

TITLE 1

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Chapter 1

[IN GENERAL]**ARTICLE 1 GENERAL PROVISIONS****Sec. 1-1-1. How Code designated and cited.**

The ordinances and resolutions embraced in the following chapters and sections shall constitute and be designated the Code of Augusta-Richmond County, Georgia, and may be so cited.

Sec. 1-1-2. Rules of construction.

In the construction of this Code and of all ordinances and resolutions, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Augusta-Richmond County Commission:

- (a) *Augusta*. The term Augusta shall mean the consolidated government of the former City Council of Augusta and Richmond County.
- (b) *Augusta-Richmond County*. The term Augusta-Richmond County shall mean the same as Richmond County, Georgia and Augusta, Georgia.
- (c) *Board of health*. The term board of health shall mean the county board of health or the county department of health, whichever the context requires.
- (d) *Canal*. The term canal shall mean the canal of the Augusta-Richmond County.
- (e) *City of Augusta*. The term City of Augusta shall mean the former municipality whose charter was abolished by the Consolidation Act.
- (f) *Code*. The term code shall mean the Code of Augusta-Richmond County as adopted and as hereafter amended.
- (g) *Commissioners*. Members of the Augusta-Richmond County Commission representing the ten (10) Commission Districts.
- (h) *Commission*. The Augusta-Richmond County Commission.
- (i) *Committee*. The term committee shall mean committee of Commission.
- (j) *Computation of time*. Unless otherwise specifically provided, the time within which an act is required by law to be done shall be computed by excluding the first day and including the last; except that the last day shall be excluded if it be Sunday or a holiday.
- (k) *Consolidation Act*. The term Consolidation Act shall mean the Act consolidating the City of Augusta and Richmond County as found in 1995 Ga. Laws p. 3648, as amended.
- (l) *County*. The words the county or this county shall mean Richmond County, Georgia.
- (m) *Gender*. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
- (n) *Joint authority*. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- (o) *Keeper, proprietor*. Persons, firms, associations, corporations, clubs and copartnership, whether acting by themselves or as a servant, agent or employee.
- (p) *Land, real estate*. Rights and easements of incorporeal nature.
- (q) *Mayor*. The term Mayor shall mean the Mayor of Augusta-Richmond County, Georgia.
- (r) *Month*. A calendar month.
- (s) *Municipal officer*. The term municipal officer shall mean any municipal officer of the Augusta-Richmond County, Georgia.
- (t) *Municipal property, work, structure, enterprise or activity*. The terms municipal property, work, structure, enterprise or activity shall mean the property, work, structure, enterprise or activity of Augusta-Richmond County, Georgia.

- (u) *Number*. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.
- (v) *Oath*. The word oath shall include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.
- (w) *Or, and*. The word or may be read and, and the word and may be read or if the sense requires it.
- (x) *Owner*. When applied to a building or land, any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of such building or land.
- (y) *Person*. The word person shall extend and be applied to associations, societies, clubs, firms, partnerships and bodies politic and corporate as well as to individuals.
- (z) *Personal property*. Every species of property except real property.
- (aa) *Preceding, following*. The words preceding and following mean next before and next after, respectively.
- (bb) *Property*. Real and personal property.
- (cc) *Public place*. Any place where the public is invited to go or congregate.
- (dd) *Real property*. Lands, tenements and hereditaments.
- (ee) *River*. The term river shall mean the Savannah River.
- (ff) *Riverwalk*. The term Riverwalk as used herein is defined as that portion of the Augusta Levee located between 5th Street and 13th Street, including any property between said portion of said Levee and the Savannah River, together with that portion of 8th Street between Reynolds Street and said Levee.
- (gg) *Section*. The term section shall mean section of this Code.
- (hh) *Sidewalk*. Any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.
- (ii) *Signature, subscription*. The word signature or subscription includes a mark when the person cannot write.
- (jj) *State*. The State of Georgia.
- (kk) *Street*. Streets, avenues, boulevards, roads and all other public highways in Augusta-Richmond County.
- (ll) *Suburban Services District*. The term Suburban Services District shall mean the area of Richmond County coterminous with the area of Richmond County which was not within the corporate limits of the City of Augusta as said corporate limits existed on December 31, 1995.
- (mm) *Tenant, occupant*. When applied to a building or land, any person holding a written or oral lease of, or who occupies, the whole or a part of such building or land, either along or with others.
- (nn) *Time*. Words used in the past or present tense include the future as well as the past and present.
- (oo) *Urban Services District*. The term Urban Services District shall mean that area of Richmond County coterminous with the corporate limits of the former City of Augusta as said corporate limits existed as of December 31, 1995.
- (pp) *Waterworks*. The term waterworks shall mean the waterworks of Augusta-Richmond County.
- (qq) *Written, in writing*. Any representation of words, letters or figures, whether by printing or otherwise.
- (rr) *Year*. A calendar year.

Sec. 1-1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be

titles of such sections nor as any part of such sections, nor, unless expressly so provided, shall be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-1-4. Severability of parts of Code.

It is hereby declared to be the intention of the Commission that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the Commission without incorporation in this Code of any such unconstitutional or otherwise invalid phrase, clause, sentence, paragraph or section.

Sec. 1-1-5. Effect of repeal of ordinance or resolution.

(a) The repeal of an ordinance or resolution shall not revive any ordinances or resolutions in force before or at the time the ordinance or resolution repealed took effect.

(b) The repeal of an ordinance or resolution shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance or resolution repealed.

Sec. 1-1-6. Provisions considered as continuations of existing ordinances and resolutions.

The provisions appearing in this Code, so far as they are the same as those ordinances and resolutions existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Sec. 1-1-7. Altering Code.

It shall be unlawful for any person to change or amend by additions or deletions, any part or

portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever except by ordinance or resolution or other official act of the Commission, which will cause the law of Augusta-Richmond County to be misrepresented thereby.

Sec. 1-1-8. General penalty; continuing violations; enforcement.

(a) Whenever in this Code or in any ordinance or resolution of the Augusta-Richmond County Commission any act is prohibited or is made or declared to be unlawful or an offense of a misdemeanor, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance or resolution shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in jail or any public works camp which may be established not exceeding sixty (60) days or by both such fine and imprisonment. Each day any violation of any provision of this Code or of any ordinance or resolution shall continue a separate offense.

(b) All ordinances of the Commission shall be enforced in the Municipal Court of Augusta-Richmond County, the State Court of Richmond County, or the Magistrate Court of Richmond County, Georgia.

Sec. 1-1-9. Amendments to Code; effect of new ordinances.

(a) All ordinances and resolutions passed subsequent to the passage of the ordinances originally included in this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordi-

nances until such time that this Code and subsequent ordinances numbered or omitted are re-adopted as a new code by the Commission.

(b) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

(c) The enactment of an ordinance, in the absence of language to the contrary, shall not repeal any ordinance theretofore passed dealing with the same matter, except where in direct conflict therewith.

Sec. 1-1-10. Certain ordinances not affected by Code.

Nothing in this Code, or the ordinance adopting this Code, shall be construed to repeal or otherwise affect the validity of any of the following:

- (a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contact or right established or accruing before the effective date of this Code;
- (b) Any ordinance or resolution promising or guaranteeing the payment of money for the City Council of Augusta, Board of Commissioners of Richmond County, or the consolidated government, or authorizing the issuance of any bonds of the City Council of Augusta, Board of Commissioners of Richmond County, or the consolidated government, or any evidence of the consolidated government's indebtedness, or any contract or obligation assumed by the consolidated government;
- (c) Any ordinance or resolution fixing salaries of officers or employees of the consolidated government;
- (d) Any appropriation ordinance or resolution;
- (e) Any right or franchise granted by the City Council of Augusta, Board of Commissioners of Richmond County, or the consolidated government to any person;
- (f) Any ordinance or resolution dedicating, naming, establishing, locating, relocating,

opening, paving, closing, abandoning, widening, vacating, etc., any street or public way in Augusta-Richmond County;

- (g) Any ordinance or resolution establishing and prescribing the street grades of any streets in Augusta-Richmond County;
- (h) Any ordinance or resolution providing for local improvements or assessing taxes therefor;
- (i) Any ordinance or resolution dedicating or accepting any plat or subdivision in the consolidated government or providing regulations therefor;
- (j) Any ordinance zoning or rezoning property in Augusta-Richmond County;
- (k) Any ordinance or resolution prescribing traffic regulations for specific locations, parking limitations, parking prohibitions, one-way traffic, or limitations on loads of vehicles or loading zones, not inconsistent with this Code;
- (l) Any temporary or special ordinance;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Sec. 1-1-11. Reserved.

Editor's note—Ord. No. 6239, § 1, adopted Jan. 18, 2000 renumbered § 1-1-11 to 1-1-20 to read as herein set out. See the Code Comparative Table.

Sec. 1-1-12. Authorization of certain employees to issue citations.

Employees of the public works and utilities departments of Augusta, and employees of the Augusta-Richmond County Planning and Zoning Commission, and employees serving as license inspectors and code enforcement officers of the Augusta License and Inspection Department are hereby authorized to issue citations to any person violating any provision of this Code and/or any ordinance of Augusta-Richmond County which relates to drainage or soil erosion and sediment control, subdivisions and zoning, water and sew-

age, alcohol and business licensing, and private property maintenance codes including specifically sections 7-2-1, 7-1-3, 7-1-16, and 3-5-134.

(Ord. # 6025, April 6, 1998; Ord. No. 6242, § 1, 1-18-99)

Sec. 1-1-13. Contact with employees.

Except for purposes of inquiry and investigation, including but not limited to constituent requests, members of the Augusta-Richmond County Commission, including the Mayor and Commissioners, shall only deal with the employees of Augusta, Georgia, who are below the level of assistant department director, through the administrator, deputy or assistant administrator(s), department directors, or assistant directors, and shall not give any order or directions to any such employee either public or privately, directly or indirectly.

(Ord. No. 6363, § 1, 4-3-01)

Secs. 1-1-14—1-1-19. Reserved.

ARTICLE 2 CODE OF ETHICS

Sec. 1-1-20. Code of ethics for government service—A statement of ethical principles.

Any person in government service should:

- (a) Put loyalty to the highest moral principles and to country above loyalty to person, party, or government department.
- (b) Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.
- (c) Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.
- (d) Seek to find and employ more efficient and economical ways of accomplishing tasks.
- (e) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not,

and never accept, for himself/herself or his/her family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

- (f) Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty.
- (g) Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
- (h) Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
- (i) Expose corruption wherever discovered.
- (j) Uphold these principles, ever conscious that public office is a public trust.

(Ord. No. 6239, § 1, 1-18-00)

Editor's note—Formerly § 1-1-11.

Sec. 1-1-21. Purpose.

An ethics in government policy for elected and appointed officials and employees of Augusta is hereby established to encourage a commitment of fidelity to the public interest for the people of Augusta.

(Ord. No. 6239, § 1, 1-18-00)

Sec. 1-1-22. Persons subject to this article; definitions.

The following persons are subject to this article:

- (a) All employees of Augusta and in any agency created by the Augusta-Richmond County Commission, whether elected or appointed, including the Mayor and members of the Augusta-Richmond County Commission.
- (b) Agency heads who are appointed by the Augusta-Richmond County Commission, Mayor or Administrator.

(c) As used in this article the term:

- (1) *Agency* means any agency, authority, department, board, bureau, commission, council, corporation, entities or instrumentality of Augusta, except those headed by an elected official other than the Mayor and any citizens committee, or citizens advisory committee, appointed by the Mayor or the Commission.
- (2) *Agency head* means the director or executive head of an agency.
- (3) *Commission* means the Augusta-Richmond County Commission.
- (4) *Employee* means any agency head, and all individuals employed by the Augusta-Richmond County Commission, Augusta, Georgia, or any agency of Augusta.
- (5) *Gift* means food, lodging, transportation, personal services, a gratuity, subscription, membership, trip, loan, extension of credit on behalf of an employee or public official, forgiveness of debt of an employee or public official, advance or deposit of money for the benefit of an employee or public official, or anything of value, exceeding the value of one hundred dollars (\$100.00). A "gift" shall not include:
 - (A) Food or beverage consumed at a single meal or event; or food, beverages, and registration at group events to which all members of an agency are invited; or food, beverage, or expenses afforded employees, public officials, relatives, or others that are associated with normal and customary business or social functions or activities;
 - (B) Legitimate salary, benefits, fees, commissions, or expenses associated with a recipient's nonpublic business, employment, trade, or profession;
 - (C) An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, private or public service, or achievement;
 - (D) Actual and reasonable expenses for food, beverages, travel, lodging, and registration provided to permit participation in a meeting related to official or professional duties, if participation has been approved in writing by the agency head;
 - (E) Promotional items generally distributed to the general public;
 - (F) A gift from a relative or personal friend of the employee or public official who is neither a lobbyist nor a vendor; or
 - (G) Lawful campaign contributions to any elected official or candidate for elected office; and
 - (H) Courtesy tickets or free admission extended to an elected official for an event as a courtesy or for ceremonial purposes;
 - (I) A commercially reasonable loan made in the ordinary course of business.
- (6) *Lobbyist* shall have the meaning defined in O.C.G.A. § 21-5-70(6).
- (7) *Person* means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of individuals.
- (8) *Public official* means the Mayor and members of the Augusta-Richmond County Commission and all appointed members of any agency.
- (9) *Relative* means members of the family or household or relatives (including a person for whom the employee or public official has legal responsibility, a parent, step-parent, child, step-child, son-in-law, daughter-in-

law, brother, sister, spouse, aunt, uncle, niece, nephew, grandparent, grandchild, brother-in-law, sister-in-law, or persons living in the employee's or public official's household).

- (10) *Value* means the actual retail price or cost attributable to a gift, less applicable taxes and gratuities, or a reasonable estimate based upon customary charges for like goods or services in the locality, prorated among all recipients of each single gift, whether or not all recipients are employees. Gifts shall be valued as a single gift. Specific types of gifts shall be valued on the following basis:

- (A) Transportation, by air or rail, shall be based on the ticket cost or coach-class equivalent value.
- (B) Ground transportation shall be valued on cost or the mileage rate reimbursed by Augusta.
- (C) Entrance fees, admission fees, or other tickets shall be valued at the face value of the ticket or fee, excluding any portion attributable to a charitable contribution, if provided by the charitable organization.

- (11) *Vendor* means any person who solicits to sell to or to contract, or who sells or contracts, with Augusta or any department, board, bureau, agency, or commission created by the Augusta-Richmond County Commission for the provision of any goods or services.

- (12) *Charitable organization* shall have the meaning defined in O.C.G.A. § 45-20-51.

(Ord. No. 6239, § 1, 1-18-00)

Sec. 1-1-23. Rules of conduct for employees and public officials of Augusta.

Employees and public officials of Augusta shall perform their official duties in such a manner as

to promote the best interest of the public. To help ensure the proper performance of their duties, the following Rules of Conduct are adopted.

- (a) *Receipt of gifts by employees and public officials prohibited; reporting; disposition.*

- (1) An employee or public official, or any other person on his or her behalf, is prohibited from knowingly accepting and retaining, directly or indirectly, a gift from a lobbyist, vendor, or any other person seeking to influence official action. If a gift has been accepted, it must be either returned to the donor or transferred to a charitable organization. However, a gift may be accepted by an employee or public official on behalf of Augusta, the agency, or the Mayor and Commission. If the gift is accepted, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.
- (2) An employee who accepts a gift for an agency or for the Mayor and Commission must file a report, no later than the last day of each quarter in which a reportable gift is made. The report shall be filed with the employee's agency head and in the case of the Mayor and Commission with the Clerk of the Commission. The report must contain a description of each gift, the name and address of the recipient of the gift, and the date such gift is given. The donor shall be notified that the gift will be reported, but a single gift need not be reported by more than one employee.
- (3) A public official who accepts a gift for an agency or for the Mayor and Commission must file a report with the Clerk of the Commission not later than February 1, 2001, and not later than February 1 of each year thereafter, and shall cover the preceding

calendar year. The report must contain a description of each gift, the name and address of the donor of the gift, and the date such gift is given. The donor shall be notified that the gift will be reported, but a single gift need not be reported by more than one (1) employee.

(b) *Conflict of interest prohibited.*

- (1) An employee or public official shall not knowingly use his or her position in any manner which will result in the receipt of a financial benefit or gift, direct or indirect, to the employee, the employee's relatives, the public official, the public official's relatives, or an individual with whom the employee or public official has a financial interest or a business with which the employee or public official has a financial interest.

- A) These rules shall not be applicable to financial and other benefits derived by an employee or public official that he or she would enjoy to an extent no greater than that which other citizens of Georgia would or could enjoy.
- (B) These rules shall not be applicable to financial and other benefits rightfully gained by an employee or public official pursuant to the proper performance of his or her official responsibilities.
- (C) These rules shall not be applicable to the exceptions to prohibited transactions set forth in O.C.G.A. §§ 45-10-23 and 45-10-25.
- (D) These rules shall not be applicable to such further exceptions as may be made on a case-by-case basis upon application to the Augusta-Richmond County Commission.

- (2) An employee or public official shall not directly or knowingly ask, accept, demand, extract, solicit, seek, or assign or receive a financial benefit or gift for himself or herself or for another person in return for being influenced in the discharge of his or her official responsibilities.

- (3) An employee or public official shall not solicit or receive a financial benefit, or a gift other than a financial benefit received by the employee or public official for acting in his or her official capacity, for advice or assistance given in the course of carrying out the employee's official responsibilities.

- (4) An employee or public official shall not use or disclose information gained in the course of, or by reason of, his or her official responsibilities in a way that would affect a personal financial interest of the employee, an employee's relative, the public official, a public official's relative, or a person with whom, or business with which, the employee or public official shares a financial interest.

