

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 1984-16

No. 126. **AN ORDINANCE** PROVIDING FOR THE FILLING OF THE OFFICE OF MAYOR IN THE CASE OF DISABILITY, SUSPENSION OR REMOVAL, AND PROVIDING DEFINITIONS AND PROCEDURES THEREFOR, AS AMENDED.

Effective: ~~XXXXXX~~ ^{Approved} February 27, 1984

Be it ordained by the City of Providence:

Pursuant to the authority vested in the City Council by Sections 206 (a), Article II, and by Section 304 of Article III, of the Home Rule Charter of the City of Providence adopted in 1980, the following definitions and procedures are established:

1. In the event that any person holding elective office under the Charter shall be convicted of a felony under the laws of Rhode Island, or convicted of a crime in any state or territorial possession of the United States or in any Federal Court of the United States which would be the equivalent in designation or penalty to a felony under Rhode Island law, such individual shall upon initial conviction be subject to suspension from the conduct of, the discharge of any duties of, and the exercise of any powers of, his or her office, in accordance with paragraph 2 hereof.

2. It shall be the responsibility of the City Clerk upon learning of any such conviction, to secure forthwith a properly authenticated copy of the court record of said conviction. Such record, upon receipt thereof, shall be transmitted by the City Clerk to the President of the City Council, the convicted office holder, all members of the City Council and the City Solicitor. Not less than fifteen (15) days nor more than thirty (30) days after the delivery of such record, the City Council shall order a public hearing thereon, which hearing shall be held only after due notice to the said convicted office holder of the purpose of said hearing. The City Council shall promulgate by majority vote, needful rules and regulations to ensure the orderly conduct of the hearing.

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The convicted official shall have the right to be heard, to be represented by counsel, and to request the City Council to compel the attendance of witnesses and production of evidence, including relevant records of the City. After such hearing is concluded, the City Council shall consider and vote upon the following Resolution: "Resolved that (insert name of office holder) is no longer fit to hold his or her office and shall be suspended from the office of (insert his or her office)." In the event that two-thirds of the entire membership of the City Council votes in favor of suspending the convicted office holder from his or her office, the suspension of the convicted office holder shall take effect upon said Resolution becoming effective unless the said office holder shall have requested a leave of absence before said effective date. Any such suspension will be with full compensation.

3. It shall be the further duty of the City Clerk to secure properly authenticated records of any further actions in any trial or appellate court involving the said conviction, and transmit the same or copies thereof as aforesaid. The suspension of any such convicted office holder shall continue until:

- (1) Certified copy of the mandate of a Court shall have been received by the City Clerk showing that the convicted office holder shall have been acquitted, or that a new trial shall have been granted, or that the said conviction has been reversed upon appeal; or
- (2) Certified copy of the mandate of a Court shall have been received by the City Clerk showing that the convicted office holder shall have failed to appeal within the time prescribed by law, or shall have exhausted all appeals and the conviction therefore stands, whereupon the office held by said convicted office holder shall be declared vacant pursuant to Section 206 (a) (5) of Article II of the Charter, in conformity with Section 4 of this Ordinance.

Upon the receipt of the mandate of the Court as described in Section 3 (1) above, said office holder shall resume all powers and

duties of his or her office.

4. Upon receipt of notification from the City Clerk that any office holder convicted on a felony charge as defined in Section 1 hereof, or of a crime of moral turpitude, has exhausted all appeals from said conviction, the City Council shall at its next regular or special meeting, if it is satisfied that the provisions of the Charter and of this Ordinance have been met, declare, by a vote of the members of the City Council, present at said meeting, the office of said convicted felon to be vacant and make provision for the filling of same in the manner provided in the Charter.

5. (a) In the event that the Mayor suffers a physical or mental illness or incapacity which makes it impossible for him or her to perform and exercise the powers and duties of the office, and executes and delivers or causes to be delivered a notarized statement to that effect to the Council President, with copies to all members of the Council, the City Solicitor and the City Clerk, the said Council President shall serve as acting Mayor until the Mayor executes a notarized statement to the effect that he or she is now able to resume the powers and duties of the office, copies of such statement to be distributed as hereinbefore provided.

5. (b) In the event that the Mayor or a member of the City Council suffers a physical or mental illness or incapacity which makes it impossible for him or her to perform and exercise the powers and duties of the office, and fails or is unable to so advise the Council President as provided in Section 5 (a) hereof, the Council shall, by majority vote, appoint a special commission composed of the City Solicitor, two or more members of the medical profession and a Justice of the Superior Court who shall be the chairperson of said special commission, to evaluate the capacity of the Mayor or member of the City Council to exercise the powers and duties of his or her office. The commission shall also conduct such consultations and interviews as the members thereof may deem necessary, shall provide the Mayor or member of the City Council with a hearing, at which said official shall have the right to be represented by counsel, and report to the Council within seven (7)

calendar days as to whether, in their judgment, the Mayor or Council person should be declared incapable of exercising his or her powers and duties, and if he or she is incapable, whether such incapacity appears to be temporary or permanent.

5. (c) The City Council, upon receiving the report of the Commission, shall meet forthwith, in regular or special meeting, and shall take up the report and recommendations of the Commission. If the City Council concurs in a finding of incapacity by a vote of two-thirds of the entire membership of the Council, the Mayor shall be declared suspended from office and the Council President shall serve as acting Mayor until the incapacity of the Mayor shall have been declared by a two-thirds vote of the entire membership of the Council, with the advice of the commission, to have terminated, or the office of Mayor or Council person shall have been declared by a two-thirds vote of the entire membership of the Council, with the advice of the commission, to have been vacated by virtue of permanent incapacity and a successor elected.

6. If the office of Mayor becomes vacant for any of the reasons set forth in Subsection 206 (a) or Section 208 of the Charter, or if the Mayor takes a leave of absence from his office, or is suspended from office pursuant to subsection 2 hereof, or is adjudged by the Council to be unable to perform the duties of his or her office by virtue of physical or mental illness pursuant to subsection 5 hereof, the powers and duties of the office of Mayor shall be exercised by the President of the City Council, who shall be deemed the acting Mayor, until the vacancy in the office of Mayor shall have been filled pursuant to Subsection 206 (b) of the Charter, or the term of the Mayor shall have expired, and a successor duly elected and qualified, or his or her absence or disability terminated. All acts performed by the President of the City Council when acting as Mayor as aforesaid shall have the same force and validity as if performed by the Mayor.

7. This Ordinance shall take effect upon its passage.

IN CITY COUNCIL
FEB 2 1984
FIRST READING
READ AND PASSED

Rose M. Mendonca **CLERK**

IN CITY COUNCIL
FEB 16 1984
FINAL READING
READ AND PASSED

Rose M. Mendonca
PRESIDENT
Rose M. Mendonca
CLERK

Effective without the Mayor's signature February 27, 1984.

Rose M. Mendonca

**THE COMMITTEE ON
ORDINANCES**

Recommendations

Item Memorandum

Chief

February 2, 1984

Transmitted to City Council
without recommendation

IN CITY
COUNCIL
FEB 14 1984
FIRST READING
READ AND PASSED

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READ AND PASSED