existing in violation; or
- (3) To otherwise compel compliance with all provisions of said ordinances and statutes.

§ 15-7. Power to impose fine and imprisonment.

The Municipal Court is empowered to impose a sentence as provided in Chapter 1, Article II, General Penalty. The Municipal Court shall also have the power to compel the attendance of witnesses and to punish persons for contempt and to authorize and execute search warrants to the extent that the same could be authorized and executed by a Justice of the District Court.

§ 15-8. Complaints, warrants and writs.

It shall be lawful for the Judge of the Municipal Court to prescribe and vary the form of all complaints, warrants, writs or other process, as to make the same consistent with the organization, style and jurisdiction of said Court; and such complaints, warrants, writs and other process shall have the same effect, validity, and extent, and be served, obeyed, enforced and returned, in the same manner and by the same officers, as if issued from the District Courts; and they may be served by any Constables of the Town who are authorized to serve process in civil or criminal cases.

§ 15-9. Costs.

The Municipal Court shall be authorized to tax costs in the same manner as those taxed by the District Courts of the State of Rhode Island. The payment of said costs shall be a part of the sentence to the extent that the same would be in the District Courts. All payments of costs shall be deposited in the general fund of the Town of Westerly.

§ 15-10. Temporary disability or disqualification; Acting Judge; qualifications and duties.

[Amended 8-17-2009 by Ch. No. 1684] In the event of the temporary disability or disqualification of the Judge of the Municipal Court so that he or she is unable to perform his or her duties, the Council may appoint an Acting Judge to serve during such temporary disability or disqualification and until such disability or disqualification shall cease. An Acting Municipal Court Judge must meet the same qualifications and shall perform all duties of the Municipal Court Judge and, in the performance of said duties, shall have the same effect as if performed by the Municipal Court Judge.

§ 15-11. Compensation of Judge.

[Amended 8-17-2009 by Ch. No. 1684] The compensation of the Municipal Court Judge shall be set by the Town Council of the Town from time to time and in the sole discretion of the Town Council.

§ 15-12. (Reserved)

Editor's Note: Former § 15-12, Bailiff, was repealed 3-12-2012 by Ch. No. 1767.

§ 15-13. Contempt of Court.

The Municipal Court may punish any contempt of its authority by fine or imprisonment as provided in Chapter 1, Article II, General Penalty.

§ 15-14. Filing of complaints.

Subject to any other provisions of law relative to the filing of complaints for particular crimes, any Judge of the Municipal Court may place on file any complaint in a criminal case other than a complaint against a person who has been convicted of a felony or a private complaint. The Court may, in its discretion, require as a condition of such filing the performance of services for the public good or may attach such other conditions thereto as such Court shall determine. If no action is taken on such complaint for a period not to exceed one year following such filing, such complaint shall be automatically quashed and destroyed.

§ 15-15. Failure to appear.

Failure to appear in answer to a summons, subpoena or complaint may be punished by a fine not over \$50 or imprisonment for not more than 15 days, or both.

§ 15-16. Bail Commissioners; qualifications.

- A. Bail Commissioners. The Judge of the Municipal Court shall from time to time appoint, with power to revoke such appointments, Bail Commissioners who shall be authorized to set and take bail, in all complaints bailable before the Municipal Court, from all respondents arrested on such complaints, and such Municipal Court Judge shall authorize the Bail Commissioners, as appointed by him or her, to issue warrants and complaints to the Municipal Court for any offense for which, by law, the Municipal Court Judge may issue a warrant and complaint, and all warrants as issued, and all complaints upon which bail is taken as aforesaid shall be forthwith returned to the Municipal Court, provided that such Bail Commissioners shall not in any case or for any purpose have the power to issue search warrants.
- B. Qualifications. A Bail Commissioner shall be an attorney at law in good standing who has been admitted to the practice of law in this state.