- (5) An employee shall not cause the employment, appointment, promotion, transfer, or advancement of a relative to an employment position which the employee directly supervises or manages. An employee or public official shall not participate in an action relating to the disciplining of a relative. Nothing herein shall be construed to affect Augusta's nepotism policy as contained in its Personnel Policies and Procedures.

(c) *Appearance of conflict.*

- (1) An employee or public official shall make every reasonable effort to avoid even the appearance of a conflict of interest. An appearance of conflict exists when a reasonable person would conclude from the circumstances that the employee's or public

official's ability to protect the public interest, or perform public duties, is compromised by personal interests. An appearance of conflict could exist even in the absence of a legal conflict of interest.

- (2) An employee or public official shall recuse himself or herself from participation in any official proceeding in which the employee's or public official's impartiality might reasonably be questioned due to the employee's or public official's personal or financial relationship with any participant in the proceeding, including an owner, shareholder, partner, employee, or agent of a business entity involved in the proceeding. If the employee or public official is uncertain whether the relationship justifies recusal, then the employee or public official shall disclose the relationship to the person presiding over the proceeding. The presiding officer shall determine the extent to which, if any, the employee or public official will be permitted to participate. If the presiding officer is the affected employee or public official, he or she shall relinquish the chair to a substitute who shall made the determination.

(d) *Other rules of conduct.*

- (1) The agency head shall make a due and diligent effort to determine whether he or she has a conflict of interest or appearance of conflict before taking any action.
- (2) The agency head shall continually monitor, evaluate, and manage his or her personal, financial, and professional affairs to ensure the absence of conflicts of interests and appearance of conflicts.

- (e) Augusta shall not pay lodging costs, meal costs, transportation costs, entrance fees, admission fees, or for other tickets for anyone other than the employee unless

such person has specific approval from the City Administrator or agency head, as applicable, for such person to accompany the employee on such trip, nor shall Augusta pay for such expenses for anyone representing the Mayor or members of the Commission, without specific approval of the Augusta-Richmond County Commission.

(Ord. No. 6239, § 1, 1-18-00)

Sec. 1-1-24. Violations; sanctions—Employees.

Each agency shall make a copy of this article available to all employees and public officials and shall institute procedures for its enforcement consistent with all applicable Georgia laws. Violation of this Article may subject an employee to disciplinary action, including termination of employment pursuant to the applicable policies and procedures. The agency head of each agency shall be responsible to the Augusta-Richmond County Commission for the faithful enforcement of this article, and shall report all alleged violations and their disposition to the Augusta-Richmond County Commission.

(Ord. No. 6239, § 1, 1-18-00)

Sec. 1-1-25. Violations; complaints—Public officials.

The Augusta-Richmond County Commission shall be responsible for hearing and deciding any complaints filed against a public official regarding alleged violation of articles 2 and 3 of this Chapter.

(Ord. No. 6239, § 1, 1-18-00)

Sec. 1-1-26. Disciplinary action against public official.

In addition to any other remedy provided by law, a public official who is subject to the provisions of this article and who is found by the Augusta-Richmond County Commission to have violated its provisions may be subject to censure or reprimand.

(Ord. No. 6239, § 1, 1-18-00)

**ARTICLE 3 ETHICS IN PUBLIC
PROCUREMENT**

Sec. 1-1-27. Employee or public official conflict of interest.

It shall be unethical for any Augusta-Richmond County employee or public official, as defined in the Augusta-Richmond County Code section 1-1-22(c)(8), to *transact any business* or participate directly or indirectly in a procurement contract when the employee or public official knows that:

- (a) The employee or public official or any member of the employee's or public official's immediate family has a *substantial interest* or *financial interest* pertaining to the procurement contract, except that the purchase of goods and services from businesses which a member of the Commission or other Augusta-Richmond County employee has a financial interest is authorized as per O.C.G.A. § 36-1-14, or the procurement contract is awarded pursuant to O.C.G.A. § 45-10-22 and § 45-10-24, or the transaction is excepted from said restrictions by O.C.G.A. § 45-10-25;
- (b) Any other person, business, or organization with whom the employee or public official or any member of an employee's or public official's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

An employee or public official or any member of an employee's or public official's immediate family who holds a substantial interest or financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that substantial interest or financial interest.

(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-28. Gifts, rebates and kickbacks.

(a) *Gifts.* It shall be unethical for any person to offer, give, or agree to give any Augusta-Richmond County employee or public official, or for any Augusta-Richmond County employee or official to solicit, demand, accept, or agree to accept from another person, a gift or gratuity except as

provided in Augusta-Richmond County Code § 1-1-23, or any rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- (1) *Kickbacks and rebates.* It shall be unethical for any payment, gifts, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.
- (2) *Contract clause.* The prohibition against gratuities, rebates and kickbacks prescribed in this Section shall be conspicuously set forth in every contract and solicitation therefor.
- (3) *Courtesies.* Employees may accept for themselves and members of their families common courtesies usually associated with customary business practices so long as they do not violate the provision of the Rules of Conduct set forth in Augusta-Richmond County Code § 1-1-23.
- (4) *Cash.* It is never permissible for an Augusta-Richmond County official or employee to accept a gift in cash or cash equivalent (e.g. stocks or other forms of marketable securities) of any amount.

(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-29. Prohibition against contingent fees.

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure an Augusta-Richmond County contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, except

for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-30. Contemporaneous employment prohibited.

It shall be unethical for any Augusta-Richmond County employee or official who is participating directly or indirectly in the procurement process to become, or to be while such an employee or public official, the employee of any person contracting with Augusta-Richmond County.
(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-31. Waiver from contemporaneous employment prohibition and other conflicts of interest.

The Augusta-Richmond County Commission may grant a waiver from the employee conflict of interest provision or the contemporaneous employment provision upon making a written determination that:

- (a) The contemporaneous employment or financial interest of the employee has been publicly disclosed;
- (b) The employee will be able to perform his/her procurement functions without actual or apparent bias or favoritism; and
- (c) The award will be in the best interests of Augusta-Richmond County.

(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-32. Use of confidential information.

It shall be unethical for any Augusta-Richmond County employee or public official knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-33. Inside information.

No Augusta-Richmond County public official or employee shall:

- (a) Give or release without proper authority to anyone not employed by Augusta-

Richmond County or to another employee or public official who has no need for the information, data or information of a confidential or proprietary nature, such as a tax sale obtained while in Augusta-Richmond County's employment or service.

- (b) Use non-public information obtained while in Augusta-Richmond County's employment or service, including information about customers or suppliers, for the personal profit of that employee or public official or anyone else. This includes, but is not limited to, taking advantage of such information by:
 - (1) Trading or providing information for others to trade in securities;
 - (2) Acquiring a real property interest of any kind, including but not limited to plant or office sites or adjacent properties; or
 - (3) Acquiring options to obtain interest in royalties, minerals, or real property for the purpose of obtaining mineral or royalty interest.

(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-34. Use of position for gain.

No Augusta-Richmond County public official or employee shall use his official position or office to obtain financial gain for himself.
(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-35. Unauthorized purchases.

No purchases of materials, supplies, equipment and services shall be made in the name of Augusta-Richmond County or one (1) of its departments, or through its procurement department, except such as are required for official use by Augusta-Richmond County or one (1) of its departments. Purchases in the name of Augusta-Richmond County or a department for personal use by an individual or for other than official use are prohibited, and no Augusta-Richmond County funds will be expended or advanced therefor.
(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-36. Agreement of candidates involving work or appointments.

It shall be unethical for any candidate for the office of mayor or commissioner to enter into any agreement or understanding with any person as to the disposal of any work or appointment which is or shall be under the control of the Commission. (Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-37. Penalties and sanctions.

(a) *Legal or disciplinary action by Commission.* The Commission may take appropriate legal and/or disciplinary actions against any Augusta-Richmond County public official, vendor, contractor, organization, or person in violation of these ethical standards or the Rules of Conduct set forth in Augusta-Richmond County Code § 1-1-23.

(b) *Legal or disciplinary action by Augusta-Richmond County Administrator.* The Augusta-Richmond County Administrator may take appropriate legal and/or disciplinary actions against any Augusta-Richmond County employee subject to the Administrator's supervision and control as defined in the Augusta-Richmond County Code, subject to the appropriate appeals process of Augusta-Richmond County.

(c) *Legal or disciplinary action by Elected/Constitutional Officers of Augusta-Richmond County.* The Constitutional Officers and other Elected Officers of Augusta-Richmond County may take the appropriate legal and/or disciplinary actions against any employee under their supervision and control subject to the appropriate appeals process of Augusta-Richmond County.

(d) *Administrative penalties for employees.* The Augusta-Richmond County Administrator or Constitutional/Elected Officer may impose any one (1) or more of the following penalties or sanctions on an Augusta-Richmond County employee for violations of the ethical standards in this Section as appropriate to the situation, subject to the Personnel Manual or other appropriate appeals procedures:

- (1) Oral or written warnings or reprimands;
- (2) Suspensions with or without pay for specified periods of time; or

- (3) Termination of employment.

(e) *Administrative penalties for outside contractors/vendors.* The Augusta-Richmond County Commission may impose any one (1) or more of the following penalties or sanctions on a vendor/contractor or other person or organization for violations of these ethical standards:

- (1) Written warnings or reprimands;
- (2) Termination of contracts; or
- (3) Debarment or suspension as provided in section 1-10-65 (Authority to Debar or Suspend).

(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-38. Recovery of value transferred or received in breach of ethical standards.

(a) *General provisions.* The value of anything transferred or received in breach of the ethical standards of this chapter or the Rules of Conduct set forth in Augusta-Richmond County Code section 1-1-23 by an Augusta-Richmond County employee, public official, or a vendor/contractor or other person may be recovered from either party.

(b) *Recovery of kickbacks by Augusta-Richmond County.* Upon showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by Augusta-Richmond County and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.

(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-39. Political contributions.

(a) No employee or public official shall make any contribution of Augusta-Richmond County funds, property, or services to any political party or committee, or to any candidate for or holder of any office of the government—National, state, local, or foreign.

(b) Nothing herein shall be construed as prohibiting the making of political contributions by any vendor/contractor or other person or organization to any candidate for public office, so long as the contribution is made without any agreement or understanding with regard to future or pending contracts or purchase orders.

(Ord. No. 6239, § 2, 1-18-00)

Sec. 1-1-40. Registration of vendors making gifts

(a) Any vendor who, either directly or through another person, makes a gift or gifts to one (1) or more employees or public officials exceeding in the aggregate one hundred dollars (\$100.00) in value during any calendar year shall file a disclosure report with the Clerk of the Augusta-Richmond County Commission in the form specified by the Augusta-Richmond County Commission listing the amount and date of receipt, the name and mailing address of any vendor making the gift, and the name, address, and position of each public employee or public official receiving such a gift.

(b) Each disclosure report required by subsection (a) of this section shall be filed with the Clerk of the Commission not later than February 1, 2001, and not later than February 1 of each year thereafter, and shall cover the preceding calendar year.

(c) A report required by this section shall be verified by the oath or affirmation of the person filing such report or statement taken before an officer authorized to administer oaths. Each report required in a calendar year shall contain cumulative totals of all gifts which have been made or received and which are required to be reported.

(d) In addition to other penalties provided under this Article, a filing fee of fifty dollars (\$50.00) shall be imposed for each report that is filed late. In addition, a filing fee of twenty-five dollars (\$25.00) shall be imposed on the fifteenth day after the due date if the report has still not been filed.

(Ord. No. 6239, § 2, 1-18-00)

Chapter 2

ADMINISTRATION

ARTICLE 1 COMMISSION

Sec. 1-2-1. Seal.

A seal shall be prepared of and for the Commission for such uses as may be properly made thereof, the same to be of a circular form bearing a representation of the City Hall of the City of Augusta as of 1859 and bearing on the circumference thereof on the top the words Augusta-Richmond County and on the bottom Georgia.

Note—(1) The seal is required to be used in all contracts, deeds, ordinances and official resolutions where otherwise legally required.

Sec. 1-2-1-1. Service mark.

The service mark was submitted and approved by the United States Patent and Trademark Office on July 18, 2006, certificate of registration 3,115,752 for a 10 year initial term to be renewed on July 18, 2016, consists of the stylized script "Augusta" with the words "Georgia" spaced below and across the old Government House (1736) oval presentation watermark.

Note—(1) The service mark is used for proclamations, letterheads and other documents where the seal is not required.

Sec. 1-2-2. Meeting—Time and place; committees.

(a) All Commission's regular meetings shall be held on the first and third Tuesday of each month at 2:00 p.m. at the Municipal Building 8th floor, in the Lee Beard Commission Chambers. The committee meetings are held on the second and last Monday of every month on the 8th floor, Room 802. There are also called meetings of the Commission and the subject, dates and times of these meetings are scheduled and notified in advance.

Note—By Ordinance No. 6883, on May 2, 2006, the Augusta-Richmond County Commission changed its first meeting in April 2007 to the last Wednesday in March of 2007, and the first meeting of every April thereafter to the last week of the preceding March.

(b) If there is a necessity to change the time and date of the regular meeting of the Commission or of the regular called meeting, this shall be done by request of the Mayor or a majority of the members of the Commission, provided a majority of the Commissioners can attend the meeting which shall be held on a different date and shall be given the notice required herein.

(c) The Commission may hold such additional meetings as shall be deemed necessary when called by the Mayor or a majority of the members of the Commission, provided all members shall have been notified at least twenty-four (24) hours in advance of the special meeting. Provided, further, that a majority of the Commission may convene the same in extraordinary session for emergency business, such as a natural disaster or civil disturbance, whenever in their judgment it may be necessary.

(d) Any action taken at all committee meetings shall be placed on the agenda of the regular meeting, regular called meeting, or special meeting of the full Commission for approval of the action of the committee.

Sec. 1-2-3. Meeting—Agenda.

(a) No business shall be transacted at the regular meeting or regular called meeting of the Commission on the first Tuesday and third Tuesday of each month that is not on the agenda by 9:00 a.m. on Thursday before such meeting; provided, however, business items may be added to the agenda after the deadline, with the unanimous consent of the members of the Commission present at such meeting.

(b) The Administrator for Augusta-Richmond County shall be elected/appointed by a majority vote of the Commission of Augusta-Richmond County, Georgia, from nominations presented by the Mayor following the Commission approved recruitment process. The Mayor shall present as many as three top candidates for appointment, along with his recommendation. The Commission shall elect/appoint an Administrator from among the candidate or candidates presented by the Mayor. Should none of the candidates be elected/

appointed, then the Mayor shall nominate as many as three new candidates from those who applied through the recruitment process.

(c) An item may be removed from the agenda after 9:00 a.m. on the Thursday prior to the Tuesday of the regular Commission meeting with unanimous approval of the members of the Commission attending the regular meeting.

(d) An item may be removed from the agenda prior to 9:00 a.m. on the Thursday prior to the Tuesday, of the regular Commission meeting upon the request of the commissioner, department head, or other individual party who was responsible for placing the item on the agenda.

(e) No item pertaining to alcoholic beverage application shall be placed on the agenda within one (1) year from the date of the denial of the application by the Commission.

(f) No item pertaining to zoning shall be placed on the agenda for the same zoning classification within one (1) year from the date of the denial of the application by the Commission.
(Ord. No. 6772, § 1, 1-15-05)

Sec. 1-2-4. Meetings—Minutes.

The minutes of meetings of the Commission shall, at a minimum, briefly describe all statements made and shall record the actions taken by the Commission. Any statement shall be recorded in full at the request of a member of the Commission. A member of the Commission may incorporate an additional statement when the minutes are read. The minutes shall be read before they are approved as soon as is possible or feasible but in no case later than the next regular meeting of the Commission.

Sec. 1-2-5. Ordinances—Required readings.

(a) The caption of each ordinance shall be read previous to the adoption of the ordinance. All readings of every ordinance shall be by reading the caption of such ordinance only, unless some member of the Commission shall then and there demand that the entire ordinance be read. Upon such demand being made, the clerk shall read the

entire ordinance. Except as provided in paragraph (b) hereof, all ordinances shall be read twice before final adoption.

(b) Except for emergency ordinances or ordinances amending the Zoning Map for Augusta-Richmond County, or upon a unanimous vote of the Commission, no ordinance shall be adopted until it has been read or presented in written form at two meetings held not less than one week apart.

(c) A resolution may be adopted at the same meeting at which it is introduced.

(d) The affirmative vote of at least six (6) members of the Commission shall be required for the adoption of any ordinance or resolution. The passage of all ordinances or resolutions shall require the recording of "ayes" and "nays" and the names of the members of the Commission voting for and against each proposed ordinance or resolution or amendment thereto shall be entered in the minutes of the proceedings of the Commission.

Sec. 1-2-6. Announcement of commission action.

All communications to persons, firms or corporations affected by actions taken at a called or regular meeting of the Commission shall be made by the Administrator for Augusta-Richmond County, informing them of the action taken.

Sec. 1-2-7. Vacancies.

Any appointment to fill an expired or a new term on any board or commission, which appointment is made by the Commission, shall not have less than six (6) votes of approval.

Sec. 1-2-8. Procurement policy.

(a) The Administrator for Augusta-Richmond County shall have the authority to approve all purchases requiring a bid or written quote when the following conditions have been met:

- (1) The item(s) have been previously approved in the budget adopted by the Commission;

- (2) All state and ordinances and regulations relative to procurement have been complied with; and
- (3) The low bid meeting specifications is selected and does not exceed the budgeted amount by ten (10) percent and not exceeding twenty thousand dollars (\$20,000.00).

(b) Purchases under the following conditions must be approved by the Commission in open meeting:

- (1) When other than the low bid is recommended for approval unless the low bid fails to meet specifications; or
- (2) When the recommended bid exceeds those funds budgeted for the purchase with the exception of subsection (a)(3) above.

(c) The Administrator for Augusta-Richmond County shall submit a list of all bid items that have been approved to the Commission as soon as practical at the end of each month.

(Ord. No. 6774, § 1, 3-1-05)

Sec. 1-2-9. Mayor and commissioners prohibited from holding other office, contract, etc., with Augusta-Richmond County; exceptions.

It shall be unlawful for the Mayor or any member of the Commission to hold any office, appointment or contract under the Commission, during the term for which he was elected, whereby such Mayor or member of the Commission may derive any profit or emolument from Augusta-Richmond County, except such office, appointment, or contract specifically authorized by the Commission. Such office, appointment or contract, not so authorized, shall be declared void, and no funds whatever from Augusta-Richmond County treasury shall be paid thereon. All funds received or collected by the Mayor or any member of the Commission from any such office, appointment or contract, not so authorized, shall be demanded from such Mayor or member of the Commission, and if not paid, suit shall be brought to collect the same in any court having jurisdiction thereof; provided, however, that nothing herein contained shall prevent the Mayor or any member

of the Commission from contracting with Augusta-Richmond County based upon sealed bids or proposals.

Sec. 1-2-10. Use of employees for personal benefit.

It shall be unlawful for any official, officer or employee of the Commission who has the control or direction of any employees or laborers of the Commission, to use any such employee or laborer for his own personal benefit or profit. Any person violating the terms of this section shall be punished as provided in section 1-6-1 and, upon conviction thereof, shall be subject to suspension or discharge by the Commission.

Sec. 1-2-11. Vacancies on agencies, boards, commissions created by Commission.

(a) The office of any member of any agency, board or commission created by the Commission for which the terms and conditions of office are not prescribed by state law shall be declared vacant upon such member of any agency, board or commission qualifying in a general primary or general election, or a special primary or special election, for any state, county or municipal office or qualifying for the House of Representatives or Senate of the United States. A vacancy created in any such office shall be filled by the governing authority of the county, or by the entity that otherwise is responsible for appointment of the position vacated.

(b) This section shall not apply to the existing term of any member of an agency, board or commission created by the Commission, but shall apply to all future appointments made by the Commission to any agency, board or commission created by the Commission for which the terms and conditions of office are not prescribed by state law.

Sec. 1-2-12. Publication of ordinances, notices, etc.

It shall be the duty of the Mayor to have published in the official gazette or newspaper of Augusta-Richmond County the ordinances of the Commission, the proclamations of the Mayor and

all other official notices of either the Commission or the Mayor ordered to be published by them, respectively; also, such other matters as the Mayor may deem advisable to publish. The ordinances of the Commission shall be published one time; all other matters shall be published such number of times as the Commission or the Mayor may direct. The Mayor shall have published in such official gazette or newspaper only the captions of the ordinances of the Commission and shall not have the bodies of such ordinances published.

Sec. 1-2-13. Rules of Procedure—Appendix A.

Operational Procedure.

1.01. Meetings.

1.01.01 Regular and special meetings of the Augusta-Richmond County Commission-Council (also referred herein as the Commission-Council or the Commissioners) shall be as determined by Ordinance adopted by the Augusta-Richmond County Commission-Council. Except as otherwise provided by law, all meetings of the Commission-Council shall be public meetings. The Clerk shall be responsible for posting notices to the public of the time and place of all meetings of the Commission-Council. No meeting may commence prior to the posted time for said meeting.

1.01.02 An adjourned meeting is a continuation of the meeting immediately preceding, whether a regular or special meeting.

1.01.02(a) If a scheduled meeting of the Commission-Council is not completed due to time constraints or emergency, the meeting shall be adjourned to the following day or to a specific day scheduled by the Commission-Council to allow for the completion of pending business.

1.01.02(b) In an adjourned meeting (regular or special), only business which would have been proper to consider at the immediately preceding meeting may be considered and acted upon at the adjourned meeting.

1.01.02(c) Adjourned meetings resume business under the same rules, limitations and rights as the immediately preceding meeting.

1.01.03 Executive session meetings shall be conducted in accordance with the O.C.G.A. § 50-14-3 and § 50-14-4, or as these sections may be amended from time to time.

1.02 Quorum.

1.02.01 Seven (7) members of the Commission-Council shall constitute a quorum for any meeting of the Augusta-Richmond County Commission-Council.

1.02.02 If a quorum is not present thirty (30) minutes following the scheduled hour for convening the meeting, the Chairman-Mayor or the Vice Chairman-Mayor Pro Tempore, or in their absence, the Administrator (or his/her designee), may adjourn the meeting until the next day. By unanimous consent of those Commissioners present, the meeting may be adjourned to another hour and day.

1.02.03 If during the meeting there ceases to be a quorum, all business must stop except that the Commission-Council, by majority vote to be recorded in the minutes (naming those present at the time of the vote) may:

1.02.03(a) fix another day at which to reconvene;

1.02.03(b) adjourn and return at the next regular meeting;

1.02.03(c) recess to determine if a quorum will be present within a short period of time.

1.03 Chairman-Mayor.

1.03.01 The Chairman-Mayor shall have the rights and privileges of the other Commissioners with respect to debate, but shall have the right (but is not obliged) to vote on any matter (excluding appointment of any Commissioner to a committee and excluding voting as a member of any Committee as provided in the Consolida-

tion Act) only to break a tie or to create a tie. Additionally, his/her duties during meetings shall include:

- 1.03.01(a) presiding over meetings of the Commission-Council;
- 1.03.01(b) calling the meeting to order at the scheduled hour;
- 1.03.01(c) determining that a quorum is present;
- 1.03.01(d) preserving decorum and order at all meetings,
- 1.03.01(e) making the Commissioners aware of the substance of each motion;
- 1.03.01(f) calling for each vote;
- 1.03.01(g) announcing the results of each vote;
- 1.03.01(h) calling for a recess at such times as deemed advisable.

1.03.02 The Chairman-Mayor shall exercise such other duties as prescribed in Consolidation Act or by ordinance.

1.04 Vice Chairman-Mayor Pro Tempore. A Vice Chairman-Mayor Pro Tempore shall be elected from among the district Commissioners at the first meeting in January of each year as provided in the Consolidation Act. The Vice Chairman-Mayor Pro Tempore shall serve for a period of one year and shall have all rights, privileges and duties of the chair in the absence of the chair (excluding the right to vote to create or break a tie), and in addition shall have the right to make motions and vote on any issue, including matters coming before any Committee of which he is a member. The Vice Chairman-Mayor Pro Tempore may succeed himself/herself, subject to the two consecutive term limitation contained in the Consolidation Act.

1.05 Absence Of Chairman-Mayor And Vice Chairman-Mayor Pro Tempore. In the absence of the Chairman-Mayor and Vice Chairman-Mayor Pro Tempore, the Administrator shall determine whether a quorum is present. If a quorum is present, the Administrator shall call for the election of a temporary chair. The temporary chair shall preside over that meeting or

until the conclusion of the business immediately pending at the time the Chairman-Mayor or Vice Chairman-Mayor Pro Tempore arrives.

1.06 Minutes.

1.06.01 All actions of the Commission-Council, except for actions described in O.C.G.A. § 50-14-3 and § 50-14-4, (or as these sections may be amended from time to time), shall be accurately recorded by the Clerk (or his/her designee) in the minutes which minutes shall include:

- 1.06.01(a) all main motions, exactly as worded when adopted (including amendments or stipulations);
- 1.06.01(b) the name of the maker of all important motions;
- 1.06.01(c) disposition of all main motions, whether
 - 1.06.01(c)(1) adopted;
 - 1.06.01(c)(2) defeated;
 - 1.06.01(c)(3) referred to committee or to staff for further information or recommendations;
 - 1.06.01(c)(4) held until a definite time;
 - 1.06.01(c)(5) the vote of each Commissioner; and
 - 1.06.01(c)(6) comments of Commissioners verbatim.

1.06.02 The responsibility for correcting and approving the minutes shall be vested only in the members of the Commission-Council. The minutes of each meeting shall indicate their subsequent approval/correction. The minutes may be corrected whenever an error is noticed upon approval of the Commission-Council regardless of the time which has elapsed since recording of the minutes.

1.06.03 The minutes shall be attested to by the Clerk or his/her designee.

1.07 Agenda.

1.07.01 The Administrator shall be responsible for obtaining all documentation related to any item to be placed on the

agenda and shall submit same to the Clerk to include on the agenda for all meetings of the Commission-Council.

1.07.02 Any Commissioner or department head wishing to have an item placed on an agenda should submit said item to the Administrator no later than 5:00 p.m. on the Wednesday prior to the Tuesday of the regular Commission-Council meeting or any regular Committee meeting. No item may be added to an agenda without the consent of the Chairman-Mayor or the chairman of the committee responsible for such department; provided, however, any member of the Commission-Council shall have the right to have an item placed on the agenda for discussion or action if timely submitted as herein provided.

1.07.03 The Clerk shall be responsible for assembling the agenda and distributing it to all Commissioners no later than Friday in advance of the scheduled meeting.

1.07.04 An item may be removed from the agenda after 5:00 p.m. on the Wednesday prior to the Tuesday of the regular Commission-Council meeting with unanimous approval of the members of the Commission-Council attending the regular meeting.

1.07.05 An item may be removed from the agenda prior to 5:00 p.m. on the Wednesday prior to the Tuesday of the regular Commission-Council meeting upon the request of the commissioner, department head, or other individual party who was responsible for placing the item on the agenda.

1.08 Consent Agenda.

1.08.01 All items contained in the consent agenda may be voted on en gross. Prior to the vote on the consent agenda, any Commissioner may withdraw an item from the consent agenda so that it shall be voted on individually.

1.08.02 A non-agenda item shall be defined as that which is deemed by a Com-

missioner to require urgent attention, but which has not been placed on the published agenda.

1.08.02(a) If a Commissioner requests that an item be added to the agenda, he/she must provide the specific item, and the reasons immediate attention is required, to the Commission-Council.

1.08.02(b) The unanimous consent of the Commissioners present at the meeting shall be required to add an item to the agenda.

1.09 Voting.

1.09.01 All votes shall be taken by raised hand, except those which the chair handles through unanimous consent (i.e., "If there are no objections . . ."), and unless there is a request for a roll-call vote. A single objection will require that a counted vote be taken. An affirmative vote of at least six (6) members of the Commission-Council shall be required to adopt a motion, except where otherwise indicated.

1.09.02 Any Commissioner shall have the right to request a roll call vote on any issue, in which event the chair shall direct the Clerk to call the roll in alphabetical order, except that the Chairman-Mayor's name shall be called last and only when his vote will create or break a tie. As each Commissioner's name is called, such Commissioner shall vote either "yes" or "no" to the question presented. To verify the vote and to correct possible errors, the Clerk repeats the vote after each member responds to his name. At the conclusion of the roll call, the Chairman-Mayor can ask if anyone entered the room after his name was called. Changes of the vote are also permitted before the result is announced.

1.09.03 When an entire agenda "tab" has been moved to be voted upon by an en gross vote (see Section 3.01.05 herein), a Commissioner may, without discussion state that he/she is voting in the affirmative on all of the agenda items on that "tab" except certain ones which he/she

will name by number. In such cases, the votes of the Commissioner(s) will be recorded as negative for the items named, unless the Commissioner abstains as provided in Section 1.09.06.

1.09.04 If a motion has been voted on without discussion and a Commissioner feels that it is necessary to explain his/her vote, he/she may have no more than one minute to give public reasons for his/her vote. The chair will not allow the Commissioner to repeat discussion that has already taken place at the same meeting, however.

1.09.05 A tie vote shall cause all procedural motions to be defeated. A tie vote on a main motion shall keep the motion as pending before the Commission-Council and the motion shall be rescheduled for another time; Provided, however, the Chairman-Mayor shall have the right to vote to create or break a tie.

1.10 Public Participation In Commission-Council Meetings.

1.10.01 Persons wishing to address the Commission-Council shall do so during the Public Comment portion of the agenda.

1.10.02 Speakers will be allowed to appear before the Commission-Council at the public comment session prior to the regular agenda with each speaker allotted a maximum of five (5) minutes for their presentation.

1.10.03 Each speaker must submit a request in writing, including his/her address, which will state the topic of discussion, to the Clerk's office no later than 5:00 p.m. on the Wednesday preceding the next regularly scheduled Commission-Council meeting.

1.10.04 An extension of the five (5) minute limit per person may be granted upon the affirmative vote of six (6) members of the Commission-Council.

1.10.05 If deemed advisable by the Chairman-Mayor, a written response to a speaker may be provided by the appropriate County

staff within thirty (30) days. The Commission-Council may respond verbally at the completion of any speaker's presentation.

1.10.06 After each individual speaker's remarks have concluded, the Chairman-Mayor may, but shall not be required to, briefly respond, either personally or through another member of the Commission-Council whom the Chairman-Mayor shall designate. In addition, when a request for special action or a grievance has been heard the matter will be referred to the Administrator (or his/her designee) who will prepare a response to the matter. If necessary, action on the matter for consideration of the Commission-Council will be placed on the agenda for the second regular meeting following the date of the comment.

1.10.07 No speaker will be allowed to return on public comment on the same issue within a period of ninety (90) days; however a speaker may return on another issue following the policy and procedure.

1.10.08 All speakers, other than salaried members of the Augusta-Richmond County staff, shall address the Commission-Council in the following manner:

1.10.08(a) Stating name and address (address is required only if individual has not previously provided address to Clerk).

1.10.08(b) Stating whether he/she is speaking for himself/herself or for another;

1.10.08(c) Stating if he/she represents an organization and whether he/she is being compensated by the organization for whom he/she speaks;

1.10.08(d) Stating whether he/she or any member of his/her immediate family has a personal interest in the pending matter.

1.10.08(e) Stating his/her comments.

1.10.09 All remarks shall be to the Commission-Council as a body and addressed through the chair. Remarks shall not be made to a particular Commissioner.

1.10.10 Questions from Commissioners, the Administrator, and/or the Augusta-Richmond County Attorney may be made for clarification. However, no person shall be permitted to enter into any discussion, either directly or through a member of the Commission-Council, without permission of the chair.

1.10.11 All remarks must be related to the issue on which the speaker has requested to be heard. No person shall be allowed to make impertinent, derogatory, offensive or slanderous remarks while addressing the Commission-Council.

1.10.11(a) A person may be barred from further speaking before the Commission-Council in that meeting if his/her conduct is deemed "out of order";

1.10.11(b) Once barred for improper conduct, a speaker shall not be permitted to continue or again address the Commission-Council in that meeting unless a majority vote of the Commission-Council allows;

1.10.11(c) In the event a speaker who is barred fails for improper conduct to obey the ruling, the chair may take such action as is deemed appropriate, including the removal of such person from the assembly;

1.10.11(d) The Commission-Council may bar a person from addressing Commission-Council meetings for up to sixty (60) days for improper conduct. A person barred by the Commission-Council for this period may request a hearing by written request to the chair, which request shall state the reason(s) for a reversal of the decision. All requests for hearings shall be placed on the agenda and heard by the Commission-Council. An affirmative vote of six (6) members of the Commission-Council shall be required to overturn the previous decision to bar the persons.

1.10.11(e) If not otherwise recognized by the Chair, upon motion and the affirmative vote of six (6) members of the Commission-Council, the Commission-Council may allow public comment on an agenda item at the time the item is being considered by the Commission-Council. These comments must be limited to the subject that is being debated. Members of the public may speak for five minutes and may only speak once. These limits can be waived by the affirmative vote of six (6) members of the Commission-Council.

1.10.11(f) The Commission-Council may schedule public hearings for the purpose of soliciting public comment on any subject of interest to the Commission-Council. Hearings may be held immediately prior to or following a meeting of the Commission-Council or at such other places and times as the Commission-Council may determine. No official action shall be taken at any such public hearing.

1.11 Appointments By The Commission-Council.

1.11.01 Appointments shall be made as necessary. When it is has been determined, by the Consolidation Act or other rule or manner, that it is the "right" or "turn" of a particular Commissioner to nominate a candidate for a position, such nominee must be elected by a majority of the Commission-Council. If any nominee, however nominated, fails to receive a majority vote, alternate candidate(s) may be nominated until the position is filled by majority vote.

2.00 *Decorum Of Debate.* The following practices shall be followed in debate on motions and matters presented to the Commission-Council.

2.01 Adherence To Agenda.

2.01.01 In discussion, the remarks made by the Commissioners shall be confined to the motion or matters immediately before the Commission-Council.

2.01.02 All Commissioners must conduct themselves in a professional and respectful manner. All remarks should be directed to the Chairman-Mayor and not to individual Commissioners, staff or citizens in attendance. Personal remarks are inappropriate. A Commissioner may not speak at a meeting until he has been recognized by the Chairman-Mayor. All comments made by a Commissioner shall address the motion that is being discussed.

2.01.03 During these remarks a Commissioner must observe the same rules of decorum as those set forth in Section 2.02 below, and may be called to order by the Chairman-Mayor or another Commissioner if there is a breach of those rules.

2.01.04 A Commissioner may not interrogate another Commissioner, staff or citizens. No one shall attempt to enter into discussion with a Commissioner who has chosen to avail himself/herself of this opportunity to share his/her opinions with the public.

2.02 Discussion Of The Issue. In discussion, a Commissioner may condemn the nature of likely consequences of the proposed measure in strong terms, but must avoid a discussion of personalities, and under no circumstances may he/she attack or question the motives of another Commissioner or staff. The issue, and not a person, shall be the item under discussion. Any Commissioner wishing to discuss an issue shall be allowed to do so; however, discussion of any particular issue by any particular Commissioner shall be limited to two (2) minutes of discussion and one (1) minute of rebuttal, unless debate is extended by the chair or by motion as provided in Section 3.04.05 hereof.

2.03 Call To Order, Remarks. The chair shall immediately call as "out of order" any remarks made outside the issue being addressed. Additionally, another Commissioner may call this breach of procedure to the attention of the chair and other Commissioners. In either case,

the speaking Commissioner shall be required to continue with his/her remarks confined to the issue.

2.04 Discussion Through The Chair. All discussion shall be made through the chair, and one Commissioner may not interrogate another Commissioner or person speaking from the public except through the chair (or with the permission of the chair).

2.05 Disruptions. During discussion or voting, no Commissioner shall disturb the other Commissioners in any way that may be considered disruptive to the proceedings or that may hamper the transaction of business by the Commission-Council.

2.06 Call To Order, Action. The chair may rule as "out of order" any action deemed inappropriate or dilatory and may interrupt a speaker for reasons deemed necessary by the chair.

The Chairman-Mayor shall say, "Commissioner/speaker, those remarks are out of order. Please cease this line of comment and make appropriate comment to the issue."

2.07 Call Of "Out Of Order".

2.07.01 If a member of the Commission-Council refuses to comply with these Rules of Procedure the following procedure shall be used:

2.07.01(a) The Commissioner shall be "called to order" by the chair, who shall say, "Commissioner _____ [using name], you are now out of order. If you persist a reprimand will be entered into the record."

2.07.01(b) If a Commissioner defies the ruling of the chair, the Chairman-Mayor shall state, "Commissioner, you are personally out of order. Let the record indicate a reprimand against _____ Commissioner _____, you have a right at this time to appeal the ruling of the chair by asking that a roll call vote of the Commissioners present be taken

and a statement by each Commissioner be recorded as to why he/she is for or against the ruling of the chair. A majority vote of the members of the Commission-Council present shall govern."

3.00 *Procedure In Meetings.*

3.01 Motions.

3.01.01 In order for the Commission-Council to take any official action on any subject, a Commissioner must propose a Main Motion or there must be an Recommended Main Motion, as provided in Section 3.01.02(a). A proposed Main Motion must be seconded before there will be discussion on the motion. A second does not require the Commissioner seconding the motion to support the motion. A Commissioner may withdraw a Main Motion that he has made as provided in Section 3.01.04 hereof, at any time before the Commission-Council has voted on that motion. Prior to taking a vote, the chair shall state the motion (or resolution) or its substance, or he/she may call upon the Clerk or secretary to do so.

3.01.02 If the motion presented contains two (2) or more parts capable of standing as separate motions, a Commissioner may move to "Divide the Motion." This motion shall require a second and discussion shall be allowed only on why it should or should not be divided. A majority vote shall be required to adopt the motion to "divide the motion."

3.01.03 If a main motion is in the form of a resolution or document containing several paragraphs or sections which are not separate motions but could be discussed more efficiently if discussed in sections, a motion to Discuss by Paragraphs, Sections, or Numbered Agenda Items under a "tab," may be made. A second shall be required and discussion shall be brief as to the necessity for the action. A majority vote shall be required to "consider by paragraphs, sections, or numbered agenda items under a 'tab'."

3.01.04 Once a motion has been moved and seconded, it belongs to the entire Commission-Council and not to the maker of the motion; therefore, if a Commissioner wishes to Withdraw a motion that is officially before the Commission-Council, action of the Commission-Council must be taken in either of the following ways:

3.01.04(a) The chair may ask the Commission-Council if there are any objections to the motion being withdrawn. If there are no objections, the motion shall be withdrawn by unanimous consent, without the need for the seconder to withdraw his/her second;

3.01.04(b) If there is an objection to the motion being withdrawn, then the chair shall take an official vote on the "motion to withdraw the motion", a second being required. A majority vote shall be required to adopt the motion to "withdraw the motion."

3.01.05 If a Commissioner feels that time could be saved by acting on all of the agenda items under a "tab," he/she may move that it be "Considered en Gross." (See Section 1.08.02.)

3.01.06 When several alternatives need to be considered (such as staff recommendations that propose various options for the Commission-Council to consider), unlimited choices may be considered by "Filling the Blank" in the motion:

3.01.06(a) No Commissioner may suggest more than one proposal for filling the blank without unanimous consent from the other Commissioners;

3.01.06(b) Each proposal shall be debatable and shall be treated as an independent item to be voted on separately until one has been approved by a majority. As soon as one proposal has received a majority, no others shall be considered;

3.01.06(c) Alternatives (from staff recommendations and/or suggestions by Commissioners) are listed in logical order for voting:

3.01.06(c)(1) Names are listed in the order in which they were proposed,

3.01.06(c)(2) Other proposals are listed in the order of their probable acceptability, beginning with the least popular choice.

3.02 Main Motions.

3.02.01 A main motion is a motion whose introduction brings business before the Commission-Council.

3.02.01(a) Recommended Main Motions—A recommendation from staff, or another item published in the agenda for action, shall be handled as an Recommended Main Motion by the chair. That is, the chair shall, upon the conclusion of a report, state, "The question (or motion) before you is . . ." (stating the motion in the affirmative). No second will be required in these instances and the chair, in assuming such motion, is not presumed to be in favor of the motion and may speak against it if he/she so wishes.

3.03 Ranking Of Motions.

3.03.01 Each subsidiary and privileged motion is assigned a specific rank. A motion of higher precedence can interrupt motion of lower precedence. The higher motion must be decided before the Commission-Council returns to consider the motion of lower precedence.

3.03.02 A main motion has the lowest rank and does not take precedence over any other motion. A motion to adjourn has the highest rank and will take precedence over all other subsidiary and privileged motions. The order of precedence of motions shall be in accordance with this Section. Motions at the top of the following list take precedence over motions at the bottom of the list.

HIGHEST RANK:

PRIVILEGED MOTIONS (Undebatable)

1. Adjourn
2. Recess
3. Question of Privilege

SUBSIDIARY MOTIONS (Undebatable)

4. Lay on the Table (Postpone Temporarily)
5. Vote Immediately (Previous Question)
6. Limit Debate or Extend

SUBSIDIARY MOTIONS (Debatable)

7. Postpone to a Time Certain (Postpone Definitely)
8. Refer to Committee (Commit)
9. Amend
10. Postpone Indefinitely

OTHER MOTIONS

LOWEST RANK:

11. Main Motion

3.04 Subsidiary Motions. During the course of debate, Commissioners may introduce motions that propose that the Commission-Council take a particular action on a main motion. These motions are called subsidiary motions and they allow the Commission-Council to reach a conclusion on the main motion. Subsidiary motions require a second before they can be voted on or debated. Three subsidiary motion, Amend, Limit Debate, and Vote Immediately, also can apply to other subsidiary motions.

3.04.01 Postpone indefinitely. If a Commissioner believes that the main motion should not be considered by the Commission-Council, that Commissioner may move to postpone the consideration of the main motion indefinitely. If the motion is successful, consideration of the main motion stops and the main motion is tabled for the duration of the meeting. A motion to postpone indefinitely can be debated, but

it can be amended. A majority vote of the Commission-Council is required for the motion to pass.

3.04.02 Amend. If a Commissioner believes that a main motion that is on the table should be changed in order to make it more acceptable, he can move to amend the motion. Amendments must be closely related to the original motion and must not change the nature of the motion that they amend. Motions to refer, amend, postpone to a time certain and the motion to recess can also be amended. A motion cannot be amended more than two times.

Debate is allowed on a motion to amend only if the original motion is debatable. Debate is limited to the proposed amendment. A majority vote is required for the Commission-Council to adopt an amendment. If the amendment is adopted then the Commission-Council shall consider the amended version of the motion.

Concerning the amending of particular motions:

3.04.02(a) If a Commissioner feels that the main motion might be more acceptable stated other than as presented, the Commissioner may amend through substitution, insertion of stipulations, striking out portions, or striking out and inserting portions. A substitute motion shall be treated as a motion to amend. Such proposed amendments shall be handled in one of the following ways:

3.04.02(a)(1) by unanimous consent of the Commissioners; the chair, or another Commissioner, through the chair, may suggest changes or stipulations, and if there are no objections from the Commissioners, the motion shall be amended by unanimous consent.

3.04.02(a)(2) with a second, discussion and a majority vote on the proposed amendment.

3.04.02(b) If a proposed amendment fails to obtain unanimous consent or a majority vote, the main motion considered shall be the one originally presented.

3.04.02(c) An amendment must be germane (relating to the substance of the main motion) and may not introduce an independent question.

3.04.02(d) Improper amendments shall be:

3.04.02(d)(1) one(s) which are not germane,

3.04.02(d)(2) one(s) which would make the adoption of the amended motion equivalent to a rejection of the motion;

3.04.02(d)(3) one(s) which are, in the opinion of the Chairman-Mayor, frivolous or absurd.

3.04.03 Refer To A Committee (Commit). If a Commissioner believes that further information is needed before the Commission-Council can act on a main motion, he may propose that the motion be referred to a specific committee or department for further study. If an appropriate committee does not already exist, then a committee may be formed as a part of the motion. A motion to commit should specify the date that the committee or department will report back to the Commission-Council. A motion to refer shall require a second and shall be debatable only as to whether or not it shall be referred, to whom it shall be referred, or when the person to whom it is referred shall report back. If the motion fails, the motion to be considered shall be that motion which was on the floor prior to the motion to refer. This motion is amendable. A majority vote is required for the motion to pass.

3.04.04 Postpone To A Time Certain (Postpone Definitely). A motion to postpone to a certain time may be proposed if a Commissioner believes that the main motion should not be considered until a future time. This motion shall set a particular

time for the main motion to be considered again. It is debatable and can be amended. A motion to hold to a time certain shall require a second and discussion shall be limited to the reason for holding the motion or the time to which it is to be held. If the motion fails, the motion to be considered shall be that motion which was on the floor prior to the motion to hold to a time certain. If this motion is passed, the Chairman-Mayor will bring the original motion back to the Commission-Council for consideration at the specified time which may be at the same meeting, at a subsequent meeting, or upon the occurrence of a specified event. A majority vote of the Commission-Council is required for the motion to pass.

3.04.05 Limit Or Extend Limits Of Debate. A motion to limit debate places a time constraint on the length of debate. The details of such a motion are to be decided by the Commissioner who makes the motion. This motion can also be used to extend the limits of debate if a limit on debate already exists. Debate is not allowed on this motion. A majority vote of the Commission-Council is required for the motion to pass.

3.04.06 Vote Immediately (Call The Question). A Commissioner may move to "call the question" (i.e., move to end discussion) when it is clear that further discussion is unnecessary or that discussion is becoming repetitive. This motion shall not require a second and no discussion on the motion shall be allowed. If there is no objection, then it will be presumed there is unanimous consent. Should there be an objection, an affirmative vote of a majority of the Commission-Council shall be required.

3.04.07 Lay On The Table (Postpone Temporarily). A motion to lay on the table proposes that the consideration of a main motion be postponed until a later time in the same meeting. The main motion can be brought back for consideration only if a motion to Resume Consideration is ac-

cepted by the Commission-Council during the same meeting. The motion will die if it is not taken up during the meeting. Debate is not allowed on this motion and the motion is not amendable. A majority vote of the Commission-Council is required for the motion to pass.

3.05 Privileged Motions. Privileged motions facilitate the running of the meeting. They do not address or relate to a main motion and can be introduced whether or not there is a main motion under consideration. Privileged motions take precedence over all subsidiary motions. Debate is not allowed on these motions.

3.05.01 Question Of Privilege. A formal question addressed to the chair concerning the rights of a Commissioner or of the Commission-Council as a whole is referred to a question of privilege. It does not require a second and cannot be debated or amended. The chair is required to make a ruling on the question, and no vote is required unless a motion arises out of the privilege.

3.05.01(a) If any matters occur which impede the Commission's completion of its business (e.g., noise, mechanical difficulties with equipment, matters that affect the safety, orderliness, or comfort of the Commissioners, or affecting the honor of an individual Commissioner) any Commissioner may state to the Chairman-Mayor that he/she has a question of privilege and the matter must be addressed before the pending business of the Commission-Council continues.

3.05.02 Recess. A motion to recess proposes that the meeting be suspended for a particular amount of time when business is still pending. It is a temporary intermission of the proceedings. A recess may be taken as it appears on the agenda or as it is declared by the chair when he/she deems it advisable or by a motion from a Commissioner. The motion must specify the length of the recess. The motion must also be seconded. Debate is not allowed on

this motion, but the motion can be amended. A majority vote is required for the motion to pass.

3.05.03 Adjourn. The highest ranking motion shall be the motion to adjourn, requiring a second and a majority vote with no discussion allowed, except that the motion shall contain a time to hear any non-completed items on the agenda, if such exist. If all business on the agenda has been completed, the chair may assume the motion and, without a second, obtain unanimous consent to adjourn.

3.06 Incidental Motions. Incidental motions allow Commissioners to exert their rights as a member of the Commission-Council. Incidental motions can be introduced at any time during a meeting.

3.06.01 Appeal. Whenever a Commissioner believes that the chair is mistaken in a ruling, a Commissioner may Appeal the Chair's Decision. An appeal shall require a second and shall be debatable with the chair speaking first to explain his/her ruling. The chair may also close out the debate with a statement defending the ruling. An appeal may be made only on a ruling and may not be made:

3.06.01(a) in response to a parliamentary inquiry or point of information; or

3.06.01(b) in areas that challenge verifiable rulings of a factual nature.

3.06.01(c) The chair shall state the motion as Shall the Chair's decision be sustained? A tie vote shall sustain the chair, because a majority vote of the Commission-Council shall be required to overturn the chair's ruling.

An Appeal is high in precedence and can only be interrupted by a privileged motion or by a motion to lay on the table.

3.06.02 Parliamentary Inquiry. A Parliamentary Inquiry is a question directed to the chair to obtain information on a matter of parliamentary law or the rules of the Commission-Council. This question

should take the form of a parliamentary inquiry and should relate to the current business of the Commission-Council. The chair will answer such questions or may ask the Augusta-Richmond County Attorney or parliamentarian for an opinion. The chair's reply, whether or not he/she has requested advice from the Augusta-Richmond County Attorney or parliamentarian, is an opinion, not a ruling. If a Commissioner does not agree with the chair's opinions he/she may act in a way contrary to this opinion and if ruled out of order may then appeal the chair's ruling. The chair is not obligated to respond to hypothetical questions.

3.06.03 Point Of Order (Question of Order). If a Commissioner believes that a violation of the rules of parliamentary procedure has occurred, he can raise a point of order. A second is not required. The chair can make a ruling on the question or can allow the Commission-Council to debate and then rule on the question by majority vote. A point of order can only be interrupted by a privileged motion or by a motion to lay on the table.

3.06.04 Point Of Information (Request for Information). If a Commissioner has a question about the facts of a particular issue that is being considered, he may ask a point of information. A Point of Information is a request, directed to or through the chair, for information relevant to the business at hand, but not related to parliamentary procedure. This motion is addressed first to the to the appropriate person. A second is not required, and the motion is not debatable or amendable.

3.07 Supplementary Main Motions. Three motions allow the Commission-Council to act on a main motion that has either been passed or tabled by the Commission-Council. These motions are considered to be main motions but differ from usual main motions in the ways specified.

3.07.01 Reconsider. The motion to reconsider allows the Commission-Council to debate whether or not to overturn a deci-

sion made at the meeting that is in progress. It allows the Commission-Council to consider new information that may affect the decision that has already been made. Any Commissioner can make a motion to reconsider and any Commissioner may second the motion. The motion is debatable, but it can not be amended. A majority vote of the Commission-Council is required for the motion to pass. If a motion to reconsider is passed, the original decision will be voided, and the Commission-Council will return to debate and revote the original motion.

3.07.02 Rescind. A motion to rescind proposes that the Commission-Council overturn a motion passed at a previous meeting. A motion to rescind can be made by any Commissioner. It is in order as long as the original motion has not been implemented, but the motion to rescind shall not be in order if:

3.07.02(a) the motion to rescind is made, at the same meeting in which the action was taken;

3.07.02(b) a motion to reconsider was taken and lost;

3.07.02(c) the matter is routine and only part of the action needs to be changed, in which case the motion to "amend a previously adopted action" shall be used;

3.07.02(d) something has been done as a result of the vote to implement the earlier action adopted.

An announcement of the intention to rescind a motion may be made at the meeting where the decision was made, or the Commissioner seeking to rescind may place the matter on the agenda for the next meeting. The motion to rescind will then be placed on the agenda for the next meeting. At the next meeting, the motion to rescind will formally be made. If it is seconded, then the Commission-Council shall debate and vote on revision. A majority vote of the Commission-Council is

required for the motion to pass. If a motion to rescind is passed, the original decision will be voided.

3.07.03 Resume Consideration. The motion to resume consideration allows the Commission-Council to consider a motion that has been temporarily postponed. This motion requires a second and is not debatable or amendable. It is a main motion but ranks higher than any debatable motion. A majority vote is required for the motion to pass.

4.00 *Actions Of The Commission-Council.*

4.01 Ordinances And Resolutions.

4.01.01 Every ordinance or resolution proposed for adoption by the Commission-Council shall be introduced in writing. No ordinance or resolution shall pass which refers to more than one subject matter or contains matter different from that expressed in the title thereof, except ordinances or resolutions adopting the annual operating and capital budgets and general codification and revisions of ordinances and resolutions of the Commission-Council.

4.01.02 Except for emergency ordinances under subsection 4.01.03 of this section or ordinances amending the Zoning Map for Augusta-Richmond County, or upon a unanimous vote of the Commission-Council, no ordinance shall be adopted until it has been read or presented in written form at two meetings held not less than one week apart. A resolution may be adopted at the same meeting at which it is introduced. The affirmative vote of at least six (6) members of the Commission-Council shall be required for the adoption of any ordinance or resolution; Provided, however, a vote of two-thirds of the Commission-Council, excluding the Chairman-Mayor, shall be required to change any provision of the Consolidation Act which conflict with existing or future state or federal laws, as required by said Consolidation Act. The passage of all ordinances or resolutions shall require the recording

of "ayes" and "nays" and the names of the members of the Commission-Council voting for and against each proposed ordinance or resolution or amendment thereto shall be entered in the minutes of the proceedings of the Commission-Council.

4.01.03 To meet a public emergency threatening life, health, property, or public peace, the Commission-Council may adopt emergency ordinances or resolutions, but such ordinances or resolutions may not be enacted to levy taxes, or to grant, renew or extend a franchise, or to regulate the rate charged for any public utility or service, or to authorize the borrowing of money. An emergency ordinance or resolution shall be in the form prescribed for ordinances or resolutions generally, except that it shall be plainly designated as an emergency ordinance or resolution and shall contain a declaration stating what emergency exists. An emergency ordinance or resolution may be adopted with or without amendment or may be rejected at the meeting at which it is introduced, but the affirmative vote of at least six (6) members of the Commission-Council shall be required for its adoption. It shall become effective upon adoption or at such later time as it may specify.

4.01.04 The caption of each ordinance shall be read once previous to the adoption of the ordinance. All readings of every ordinance shall be by reading the caption of such ordinance only, unless some member of the Commission-Council shall then and there demand that the entire ordinance be read. Upon such demand being made, the clerk shall read the entire ordinance.

4.02 Signing, Authentication, And Recording.

4.02.01 Every ordinance or resolution adopted by the Commission-Council shall be submitted to the Chairman-Mayor for his/her signature as promptly as practicable following its adoption. The Clerk of the Commission-Council shall authenticate by the Clerk's signature and cause to be recorded in full all ordinances and

resolutions adopted by the Commission-Council and signed by the Chairman-Mayor or otherwise becoming law in a properly indexed book kept for such purpose which shall be a public record and open to public inspection. The Commission-Council shall further provide for the periodic updating, revision, codification, and printing of all ordinances or resolutions of a general and permanent nature, together with such codes of technical regulations and other rules and regulations as the Commission-Council may require.

4.03 Publication Of Ordinances, Notices, Etc. It shall be the duty of the Chairman-Mayor to have published in the official gazette or newspaper of Augusta-Richmond County the ordinances of the Commission-Council, the proclamations of the Chairman-Mayor and all other official notices of either the Commission-Council or the Chairman-Mayor ordered to be published by them, respectively; also, such other matters as the Chairman-Mayor may deem advisable to publish. The ordinances of the Commission-Council shall be published one time; all other matters shall be published such number of times as the Commission-Council or the Chairman-Mayor may direct. The Chairman-Mayor shall have published in such official gazette or newspaper only the captions of the ordinances of the Commission-Council and shall not have the bodies of such ordinances published.

5.00 *Parliamentarian.*

5.01 The Augusta-Richmond County Attorney or his/her designee shall serve as parliamentarian and shall advise and assist the chair and the Commission-Council in matters of parliamentary law. A professional parliamentarian may be consulted as deemed necessary.

6.00 *Parliamentary Authority.*

6.01 The latest edition of ROBERT'S RULES OF ORDER NEWLY REVISED shall govern meetings of the Augusta-Richmond County Commission-Council in all areas in which it is applicable and in which it is not inconsistent with these rules adopted by the Commissioners, or with higher law.

7.00 Amendments.

7.01 These Rules may be amended by a majority of the entire Commission-Council at a regular meeting or special meeting of the Augusta-Richmond County Commission-Council, provided notice has been given of the amendment(s) at the meeting prior to the vote on the amendment(s).

APPENDIX Parliamentary Definitions

The following parliamentary definitions apply to the RULES OF PROCEDURE FOR THE Augusta-Richmond County Commission-Council

adjourn - to officially terminate a meeting

adjourned meeting - a meeting that is a continuation at a later time of a regular or special meeting

adopt - to approve or pass by whatever vote is required for the motion

affirmative vote - a vote in favor of the motion as stated

agenda - the official list of items of business planned for consideration during the meeting

approval of minutes - formal acceptance of the record at a meeting, thus making this record the official minutes of the Commission-Council

chair - the Chairman-Mayor or Vice Chairman-Mayor Pro Tempore

Code of Conduct - The Richmond County Code of Conduct

Commission-Council - the Augusta-Richmond County Commission-Council

Commissioner - any of the ten members serving on the Commission-Council elected from the ten (10) districts established by the Consolidation Act

Commission-Council parliamentary rules - the body of rules and principles that is applied by the courts in deciding litigation involving the procedure of any organization does not

include statutory law or particular rules adopted by any organization or Commission-Council

Consolidation Act - the Act consolidating the City Council of Augusta and Richmond County found in 1995 Ga. Laws p. 3648

convene - to open a meeting

debate - formal discussion of a motion under the rules of parliamentary law and more often herein referred to as discussion

defer or hold - to delay action by referring the motion to staff (or an agency, committee, etc.) for more information, or by postponing a vote to a certain time

demand - an assertion of a parliamentary right by a Commissioner

dilatory motions or tactics - misuse of procedures or motions that are out of order or would delay or prevent progress in a meeting

floor - when a person receives formal recognition from the chair, he/she "has the floor" and is the only person entitled to speak

germane amendment - an amendment relating directly to the motion to which it is applied

germane discussion - discussion relating directly to the matter involved

hearing - a meeting for the purpose of listening to the views of an individual or of a particular group on a particular subject

in order - permissible and right from a parliamentary standpoint

majority vote - an affirmation vote of at least six (6) Commissioners or the vote of five (5) Commissioners and the vote of the Chairman-Mayor in the event of a tie

- minutes - the legal record of the action of the Commission-Council after the record has been approved by vote of the body
- motion - a proposal submitted to the Commission-Council for its consideration and decision; it is introduced by the words, "I move that . . ."
- objection - the formal expression of opposition to a proposed action
- order of business - the adopted order in which the business is presented to the meeting of the Commission-Council
- out of order - not correct, from a parliamentary standpoint, at the particular time
- parliamentary authority - the code of procedure adopted by the Commission-Council as its parliamentary guide, governing in all parliamentary situations not otherwise provided for in the Consolidation Act, the Code of Richmond County, the Code of the City of Augusta, or other governing bodies
- pending motion - sometimes referred to as pending question; a motion that has been proposed and stated by the chair for the Commission-Council's consideration and that is awaiting decision by vote
- precedence - the order or priority governing the motion
- precedent - a course of action that may serve as a guide or rule for future similar situation
- procedural motion - motion to assist the Commission-Council in treating or disposing of a main motion; or, motion relating to the pending business otherwise at hand
- proposal or proposition - a statement of a motion of any kind for consideration and action
- O.C.G.A. - Official Code of Georgia Annotated
- quorum - the number of persons that must be present at a meeting of the Commission-Council to enable it to act legally on business; seven (7) members of the Commission-Council shall constitute a quorum for any meeting of the Richmond of the Augusta-Richmond County Commission-Council
- recognitions - acknowledgement by the chair, giving a person sole right to speak
- reconsider - to review again a matter previously disposed of and to vote on it again; must be made on the same day of business
- request - a statement to the chair asking a question or some "right"
- rescind - to nullify or cancel out a previous action, cannot be made if action has already been taken to implement the motion it wishes to rescind
- resolution - a formal motion, usually in writing, and introduced by the word "resolved" that is presented to the Commission-Council for a decision
- ruling - the chair's decision as it relates to the procedure of the Commission-Council
- second - a Commissioner's statement that he/she is willing to have the motion considered
- seriatim - consideration by sections or paragraphs
- statute - a law passed by the Georgia legislature
- technical inquiry - request for information relevant to the business at hand
- tie vote - a vote in which the affirmative and negative votes are equal on a motion
- unanimous consent - deciding on a motion without voting on it but where no

Commissioner voices objection, with a single objection a vote must be taken

unfinished business - any business that is postponed definitely to a time certain

Note—The Rules of Procedure for the conduct of parliamentary business coming before the Augusta-Richmond Commission were adopted by the Commission in 1996 and re-adopted Nov. 18, 2003.

Secs. 1-2-14—1-2-25. Reserved.

ARTICLE 2 MAYOR

Sec. 1-2-26. Powers, authority and duties generally.

The Mayor shall have and exercise the following duties, powers and authority:

- (a) He shall preside over all meetings of Commission, regular or special, whenever present;
- (b) He shall call a special meeting of Commission whenever five (5) members of Commission, in writing, so request and he shall direct the clerk of Commission to send reasonable written notice of all such special meetings to each member thereof. He may also call a special meeting of the Commission or call any committee together at any time he deems necessary;
- (c) He shall be recognized as the head of the Augusta-Richmond County government for all ceremonial purposes and for the service of civil process;
- (d) He shall have the same right to speak at the meetings of the Commission as the members thereof, but may vote only to create or break a tie on all questions before the Commission. The Mayor shall not have the right to vote upon the question of appointments to the various committees;
- (e) The Mayor shall have and exercise the duties, powers and authority herein defined and specified and those imposed

upon and vested in him by the acts of the General Assembly or by the Commission;

The Mayor, by authority of the Commission herein provided, also shall have authority:

- (f) To impose disciplinary action upon the Administrator after ratification by a majority of the Commission;
- (g) To examine all bills and accounts presented to the Commission;
- (h) To examine the digest of tax returns;
- (i) To examine the accounts, books and returns of all Augusta-Richmond County officers;
- (j) To examine all other matters and things connected with Augusta-Richmond County finances;
- (k) To appoint some competent person, whenever deemed necessary by him, to make any examination specified in paragraphs (g), (h), (i), and (j) of this section, and to report the result thereof to him;
- (l) To use all legal means to possess the Augusta-Richmond County Commission of all property belonging to Augusta-Richmond County, whenever it can be identified as such property;
- (m) To give the Commission his views in the form of a message, on such subjects as in his opinion may be for the public interest or the necessary information of the Commission;
- (n) To use all lawful and proper means for the exercise of any power, or the discharge of any duty, devolved upon him by this Code, or by the Commission, or by any act of the General Assembly, for the good of Augusta-Richmond County.

Sec. 1-2-27. Authority and duties as chief executive officer.

The Mayor shall be the chief executive officer of Augusta-Richmond County. It shall be his duty to have the ordinances and laws governing Augusta-Richmond County put in full force.

Secs. 1-2-28, 1-2-29. Reserved.

**ARTICLE 3 ADMINISTRATOR FOR
AUGUSTA-RICHMOND COUNTY**

Sec. 1-2-30. Office created.

(a) There is hereby created the office of Administrator for Augusta-Richmond County.

(b) The administrator for Augusta-Richmond County shall be elected/appointed by a majority vote of the Commission of Augusta-Richmond County, Georgia, from nominations presented by the Mayor following the Commission approved recruitment process. The Mayor shall present as many as three top candidates for appointment, along with his recommendation. The Commission shall elect/appoint an Administrator from among the candidate or candidates presented by the Mayor. Should none of the candidates be elected/appointed, then the Mayor shall nominate as many as three new candidates from those who applied through the recruitment process.

(c) The Administrator is employed at the pleasure of the Mayor and Commission and performs duties under the direction and supervision of the Commission through the Mayor. The Administrator maintains regular contact with the Mayor and through the Mayor keeps all Commission members informed on significant and/or controversial issues involving the government, its services, policies, and employees.

(d) In the event of a vacancy in said office for any cause, the Commission may elect an Acting Administrator by a majority vote pending the election/appointment of an Administrator as provided in subsection (c) hereof.

(Ord. No. 6754, § 1, 1-4-05; Ord. No. 6772, § 1, 3-1-05)

Sec. 1-2-31. Suspension, removal by commission; hearing.

(a) The Administrator for Augusta-Richmond County may be removed only by a majority vote of the Commission.

(b) The Mayor is empowered to impose disciplinary action upon the Administrator after ratification by a majority of the Commission. In case of suspension or removal, the Administrator for Augusta-Richmond County shall be given a written statement of the reasons for such action. He may, within five (5) days from receipt thereof, request a public hearing thereon before the Commission. Upon receipt of such request, a hearing shall be set not earlier than ten (10) days nor later than fifteen (15) days from the date of such request. Pending such hearing, and until final action has been taken thereon, the Administrator for Augusta-Richmond County may be suspended from office and all of the duties thereof performed by some other person designated by the Commission to perform such duties. The action of the Commission in suspending or removing the Administrator for Augusta-Richmond County shall be final.

Sec. 1-2-32. Qualifications.

The Administrator for Augusta-Richmond County shall be chosen by the Commission solely upon the basis of his executive and administrative qualifications, with special reference to his actual experience in or knowledge of accepted practices in respect to the duties of his office, as hereinafter set forth. He shall be of good character and be of proven executive ability and experience. No person related by blood or marriage within the third degree to any member of the Commission shall be eligible for appointment as Administrator for Augusta-Richmond County. No member of the Commission, or holder of a public elective office in Augusta-Richmond County during the term of office for which he was elected, or for a period of one (1) year thereafter, shall be eligible for appointment as Administrator for Augusta-Richmond County.

Sec. 1-2-33. Salary.

The Administrator for Augusta-Richmond County shall be paid an annual salary to be fixed by the Commission.

Sec. 1-2-34. Bond.

Before entering upon his duties, the Administrator for Augusta-Richmond County shall give

bond in a minimum amount of one hundred thousand dollars (\$100,000.00), payable to Augusta-Richmond County, upon which bond action may be brought in the name of Augusta-Richmond County at the instance of the Commission, for any act of misfeasance, nonfeasance or malfeasance; the premium on such bond shall be paid out of Augusta-Richmond County treasury, and the bond shall be kept by the probate judge.

Sec. 1-2-35. Oath.

Before entering upon his duties, the Administrator for Augusta-Richmond County shall take and subscribe an oath for the faithful performance of his duties under this Code, which oath shall be duly entered on the minutes of the Commission.

Sec. 1-2-36. Duties.

The Administrator for Augusta-Richmond County shall be the administrative officer of Augusta-Richmond County and head of the administrative branch of Augusta-Richmond County government. The Administrator shall be responsible to the Mayor and Commission for the proper administration of all affairs of Augusta-Richmond County, and his duties shall be as follow:

- (a) To recommend for appointment or removal all Augusta-Richmond County department heads, subject to the approval of the Commission, with the exception of the Augusta-Richmond County attorney, the Clerk of the Commission, the Equal Opportunity Officer, and the internal auditor, all of whom shall be appointed and discharged directly by the Commission;
- (b) Subject to the rules and regulations of the Commission, where applicable, the Administrator for Augusta-Richmond County shall be the appointing authority for all other Augusta-Richmond County employees whose appointment is now or hereinafter vested in the Commission, and shall have the right to employ and discharge the same;
- (c) To execute all lawful orders, directions, instructions, and all ordinances, resolutions and regulations adopted by the Commission consistent with this Code and entered upon the minutes of the Commission; in the execution of these matters, the Administrator shall keep the Mayor fully informed and shall coordinate with the Mayor to ensure that all laws, ordinances, and resolutions of Augusta-Richmond County are faithfully executed;
- (d) To have supervision over all departments or divisions of Augusta-Richmond County now or hereinafter subject to the jurisdiction of the Commission;
- (e) To attend all meetings of the Commission, with the right to take part in the discussion;
- (f) To prepare and to recommend salary scales for all employees;
- (g) To prescribe the duties and supervise the work of Augusta-Richmond County employees;
- (h) To require reports from heads of departments, and other employees trusted with administrative duties or exercising discretion;
- (i) To prepare and submit to the Mayor and Commission a proposed annual budget; when the budget has been prepared and adopted as provided by law by the Commission, it shall be the duty of the Administrator for Augusta-Richmond County to execute the budget; no department or office of Augusta-Richmond County government shall exceed the budget without the approval of the Commission;
- (j) To keep the Mayor and Commission fully advised on the financial conditions and future needs of Augusta-Richmond County and shall make such recommendations on Augusta-Richmond County affairs as the Administrator deems necessary for the efficient operation of Augusta-Richmond County;
- (k) To act as liaison between the Mayor and/or Commission and all Augusta-Richmond County department heads or employees of Augusta-Richmond County;

- (l) To confer with and assist all other elected or appointed officials of Richmond County, and all departments, such as Augusta-Richmond County health department, the Augusta-Richmond County Department of Family and Children Services, whose missions are not under the direct control and supervision of the Commission, but who are dependent upon the appropriations of the Commission for their continued operation;
- (m) To submit to the Mayor and Commission at the end of each fiscal year a complete report on the finances and administrative activities of Augusta-Richmond County for the preceding year;
- (n) To see that all legislation, programs, regulations or plans promulgated and required by the state or federal government are duly carried out and complied with in accordance with such legislation, programs, regulations or plans;
- (o) To perform such other duties as may be required of him by the Mayor and Commission.

Sec. 1-2-37. Examination of departments' books, records.

The Administrator for Augusta-Richmond County shall have at all times the authority to examine all books and papers of each department of Augusta-Richmond County.

Sec. 1-2-38. Duties regarding procurement; delegation to subordinates.

Subject to rules established by the Mayor and Commission, the Administrator for Augusta-Richmond County shall authorize all purchases for Augusta-Richmond County, subject to the laws requiring advertisement and bids. He shall supervise the disbursement of all Augusta-Richmond County funds, and shall render such reports as may be required by the Commission. The Administrator for Augusta-Richmond County may delegate purely administrative duties to subordinates in Augusta-Richmond County government whose work the Administrator for Augusta-Richmond County shall supervise and direct; however, the

designation or assignment of duties to subordinates shall not relieve the Administrator for Augusta-Richmond County from his responsibilities for administration of Augusta-Richmond County affairs.

Sec. 1-2-39. Political activities.

The Administrator for Augusta-Richmond County shall not engage in or be concerned with any partisan politics or any political campaign. He shall not contribute to any campaign fund or solicit funds for political purposes from any other person. He shall not appoint any relative as an employee of Augusta-Richmond County unless such relative shall qualify and become eligible for appointment under the rules of the Commission and be recommended by the Commission.

Sec. 1-2-40. To devote full time to duties of office.

The Administrator for Augusta-Richmond County shall devote his entire time to the duties of his office and shall maintain his office at the courthouse or municipal building.

Sec. 1-2-41. General administrative duties.

(a) As administrative officer, it shall be the duty of the Administrator for Augusta-Richmond County to conduct, supervise and administer all Augusta-Richmond County affairs, subject only to the general law, to rules prescribed by the Mayor and Commission, and subject to the right of the Mayor and Commission to review, repeal or modify any action of the Administrator for Augusta-Richmond County which is contrary to the general law or such rules, by a vote of a majority of the Commission at any subsequent, regular or called meeting, when such vote thus reviewing, repealing or modifying the action of the Administrator for Augusta-Richmond County shall be entered in writing on the minutes of the Commission.

(b) The Administrator will assemble and provide necessary documentation for the Mayor and Clerk of the Commission to prepare the agenda for all Commission meetings.

(c) The Administrator shall be responsible to the Mayor and Commission for the establishment of comprehensive, efficient and professional administered systems of:

- (1) Financial planning and control;
- (2) Personnel management, employee and supervisory training and compensation;
- (3) Equipment and supply procurement and inventory control;
- (4) Equal employment opportunity;
- (5) Small and minority business opportunity;
- (6) Community land use, economic development and strategic planning; and
- (7) Citizen information and service.

(d) The Administrator shall prepare and present to the Mayor and Commission annually a public report on:

- (1) State of the community and government;
- (2) Accomplishments during the past year; and
- (3) Community and organization needs and objectives for the coming year.

(e) The Administrator shall be the official spokesperson and representative of the Mayor and Commission with the Augusta-Richmond County government organization.

(f) The Administrator shall have such other powers and duties as imposed on him by ordinance or by the Commission.

Sec. 1-2-42. Duties regarding public works.

The Administrator for Augusta-Richmond County shall receive all requests for public work, road building, repairs to bridges and roads and public buildings, the construction of water and sewer mains, the opening, grading and improving of public roads and sidewalks. It shall be his duty to investigate and recommend to the Mayor and Commission a program for all such work, but nothing herein shall be construed to prevent the Administrator for Augusta-Richmond County from performing immediately any work in an emergency that is necessary to protect the interests of Augusta-Richmond County or the citizens thereof.

It shall be the duty of the Administrator for Augusta-Richmond County to receive and consider requests for appropriations of Augusta-Richmond County funds, all of which he shall investigate and report to the Mayor and Commission, with his recommendation thereon.

Sec. 1-2-43. Receiving and transmitting reports; use of Augusta-Richmond County property; claims against Augusta-Richmond County.

All requests and reports of Augusta-Richmond County officers shall be made to the Administrator for Augusta-Richmond County for his approval or recommendation to the Mayor and Commission; all requests and reports of Augusta-Richmond County departments shall be presented to the Administrator for Augusta-Richmond County for his recommendation to the Mayor and Commission; the use and disposition of Augusta-Richmond County property shall be under the supervision and direction of the Administrator for Augusta-Richmond County, subject to approval by the Mayor and Commission; all claims against Augusta-Richmond County shall be presented to the Administrator for Augusta-Richmond County, who shall investigate same and report same to the Mayor and Commission, together with his recommendation thereon.

Sec. 1-2-44. Tax recommendations.

It shall be the duty of the Administrator for Augusta-Richmond County, with the cooperation of Augusta-Richmond County comptroller, to investigate the tax digests and to recommend to the Mayor and Commission the levy of a sufficient tax upon all property of Augusta-Richmond County, which tax, together with all other sources of revenue which may lawfully be anticipated, shall be sufficient to balance the budget, after it has been adopted.

Secs. 1-2-45—1-2-59. Reserved.

ARTICLE 4 CLERK OF COMMISSION

Sec. 1-2-60. Election; bond.

The Commission shall elect an officer to be known as the Clerk of Commission, who shall give

bond and security in the sum of ten thousand dollars for the faithful performance of his duties.

Sec. 1-2-61. Duties—Generally.

The duties of the Clerk of Commission shall be as follows:

(a) To attend every meeting of the Commission, regular or special, and all committee meetings;

(b) To record regularly and fairly all the proceedings of the Commission, in a book to be kept by him for that purpose;

(c) To have the custody and charge of all records, books and papers belonging to the Commission;

(d) To carefully record in a book to be kept by him for that purpose all ordinances of the Commission, within ten days after the adoption thereof;

(e) To carefully preserve the original ordinances of the Commission, and not allow them to leave his custody unless so directed by the Commission or the Mayor;

(f) To issue, in the name of the Commission, or its appropriate committee, all summonses, subpoenas, writs, executions or processes required or permitted by this Code or by the Commission to be issued, and not specifically required to be issued by some other officer;

(g) To notify the Augusta-Richmond County attorney, the Administrator and the reporters of all daily newspapers published in Augusta-Richmond County, of the meetings of the Commission, including all committees thereof, regular or special, and to notify each member of the Commission, for his information and guidance, of all meetings of the various committees of the Commission;

(h) To perform such other duties as are required of him by this Code or by the Mayor and Commission.

Sec. 1-2-62. Deputy clerk of commission.

The Commission shall elect an officer to be known as the deputy clerk of Commission. It shall be the duty of the deputy clerk, in the absence of the Clerk of Commission, to discharge the duties

now required of the Clerk of Commission as defined by the preceding section, and to perform such other duties as may be required of him by the Mayor and Commission. The deputy clerk shall receive such compensation as the Commission may from time to time provide.

Sec. 1-2-63. Clerk pro tem.

If the Clerk of Commission shall be absent from any meeting of the Commission and his deputy shall be also absent, the Commission shall appoint a clerk pro tem.

Sec. 1-2-64. Records, files, etc., in office or custody of clerk.

(a) It shall be unlawful for any person to remove from the office or custody of the Clerk of Commission any record or document of any nature that the Commission has made it the duty of the Clerk of Commission to preserve or that by its nature requires preservation, without the consent of the Mayor and Commission.

(b) It shall be unlawful for any person to change or mutilate in any way any record or document of any nature that the Commission has made it the duty of the Clerk of Commission to preserve or that by its nature requires preservation, without the consent of the Mayor and Commission.

(c) Nothing herein shall prohibit the clerk from delivering any such record or document to any employee or official of Augusta-Richmond County for their official use, provided a record is maintained by the Clerk of the person to whom such record or document is delivered and the date same was delivered.

Secs. 1-2-65—1-2-92. Reserved.

ARTICLE 5 AUGUSTA-RICHMOND COUNTY PROPERTY

Sec. 1-2-93. Commission office hours.

All Augusta-Richmond County offices shall be open for the transaction of business with the public from 8:30 a.m. until 5:00 p.m. daily Monday through Friday and for such other hours as

directed by the Mayor and Commission. Such offices shall be closed for the transaction of business on Saturdays, Sundays and such holidays as may be determined by the Commission and at such other times as the Mayor may direct.

Sec. 1-2-94. Commission administrative office.

All the equipment and office space used in the Commission administrative office shall be used for Augusta-Richmond County personnel or Commissioners only, and no other person whatsoever is allowed the use of any machines, or equipment, or office space in this administrative office without the approval of the Commission or the Administrator.

Sec. 1-2-95. Inventory.

Each of the county officials and departments having Augusta-Richmond County property in their custody shall keep a record in a bound book of itemized statements showing all of the property belonging to Augusta-Richmond County in their possession and custody. A copy of such record shall be furnished annually to the Administrator for the County's file.

Sec. 1-2-96. Use.

No Augusta-Richmond County employee shall lend or lease any Augusta-Richmond County machinery or equipment to any person, firm or corporation.

Sec. 1-2-97. Vehicles.

All Augusta-Richmond County vehicles under the jurisdiction of the Commission, shall be subject to the policies, guidelines and/or Manuals approved by the Commission.

Sec. 1-2-98. Vehicle decals.

Every motor vehicle which is owned or leased by Augusta, Georgia, or any department, agency, commission, or authority of Augusta, Georgia shall have affixed to the front door on each side of such vehicle a clearly visible decal to identify

Augusta, Georgia as the government entity owning or leasing such vehicle. The requirements of this Section shall not apply to:

- (a) Any vehicle used for law enforcement or prosecution purposes; and
- (b) Any vehicle assigned for the transportation of the Mayor.

(Ord. No. 6435, § 1, 11-20-01)

Secs. 1-2-99—1-2-102. Reserved.

ARTICLE 6 RECORDS MANAGEMENT PLAN

Sec. 1-2-103. Adopted.

(a) The records of Augusta-Richmond County are public property and all these records contain information needed for varying lengths of time for the conduct of public business. Some of these records are essential for varying lengths of time for continuity of government or for the protection of the rights and privileges of our citizens and some of these records contain information that is essential as documentary evidence of our heritage. It is in the best interest of our citizens that an efficient and cost effective records management plan be adopted and implemented which will cause any records whose usefulness has ended to be destroyed and which will cause those records which have enduring value to be preserved.

(b) The Record Retention Schedules for County Governments as prepared by the Georgia Department of Archives and History and approved by the State Records Committee, dated March 7, 1983, is hereby adopted as the records management plan for Augusta-Richmond County.

Sec. 1-2-104. Location.

The records retention schedules for Augusta-Richmond County shall be kept on file in the office of the Clerk for Augusta-Richmond County and shall be available for public inspection during normal business hours.

Sec. 1-2-105. Office of records management officer created.

The position of records management officer is hereby created; and the records management officer shall be the director of central services, who shall administer a records management program for Augusta-Richmond County under the direction of Augusta-Richmond County records committee.

Sec. 1-2-106. Records committee.

There is hereby created Augusta-Richmond County records committee, which shall be composed of the following seven (7) members:

- (a) An Augusta-Richmond County commissioner designated by the Commission, who shall serve as Chairman of the committee.
- (b) The Administrator for Augusta-Richmond County.
- (c) The Augusta-Richmond County attorney.
- (d) The finance director.
- (e) The internal auditor.
- (f) The clerk of superior court.
- (g) The records management officer (director of central services).

State law reference—Records management programs for local governments, O.C.G.A. § 50-18-99.

Sec. 1-2-107. Standards.

The records retention schedules adopted herein shall be the common standards of Augusta-Richmond County.

Sec. 1-2-108. Duties of committee.

It shall be the duty of Augusta-Richmond County records committee to review and recommend approval, disapproval or modification of records retention schedules to the Commission; and the records retention schedules adopted herein shall remain in effect until modified or changed by the Commission.

Sec. 1-2-109. Archival depository.

The Commission shall designate an archival depository to store records determined to have permanent historical value.

Sec. 1-2-110. Distribution of schedules.

The Administrator for Augusta-Richmond County shall distribute a copy of this article and the records retention schedules adopted herein and all amendments thereto to all elected officials and department heads throughout Augusta-Richmond County government.

Sec. 1-2-111. Retention of records.

Records requiring retention for several years will be transferred to Augusta-Richmond County records center for low-cost storage at the earliest possible date following creation, and a reference service will be provided by the records center for records deposited therein. Records may only be placed in the records center as provided in the approved records retention schedules as approved by the Commission.

Secs. 1-2-112—1-2-132. Reserved.

Chapter 3

AVIATION COMMISSIONS

ARTICLE 1 AUGUSTA AVIATION COMMISSION

Division 1 Generally

Sec. 1-3-1. Creation; appointment and terms of members; vacancies.

There shall be a board consisting of ten (10) members (plus an additional two members should the Richmond County Legislative Delegation choose to appoint two members) to be known as the Augusta Aviation Commission. Except as provided for herein, all members of the Augusta Aviation Commission shall be appointed by the

Commission for terms of four (4) years. In case of a vacancy on such a commission for any cause prior to the expiration of the term of a member thereof, an appointment shall be made for the unexpired portion of such term.

- (a) Except as provided herein, members of the Augusta Aviation Commission of Richmond County and the City of Augusta who were serving on said boards on January 1, 1997, having had no fixed terms, shall serve until their successors are appointed and qualified.
- (b) Current members of the Augusta Aviation Commission shall continue to serve until their terms expire and their successors are appointed by the Commissioner representing the respective District and qualified and are to represent the districts as herein set forth, to wit:

			<i>Term Expires</i>
(1)	Ed McIntyre	District 1	3/31/98
(2)	Appointment TBA	District 2	3/31/2000
(3)	Bernard Silverstein	District 3	1/15/2003
(4)	George Sancken, Jr.	District 4	1/15/98
(5)	Joe Scott	District 5	3/31/98
(6)	Charles Presley	District 6	1/15/2000
(7)	Frank Dennis, Jr.	District 7	1/15/99
(8)	Edward Skinner	District 8	1/15/2002
(9)	Rick Beard	District 9	3/31/98
(10)	Lewis A. Newman	District 10	1/15/2000

- (c) The successors to the members representing Districts 1, 5, and 9 shall serve until March 31, 1998, or until their successors are appointed and qualified.
- (d) The successors to the members representing Districts 2, 4, 6, and 10 shall serve until March 31, 2000, or until their successors are appointed and qualified.
- (e) The successor to the member representing District 3 shall serve until 3/31/2005, or until his successor is appointed and qualified; the successor to the member representing District 7 shall serve until 3/31/2002, or until the successor is appointed and qualified; and the successor

to the member representing District 8 shall serve until 3/31/2004, or until his successor is appointed and qualified.

- (f) Members of the Aviation Commission appointed by the Commissioner of the respective Districts to succeed those appointed in subsections (b), (c), and (d) hereof shall serve for terms of office of four (4) years and until their successors are appointed and qualified.
- (g) Should the Richmond County Legislative Delegation choose to appoint two (2) members as provided in the Consolidation Act, such members shall serve for a term of four (4) years and until their successors

are appointed and qualified. In the event the appointed authority of the Legislative Delegation is removed from the Consolidation Act, this subsection shall automatically be repealed.

- (h) All terms shall expire on March 31 of the applicable year, and new terms shall begin on April 1 of the applicable year.
- (i) The director of the Augusta Aviation Commission is hereby designated Augusta Aviation Officer and shall administer and enforce the provisions of the Aviation Law.

Sec. 1-3-2. Mayor to be ex officio member; member to serve without compensation.

The mayor shall be an ex officio member of the Augusta Aviation Commission and all other members of such commission shall serve without compensation.

Sec. 1-3-3. Election of chairman.

The Chairman of the Augusta Aviation Commission shall be elected annually by the Augusta Aviation Commission; provided, however, no member shall be eligible to serve as Chairman who has served two (2) consecutive full one-year terms as Chairman until more than one (1) year after the expiration of that person's last term of office as Chairman.
(Ord. No. 6325, § 1, 11-7-00)

Sec. 1-3-4. Qualifications of members.

All appointees to the Augusta Aviation Commission shall be citizens of Richmond County, who have had at least ten (10) years of business experience and have manifested some interest in the advancement of aviation.

Sec. 1-3-5. Powers and duties—Generally.

The Augusta Aviation Commission shall take charge of Augusta Regional Airport at Bush Field owned by Augusta-Richmond County, and all other property incidental to the operation of Augusta Regional Airport at Bush Field, and such commission shall take all steps necessary toward constructing, improving and repairing an airport

now owned and to be owned by Augusta-Richmond County, including the construction, alteration and repair of airport buildings and the removal, lowering, marking and lighting of airport obstructions. Such commission shall be empowered to acquire any lands or property interest necessary either for such construction or to protect such airports and the approaches thereto, make surveys, prepare plans and specifications for this purpose and to employ adequate personnel therefor.

Such commission shall be authorized and empowered to enter into contracts with commercial air lines and other operators of aircraft for the use of any airport and airport facilities owned by Augusta-Richmond County and shall be authorized to make any and all necessary contracts and agreements with the federal government or any branch or agency thereof in connection with air mail service in connection with the operation of such airport. Such commission shall also make studies of and put into operation facilities to raise additional revenue in connection with such airports, such facilities to be operated by such commission or leased to responsible persons, whichever the commission deems most advantageous to Augusta-Richmond County; provided, however, that any contract made by such commission exceeding a term of one (1) year shall be subject to the approval of the Augusta-Richmond County Commission.
(Ord. No. 6939, § 2, 1-2-07)

Sec. 1-3-6. Same—Employment of airport manager.

The Augusta Aviation Commission shall employ an airport manager for the aviation fields operated by the Commission.

Sec. 1-3-7. Same—Same—Powers, duties, salary, etc., of airport managers.

Every airport manager appointed pursuant to the preceding section shall be paid a salary to be fixed by the Augusta Aviation Commission and shall have immediate supervision and control of the airport which he is employed to manage and it shall be his duty to enforce all rules and regulations prescribed by the Augusta Aviation Commission.

sion, and such manager shall report to such commission any violation thereof. He shall be charged with the duty of maintaining such airport and buildings thereon in good condition. The employment of such manager shall be purely on a temporary basis, subject to the will of the commission, and no airport manager shall be considered a permanent employee of Augusta-Richmond County. He shall be deemed to have accepted employment under these conditions.

Sec. 1-3-8. To make meeting rules; reports to Augusta-Richmond County Commission; inspection of minutes and documents.

The Augusta Aviation Commission shall make its own rules with reference to meetings and shall make monthly reports to the Augusta-Richmond County Commission. All of their minutes and documents shall be readily available at all times to the Augusta-Richmond County Commission.

DIVISION 2 RATES AND CHARGES FOR USE AT AUGUSTA REGIONAL AIRPORT

Sec. 1-3-8.1. Definitions.

The following words, terms and phrases shall have the meanings respectively ascribed to them in this Article.

- (a) *Aircraft Arrival(s)* shall mean the arrival at the Airport of any Aircraft Operator's aircraft (including, without limitation, any flights conducted for aircrew training). As long as Aircraft Operator provides scheduled passenger or cargo service to the Airport, Aircraft Arrivals shall not include any flight that returns to the Airport because of maintenance, mechanical, or other precautionary reason, other than meteorological.
- (b) *Aircraft Operator* shall mean any entity operating aircraft into and out of the Airport under Part 121 or Part 135 of the FARs, or the practical equivalent of said Parts and using the Terminal Building.
- (c) *Aircraft Parking Apron* means that portion of the Airfield located adjacent to the Concourse and depicted on Exhibit "A-1" hereof where Aircraft Operators park aircraft.
- (d) *Aircraft Parking Position(s)* shall mean the location(s) on the Aircraft Parking Apron where aircraft are parked for the purpose of enplaning and deplaning passengers.
- (e) *Airfield* shall mean those portions of the Airport which provide for the landing, takeoff, taxiing, movement, or staging of aircraft including navigational aids, hazard designation and warning devices, airfield security roads, fencing, lighting, runway protection zones, aviation easements and interests in property utilized in connection therewith.
- (f) *Airport* shall mean the Augusta Regional Airport at Bush Field located in Augusta, Georgia.
- (g) *Air Transportation* shall mean the conduct of the business of commercial air transportation of persons, property, cargo and mail.
- (h) *Certificated Maximum Gross Landing Weight* or *CMGLW* shall mean the current maximum allowable gross landing weight certified by the Federal Aviation Administration, expressed in 1,000 pound units or fraction thereof, of aircraft operated by an Aircraft Operator.
- (i) *Common Use Formula* shall mean the formula used to allocate the Common Use Requirement for a given Fiscal Year among the Aircraft Operators such that 100% of such Common Use Requirement is allocated among all Aircraft Operators in the proportion that each Aircraft Operator's Enplaned Passengers at the Airport during the previous month bears to the Enplaned Passengers of all Aircraft Operators at the Airport during such month.
- (j) *Common Use Premises* shall mean the lobby area, baggage claim area, security check point area and any other areas in the Terminal Building used in common by Aircraft Operators together with all facil-

- ities, improvements and equipment which have been or may hereafter be provided for use in connection with such premises. The Common Use Premises in the Terminal Building are described on Exhibit "A-2".
- (k) *Concourse* shall mean the building connected to the Terminal Building and used to assemble and process Passengers.
- (l) *Concourse Gate Position* shall mean an Aircraft Parking Position, loading bridge (if any) and Passenger Hold Room in an area in the Concourse assigned to Aircraft Operator or another Aircraft Operators for the purpose of assembling and processing passengers.
- (m) *Contract Security* shall mean a contract bond, irrevocable letter of credit or other security acceptable to Augusta in an amount equal to three (3) months' rentals and landing fees payable by an Aircraft Operator under Section 1-3-8.4 of this Ordinance.
- (n) *Deplaned Passengers* shall mean all passengers deplaned by an Aircraft Operator on aircraft operated at the Airport. Without limiting the generality of the foregoing, Enplaned Passengers shall also include persons for whom the Aircraft Operator has provided the particular air transportation on a substantially complimentary basis such as employees of an airline, family members of such employees, persons traveling on "buddy passes," employees of other airlines, and those passengers redeeming "frequent flyer" awards and travel vouchers.
- (o) *Enplaned Passengers* shall mean all passengers enplaned by an Aircraft Operator on aircraft operated at the Airport. Without limiting the generality of the foregoing, Enplaned Passengers shall also include persons for whom the Aircraft Operator has provided the particular air transportation on a substantially complimentary basis such as employees of an airline, family members of such employees, persons traveling on "buddy passes," employees of other airlines, and those passengers redeeming "frequent flyer" awards and travel vouchers.
- (p) *Exclusive Use Premises* shall mean those premises which have been licensed exclusively to an Aircraft Operator. The Exclusive Use Premises in the Terminal Building are described on Exhibit "A-3".
- (q) *Executive Director* shall mean the Executive Director of Augusta Regional Airport at Bush Field designated by Augusta to manage the Airport on its behalf and to act for Augusta or such person's duly authorized designated representative.
- (r) *Fiscal Year* shall mean the twelve-month period beginning on the first day of January of any year, or such other twelve-month period as may later be adopted by Augusta as its Fiscal Year.
- (s) *Landing Fee(s)* shall mean the payment required of Aircraft Operator each month, without deduction or setoff, for the use of the Airfield.
- (t) *Landing Fee Rate* shall mean the rate multiplied by each 1,000 pounds of CMGLW or fraction thereof to calculate Landing Fees.
- (u) *Preferential Assignment* shall mean the right of an Aircraft Operator to use certain Preferential Use Premises (including loading bridge(s) and other installed equipment where applicable) on a preferential but non-exclusive use basis.
- (v) *Preferential Use Formula* shall mean the formula used to allocate the Preferential Use Requirement for a given Fiscal Year among the Aircraft Operators assigned to use the Preferential Use Premises such that one-half of such Preferential Use Requirement is allocated among the such users of the Preferential Use Premises in the proportion that each such user's Enplaned Passengers at the Airport during the previous month bears to the Enplaned Passengers of such users during such month.

- (w) *Preferential Use Premises* shall mean the passenger hold rooms, loading bridge(s), if any, and the Airport Parking Position that have been licensed to a specific Aircraft Operator on a preferential use basis together with all facilities, improvements, equipment and services which have been or may hereafter be provided for use in connection with such premises. The Preferential Use Premises at the Airport are described on Exhibit "A-1".
 - (x) *Premises* shall mean the Exclusive Use, Preferential Use, and Common Use Premises licensed to a specific Aircraft Operator.
 - (y) *Rental Rate* shall mean the annual charge per square foot for the space licensed to the Aircraft Operators.
 - (z) *Terminal Building* shall mean the Airport's passenger terminal building, exclusive of the Concourse, as depicted on Exhibit "A-2".
 - (aa) *Terminal Rental* shall mean the aggregate of monthly payments required of a specific Aircraft Operators in each Fiscal Year for the license granted such Operator to occupy specific Premises in the Terminal Building.
 - (bb) *Total Landed Weight* shall mean the sum of CMGLW of all Aircraft Arrivals over a stated period of time.
- (Ord. No. 6407, § 1, 7-3-01; Ord. No. 6939, § 2, 1-2-07)

Sec. 1-3-8.2. Effective date.

This Ordinance shall become effective as of July 1, 2001 (the "Effective Date") and shall continue in effect until superceded by a replacement ordinance or by an agreement between the Aircraft Operators serving the Airport and Augusta.

(Ord. No. 6407, § 1, 7-3-01)

Sec. 1-3-8.3. Privileges.

(a) *Rights.* Each Aircraft Operator is hereby granted the right to operate an Air Transportation system at the Airport for the carriage of persons, property and mail, including all activities reasonably necessary to such operation.

(b) *Premises.* In connection with the operation of its Air Transportation system, Augusta does hereby grant to each Aircraft Operator a month to month license to use the premises in the Terminal Building set forth below. By using and occupying the Premises, an Aircraft Operator acknowledges that satisfied with the condition of the Premises and does hereby release and forever discharge Augusta from all liens and liability, damages and costs arising out of the use of the Premises.

(c) *Exclusive Use Premises.* Each Aircraft Operator serving the Airport shall be granted a license to use the premises in the Terminal Building assigned for its exclusive use. The exact amount and location of the exclusive use premises assigned to each Aircraft Operator as of the Effective Date is set forth on Exhibit "A-3".

(d) *Preferential Use Premises.* Each Aircraft Operator serving the Airport shall be granted a license to use the Preferential Use Premises assigned to such Operator by the Executive Director (together with all facilities, improvements, equipment and services which have been or may hereafter be provided for use in connection with such premises), subject to the rights of Augusta and other Aircraft Operators to use such facilities jointly. The exact amount and location of the premises assigned to each Aircraft Operator on a preferential use basis as of the Effective Date is set forth on Exhibit "A-1".

- (1) Augusta retains the right to permit any Aircraft Operator without sufficient Concourse Gate Positions for its flight operations to use a Concourse Gate Position over which an Aircraft Operator has a Preferential Assignment, provided that such Concourse Gate Position is not required by the Aircraft Operator with the Preferential Assignment for one of its scheduled flights.
- (2) If an Aircraft Operator is required by the Executive Director to move its aircraft from an Aircraft Parking Position to accommodate another Aircraft Operator, such relocation shall be at the cost and expense of such other Aircraft Operator and the Executive Director shall designate a paved

aircraft parking space in a reasonably convenient area of the Airport to accommodate the relocated aircraft.

(e) *Common Use Premises.* Each Aircraft Operator serving the Airport is hereby granted a license to use the Common Use Premises (together with all facilities, improvements, equipment and services which have been or may hereafter be provided for use in connection with such premises) in common with other Aircraft Operators serving the Airport. The exact amount and location of the Common Use Premises is set forth on Exhibit "A-3".

(f) *Surrender of Possession.* Each Aircraft Operator shall perform normal maintenance in its Premises and keep such premises in good clean and sanitary condition. An Aircraft Operator that vacates its Premises shall yield and deliver possession of the Premises to Augusta in clean and good condition, except for reasonable wear and tear and insured casualty. An Aircraft Operator may remove its trade fixtures from the Premises but shall be responsible for and pay to Augusta the amount reasonably determined by Augusta to be the cost of repairing any damage caused by the removal of such trade fixtures.
(Ord. No. 6407, § 1, 7-3-01)

Sec. 1-3-8.4. Space rentals and use charges.

(a) *Policy.*

- (1) The County hereby adopts the following fiscal policy for operation of the Airport and the following method to establish and periodically adjust rents and fees to be paid by all Airlines operating at the Airport that do not have operating agreements with the County:
- (2) The cost of operating, maintaining, and developing the Airport will be paid solely from Airport Revenues and such government grants as may be received by the County and lawfully used for such purposes, without the use of ad valorem taxes or other County revenue or pledges so as not to place any burden on taxpayers or residents of the County.

(3) The Augusta Aviation Commission shall establish, maintain, and collect such rates, fees, rentals, and other charges for the use and services of the Airport and revise the same from time to time whenever necessary, as to always provide Net Revenues (as hereinafter defined) sufficient to pay one hundred twenty-five (125) percent of the current Annual Debt Service Requirement (which shall be defined in the Bond Resolution) on the County's Airport Revenue Bonds (as hereinafter defined), and to always provide Airport Revenues sufficient to pay all reserve and other payments provided for in the Bond Resolution (as hereinafter defined) and all other obligations and indebtedness payable out of the revenues of the Airport, and to satisfy such other requirements as may be established in the Bond Resolution. Such rates, fees, rentals, and other charges shall not be reduced so as to be insufficient to provide adequate Airport Revenues for such purposes.

(4) In furtherance of this policy and in accordance with the authority conferred upon the Aviation Commission by the laws of the State of Georgia, the Aviation Commission shall establish and periodically adjust, as required, certain rates, fees, rentals, and other charges for the use and occupancy of Airport facilities so that such rates, fees, rentals, and other charges are scheduled to recover from the airlines and nonairline owners or operators of aircraft, on a reasonable and nondiscriminatory basis, the fully allocated costs of the facilities and services used by such airlines and nonairline owners or operators of aircraft. In recovering the costs of these facilities and services, the Aviation Commission shall take into account all Airport revenue.

(b) *Definitions.* The follow terms, whenever used in this division, in singular or plural form, shall have the following meanings:

Air Transportation shall mean the carriage of persons, property, cargo, and mail by aircraft.

Aircraft Arrivals shall mean the landing of aircraft at the Airport, including, without limitation, scheduled, charter, sightseeing, test, ferry, courtesy, and inspection flights or any other flights. Aircraft Arrivals shall not include any flight that immediately returns to the Airport after takeoff because of mechanical, meteorological, or other precautionary reasons.

Aircraft Gates shall mean those portions of the Airport's Apron Area designated by the Aviation Commission from time to time for aircraft parking at the Terminal Building in order to board and discharge passengers.

Airline shall mean any entity engaging in the business of providing Air Transportation services at the Airport.

Airline Rentable Space shall mean the total of an Airline's Exclusive Use Space and Preferential Use Space.

Airport shall mean the lands and facilities owned by the County and operated by the Aviation Commission, known collectively as Augusta Regional Airport at Bush Field as it now exists or as it may change from time to time in the future.

Airport Cost Centers shall mean the following areas which shall be used to account for Airport revenues and expenses and to calculate and adjusting certain rents and fees described herein:

Airfield Area shall mean those areas of the Airport, as they now exist or as they may hereafter be modified, changed, or developed, that provide for landing and takeoff, taxiing, parking, or other operations of aircraft on the ground.

Apron Area shall mean the area dedicated to parking and ground handling of aircraft at the Terminal Building, as it now exists or may be constructed or otherwise changed in the future.

Aviation Services shall mean aircraft fueling activities and facilities and equipment dedicated to accommodating general aviation activity (i.e., public hangars, general aviation tiedowns, general aviation apron, and general aviation terminal), together with the facilities and equipment dedicated to aircraft fueling activities.

Loading Bridges shall mean any loading bridges owned by the Aviation Commission serving aircraft at the Terminal Building.

Terminal Area shall mean the access road and parking areas surrounding the Terminal Building, as such areas now exist or as they may hereafter be modified, changed, or developed.

Terminal Building shall mean the terminal building serving the Airlines as it now exists or as it may hereafter be reconstructed, modified, changed, or developed. After the Date of Beneficial Occupancy of the new passenger terminal complex, Terminal Building shall mean the new Terminal Building currently being planned at the Airport by the Aviation Commission and including related signage, landscaping, and curbside areas.

Other Buildings and Areas shall mean those portions of the Airport not included in the Airport Cost Centers.

Airport Director shall mean the person designated by the Aviation Commission to exercise functions with respect to the rights and obligations of the Aviation Commission under this Ordinance. Said term shall also include any person expressly designated by the Aviation Commission to exercise functions with respect to the rights and obligations of the Airport Director under this Ordinance.

Airport Revenue Bonds shall have the meaning set forth in the Bond Resolution.

Airport Revenues shall have the meaning set forth in the Bond Resolution.

Annual Budget shall mean the Airport capital and maintenance and operating budget prepared by the Airport Director and approved by the County, as amended from time to time.

Annual Debt Service Requirement shall have the meaning set forth in the Bond Resolution.

Bonds shall mean debt instruments of the County issued or made for the purpose of financing or refinancing the cost, or a portion thereof, of any improvements to the Airport, the payment of which debt is secured by a pledge of and lien on Airport Revenues.

Bond Resolution shall mean any Bond Resolution of Augusta-Richmond County, and any Series Resolution authorizing the issuance of Bonds, other than Special Purpose Facility Bonds, payable from Airport Revenue.

Certificated Maximum Landing Weight shall mean the maximum weight, in thousand (1,000) pound units, that each aircraft operated by an Airline is authorized by the Federal Aviation Administration to land at the Airport, as recited in the Airline's flight manual governing that aircraft type.

Date of Beneficial Occupancy or *DBO* shall mean that date or dates upon which the premises, or a substantial portion thereof, in the new 2004 passenger terminal building, or other improvements at the Airport that are financed, in whole or in part, by proceeds of Bonds, are so substantially complete that they are usable by the Airlines and the public without hazard or undue inconvenience, but in no event later than thirty (30) days after the Aviation Commission notifies the Airlines that the premises have been certified by the project architect/engineer as available for public use and Airline occupancy.

Exclusive Use Space shall mean the space leased by the Aviation Commission to an Airline from time to time for the Airline's exclusive use.

Fiscal Year shall mean the twelve (12) month period beginning January 1 of any year and ending December 31 of the following year or any other period adopted by the County for its financial affairs.

Joint Use Formula shall mean the formula used to prorate the specified charge according to the ratio of the number of each Airline's enplaning passengers at the Airport during the most recent month for which such information is available to the total number of enplaning passengers of all Airline users at the Airport during that same month.

Joint Use Space shall mean the premises leased by the Aviation Commission jointly to an Airline and one or more other Airlines from time to time for common use by such Airlines.

Net Revenues shall mean Airport Revenues, less all Operation and Maintenance Expenses, and amounts deposited to the Rebate Fund.

Operation and Maintenance Expenses shall have the meaning set forth in the Bond Resolution.

Nonairline Revenues shall mean Airport Revenues less fees and other charges collected from the Airlines pursuant to this Ordinance or pursuant to operating agreements between the County and one or more Airlines.

Passenger Holdrooms shall mean the passenger waiting rooms located inside the Terminal Building adjacent to the Aircraft Parking Positions.

Preferential Use Space shall mean the premises from time to time provided by the Aviation Commission to an Airline for its preferential and nonexclusive use and shall include Passenger Holdrooms, Aircraft Parking Positions, and Loading Bridges.

Total Landed Weight shall mean the sum of the Certificated Maximum Landing Weights for all Airline Aircraft Arrivals over a stated period of time. Said sum shall be rounded up to the nearest thousand (1,000) pound unit for all landing fee computations.

Usable Space shall mean the total square footage in the Terminal Building less mechanical and utility space.

(c) *Subordination to Bond Resolution.* This division is subject and subordinate to the terms, covenants, and conditions of any Bond Resolution authorizing the issuance of Airport Revenue Bonds by Augusta-Richmond County.

(d) *Payment of Rents and Fees.*

- (1) *Time of Payment.* Rents for Exclusive Use Space, Preferential Use Space, Joint Use Space, and the Apron Area and Loading Bridge Use Fees shall be payable, without deduction or setoff, in monthly installments, in advance, on or before the first day of each month.

Landing fees shall be due on the first day of, each month for the preceding calendar

month of operations, and shall be payable, without deduction or setoff, on or before the tenth day of each month.

Rents and fees shall be paid by check to Augusta Regional Airport, which shall be delivered or mailed, postage prepaid, to 1501 Aviation Way, Augusta, Georgia 30906.

- (2) Interest on Overdue Rents and Fees. Any rents and fees not received within three (3) business days after the due date shall accrue interest at the maximum interest rate then allowable by applicable law; provided, however, that if no maximum interest rate is then provided by applicable law, the interest rate shall be twelve (12) percent per annum. Such interest shall not accrue with respect to disputed items being contested in good faith by an Airline.
 - (3) Insufficient Revenue. The Aviation Commission reserves the right to adjust Airport rents and fees at any time during a given Fiscal Year in the event that such adjustment is deemed necessary by the Aviation Commission to satisfy the requirements of Airport.
- (e) *Monthly Activity Report.*
- (1) Each Airline shall furnish to the Aviation Commission, on or before the tenth day of each month, an accurate report of its operations at the Airport, on forms prescribed by the Aviation Commission. Said report shall include: (1) the Airline's total Certificated Maximum Landing Weight of each type of aircraft, and (2) the total enplaned and deplaned freight, mail, and other cargo for such month. Each Airline shall also report the above information for the aircraft of others, including charter flights, for which it provides ground service.
 - (2) If any Airline fails to furnish the Aviation Commission with the report required by this section, that Airline's landing fee shall be determined by assuming that the Total Landed Weight for that Airline dur-

ing the preceding month was one hundred and twenty-five (125) percent of the Total Landed Weight during the most recent month for which such figure is available for that Airline.

(f) *Aviation Commission Records.*

- (1) The Aviation Commission shall maintain accounting records documenting the following items for each Airport Cost Center: (1) Airport Revenue, (2) Airport Expense, and (3) other expenses of the Aviation Commission.
- (2) The Aviation Commission shall further maintain records evidencing the allocation of capital funds obtained from the proceeds of the sale of Bonds or other capital fund sources to each Airport Cost Center. Included in the allocation to each Airport Cost Center shall be that cost center's proportionate share of Bond issuance expense, capitalized interest, and funding of special funds determined in accordance the allocation of costs funded through bond proceed or other capital sources.

(g) *Calculation of Rents and Fees.*

- (1) From the Date of Beneficial Occupancy of the new terminal, rents and fees, as set forth in this division, shall be adjusted at the beginning of each Fiscal Year based upon the Annual Budget approved by the Aviation Commission and adopted by the County. The adjustment shall be effective on the first day of each Fiscal Year to which it applies (or in the case of the Fiscal Year in which DBO occurs, on DBO in accordance with the terms of this division). The foregoing notwithstanding, rents and fees shall be adjusted whenever the Aviation Commission determines that Airport Revenues are not sufficient to satisfy the requirements of this division.
 - a. Calculation of Terminal Building Rental Rates. The Aviation Commis-

sion shall calculate the rental rates for space in the Terminal Building in the following manner:

- i. The rental rates for Airline Rentable Space in the existing Terminal Building shall be thirty dollars (\$30.00) per square foot per year. This rate will be evaluated annually and may be increased, if necessary, to recover costs of operating the existing or temporary Terminal Building facilities. The rent for all Joint Use Space shall be prorated among the Airlines according to the Joint Use Formula.
- ii. The rental rates to be effective upon occupancy of the new Terminal Building and thereafter shall be calculated pursuant to paragraphs ii., iii., and iv. of this subsection. Terminal Building rents are payable in accordance with Section (d). The Aviation Commission shall calculate the Terminal Building costs for the succeeding Fiscal Year (or in the case of the Fiscal Year in which DBO occurs, for that portion of such Fiscal Year commencing with DBO), by totaling the following estimated amounts, as set forth in the Aviation Commission's Annual Budget:
 - (A) The total of the direct and indirect Operation and Maintenance Expenses allocable to the Terminal Building;
 - (B) An amount equal to 1.25 times the pro rata portion of the Annual Debt Service allocate to the Terminal Building net of available PFC proceeds authorized for the payment of a portion of Terminal Building Annual Debt Service and coverage;
 - (C) The amount of deposits to any funds and accounts required by the Bond Resolution and allocable to the Terminal Building;
 - (D) Any other Airport Expense allocable to the Terminal Building not included in Paragraphs (A) through (C) above; and
 - (E) An amount equal to any deficit or credit estimated for operation of the Terminal Building during the then-current Fiscal Year or any adjustment carried over from preceding Fiscal Years to reflect any difference between actual versus estimated expenses.
- iii. The average rental rate shall then be calculated by dividing the Terminal Building costs computed above by the amount of Usable Space. The average rental rate shall then be multiplied by the total amount of square footage occupied by Airline to determine the total annual Terminal Building space rent payable by each Airline.
- iv. The space rents for all Joint Use Space shall be prorated among all Airlines according to the Joint Use Formula and each Airline shall pay its pro rata share of such space rents.
- v. Terminal Building rents are payable monthly in accordance with Section (d).
- b. Calculation of Apron Area Fee. The Aviation Commission shall calculate Apron Area fee, to be effective upon

DBO of the new Terminal building and thereafter, in the following manner:

- i. The Aviation Commission shall calculate Apron Area Fee for the succeeding Fiscal Year (or in the case of the Fiscal Year in which DBO occurs, for that portion of such Fiscal Year commencing with DBO) by totaling the following estimated amounts, as set forth in the Annual Budget:
 - (A) The total Operation and Maintenance Expenses allocated to the Apron Area;
 - (B) An amount equal to 1.25 times the pro rata portion of the Annual Debt Service allocate to the Apron Area net of available PFC proceeds authorized for the payment of a portion of Apron Area Annual Debt Service and coverage;
 - (C) The amount of deposits to any funds and accounts required by the Bond Resolution and allocable to the Apron Area;
 - (D) Any other Airport Expense allocable to the Apron Area not included in Paragraphs (A) through (C) above; and
 - (E) An amount equal to any deficit or credit estimated for operation of the Apron Area during the then-current Fiscal Year or any adjustment carried over from preceding Fiscal Years to reflect any difference between actual versus estimated expenses.
 - ii. The sum of the expenses identified in (A) to (E) above equals the Apron Area Requirement. The Preferential Apron Area Fee shall then be calculated by dividing the Apron Area Requirement by the number of Aircraft Gates at the Terminal Building. An Airline's Preferential Apron Area Fee shall then be calculated by multiplying the total number of Aircraft Gates assigned to and used by Airline times the Apron Area rental rate per Aircraft Gate. The Preferential Apron Area Fee is payable monthly in accordance with Section (d).
- c. Calculation of Loading Bridge Use Fee. The Aviation Commission shall calculate Loading Bridge Use Fees, to be effective upon DBO of the new Terminal building, in the following manner:
 - i. The Aviation Commission shall calculate the Loading Bridge Use Fee for the succeeding Fiscal Year (or in the case of the Fiscal Year in which DBO of the Loading Bridges occurs, for that portion of such Fiscal Year commencing with DBO) by totaling the following estimated amounts as set forth in the Annual Budget:
 - (A) The total Operation and Maintenance Expenses allocated to the Loading Bridges;
 - (B) An amount equal to 1.25 times the pro rata portion of the Annual Debt Service Requirement net of PFC proceeds, if any, authorized to pay debt service allocable to the Loading Bridges, or such other amount as may be required by the Bond Resolution;
 - (C) The amount of deposits to any funds and accounts required by the Bond Resolution and allocable to the Loading Bridge;

- (D) Any other Airport Expense allocable to the Loading Bridge not included in Paragraphs (A) through (C) above; and
 - (E) An amount equal to any deficit or credit estimated for operation of the Loading Bridge during the then-current Fiscal Year or any adjustment carried over from preceding Fiscal Years to reflect any difference between actual versus estimated expenses.
- ii. The Loading Bridge Use Fee rate per Loading Bridge shall be calculated by dividing the Loading Bridge Use Fee calculated in accordance with paragraph (A) to (E) above by the number of Loading Bridges. An Airline's Loading Bridge Use Fee shall then be calculated by multiplying the Loading Bridge Use Fee rate per Loading Bridge by the number of Loading Bridges assigned to Airline. The Loading Bridge Use Fee is payable monthly in accordance with Section (d).
- d. Calculation of Landing Fee Rate. Until DBO of the new Terminal Building, the landing fee rate shall be one dollar and fifty cents (\$1.50) per one thousand (1,000) pounds of Certificated Maximum Landing Weight. This rate shall be evaluated annually and may be increased, if necessary, to recover the costs of operating the Airport.
- i. Beginning at the Date of Beneficial Occupancy of the new Terminal Building, the Aviation Commission shall calculate the landing fee rate for the Fiscal Year commencing January 1st, and for each succeeding Fiscal Year, based upon the Aviation Commission's proposed Annual Budget for the succeeding Fiscal Year by totaling the following estimated amounts:
 - (A) The total of the direct and indirect estimated Operation and Maintenance Expenses of the Airport;
 - (B) An amount equal to the Airport Annual Debt Service (plus Coverage), as required by the Bond Resolution;
 - (C) The amount of deposits to any funds and accounts required by the Bond Resolution;
 - (D) An amount equal to fifty (50) percent of the Aviation Services net revenues as projected by the Aviation Commission in the Annual Budget;
 - (E) Any overpayment or underpayment estimated for operation of the Airport during the then-current Fiscal Year, or any adjustment carried over from the preceding Fiscal Year, to reflect any difference between actual versus estimated revenues or expenses; and
 - (F) Any other Airport Expense not included in Paragraphs (A) to (E) above.
 - ii. The Airport Requirement for the succeeding Fiscal Year shall be calculated by subtracting from total Airport Expense [the total of (A) to (F) above] (a) the total budgeted unrestricted Airport Revenue (including Airline Terminal Building rentals, Loading Bridge Use Fees, and Preferential Apron Area Fees, but excluding Signatory Airline

Landing Fees), and (b) other available funds (prior year funded coverage if available).

- iii. The landing fee rate for the succeeding Fiscal Year shall be calculated by dividing the net Airport Requirement computed above by the estimated Total Landed Weight of all Airline Aircraft Arrivals at the Airport for the succeeding Fiscal Year as estimated by the Aviation Commission.
 - iv. The landing fee shall be calculated by multiplying the Airline's portion of Total Landed Weight for the month by the landing fee rate then in effect.
- (h) *Security Deposit.*
- (1) To guarantee the timely payment of all rentals and fees provided for herein, Airline shall remit to the Aviation Commission prior to Airline's use of space or Airline's operations or activities in regard to the Airport and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect the Aviation Commission, a security deposit in the amount of: (a) Airline's estimated Landing Fees for two (2) months (as determined on the basis of Airline's published flight schedule as of that date times the actual Landing Fee rate effective as of that date); (b) Airline's estimated Exclusive Use Space, Preferential Use Space, and Joint Use Space rentals for two (2) months (as determined on the basis of Airline's actual space use and occupancy as of the effective date of this division. The security deposit may be adjusted by the Aviation Commission as Airline's flight activity and space rental commitment increases or decreases.
 - (2) Such deposit shall be in the form of an irrevocable letter of credit, or other security satisfactory to the Aviation Commission, in a form approved by the Airport Director. Document(s) evidencing this de-

posit shall provide that the same shall remain in full force and effect for a period extending two (2) months following termination of Airline's use of the space or operations or activities in regard to the Airport.

- (3) If payments required to be made by Airline under the terms of this division or payment of Passenger Facility Charge proceeds are not made, the Aviation Commission shall have the right to forfeit, take, and use so much of such security deposit as may be necessary to make such payment in full and to exercise any other legal remedies to which it may be entitled, after notice.
 - (i) *Insurance.*
 - (1) By use and occupancy of space on Airport premises, Airline understands and agrees that it shall, at its sole expense and in a manner acceptable to the County and the Aviation Commission, purchase and maintain in force the following insurance coverage for itself and its officers, agents, employees, passengers, guests, patrons, contractors, subcontractors, licensees, subtenants, invitees, and suppliers.
 - (2) All such insurance hereunder shall be maintained with insurance underwriters who have a Best's rating or equivalent of A:X or who have been approved by the Airport Director.
 - (3) All liability insurance policies shall provide coverage that includes, or has the same substantive effect as, the following wording:
 - a. "Augusta-Richmond County and each of its officers, agents, elected representatives, volunteers, and employees, in their respective capacities as such, shall be additional insureds hereunder with respect to the products, premises, and operations of the named insured."
 - b. "It is agreed that this insurance policy shall apply as primary, and any insurance and/or self-insurance as

may be maintained by the County or its officers, agents, elected representatives, volunteers, and employees shall apply in excess of, and shall not contribute with insurance provided by, this policy."

- c. "This insurance shall not be materially changed, altered, canceled, or non-renewed until after thirty (30) days advance written notice has been given to the County except that only ten (10) days notice shall be required in the event of cancellation due to non-payment of premium."
- (4) At least ten (10) calendar days prior to Airline's use of space or Airline's operations or activities in regard to the Airport and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect the County, Airline shall furnish the County evidence of all insurance policies negotiated. Prior to expiration of any then-current policy of insurance, Airline shall deliver to County evidence showing that such insurance coverage has been renewed. At least five (5) calendar days prior to the date of cancellation or reduction of coverage, as received in the written notice from the insurer, Airline shall deliver to the Airport Director, evidence showing reinstatement or other provision for the required insurance.
 - a. All such evidence shall be in the form of certificates of insurance satisfactory to the Airport Director, accompanied by a certified true copy of an endorsement to each policy containing the language required by this paragraph and, if applicable, cross-liability coverage.
 - b. Aircraft liability insurance and comprehensive form general liability insurance covering bodily injury, personal injury, property damage, cross-liability, products/completed operations liability, premise liability, and contractual liability, shall be maintained with a liability limit of

not less than Three Hundred Million Dollars (\$300,000,000.00) combined single limit per occurrence, on occurrence form policy. Said limit shall be reduced to One Hundred and Fifty Million Dollars (\$150,000,000.00) where Airline's maximum seating capacity on any aircraft operated by Airline is thirty (30) or less. With respect to coverage for products/completed operations and personal injury, except with respect to passengers, a sub-limit of not less than Twenty-Five Million Dollars (\$25,000,000.00) per occurrence, shall be permitted with approval of the Airport Director. Said aircraft liability shall be applicable to owned, non-owned, and hired aircraft.

- c. Automobile liability insurance with a liability limit of not less than Five Million Dollars (\$5,000,000.00) shall be maintained for all owned, non-owned, and hired vehicles operated by or on behalf of Airline on the leased space, or elsewhere at the Airport, including any additional or replacement vehicles.
- d. Liquor liability insurance for Airline serving alcoholic beverages shall be maintained in an amount not less than Ten Million Dollars (\$10,000,000.00) per occurrence.
- e. Hangarkeepers liability insurance or other appropriate insurance shall be maintained in an amount adequate to cover any aircraft or non-owned property in the care, custody, and control of Airline at the Airport, but in any event in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence.
- f. Employer's liability insurance shall be maintained in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- g. Airline shall likewise maintain workers' compensation insurance or evi-

- dence of self-insurance, in accordance with the laws of the State of Georgia, covering all of its employees who may, from time to time, be at the Airport in such capacity. Airline shall require each of its agents, licensees, subcontractors, and suppliers of and to the leased premises to maintain such workers' compensation insurance covering their employees when on Airport premises in connection with Airline's operations hereunder. The workers' compensation policy(s) required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, agents, elected representatives, volunteers, and employees. Upon request by the Airport Director, Airline shall furnish to the Airport Director evidence of such workers' compensation insurance in a form acceptable to County.
- h. Environmental/Pollution Liability Insurance with a limit of not less than Five Million Dollars (\$5,000,000.00) shall be maintained, including coverage for Third Party Pollution Liability, remediation coverage, and offsite cleanup. The requirement to maintain Environmental/Pollution Liability insurance, with a limit for Environmental/Pollution Liability, may be satisfied by securing a policy of insurance for this coverage or providing to the County a letter on company letterhead stating that Airline is self-insured for this coverage.
 - i. The parties understand and agree that the minimum limits of the insurance required herein may become inadequate during the term of Airline's use of space or Airline's operations or activities in regard to the Airport and that, if it in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect the County, Airline and County agree that each will increase such minimum limits by reasonable amounts on request of the Airport Director, with concurrence of the County Risk Manager.
 - j. If at any time Airline fails to obtain or maintain in force the insurance required herein, such failure shall constitute a default permitting County, at its option, to immediately terminate Airline's use of the space or Airline's operations or activities in regard to the Airport and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect the County.
 - k. If any claim for damages is filed with Airline or if any lawsuit is instituted against Airline, Airline shall give prompt and timely notice thereof to Airport Director, provided that claims and lawsuits subject to such notice are only those that arise out of or are in any way connected with the use of leased premises by Airline or its officers, representatives, agents, employees, passengers, guests, patrons, contractors, subcontractors, licensees, subtenants, invitees, or suppliers or connected with Airline's operations or activities in regard to the Airport and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect County. Notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of a claim or ten (10) calendar days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than One Thousand Dollars (\$1,000.00) shall be excluded from the requirements of this paragraph.
 - l. If any claim for damages is filed with County or if any lawsuit is instituted against County, County shall give prompt and timely notice thereof to

Airline, provided that claims and lawsuits subject to such notice are only those that arise out, of or are in any way connected with, operation of the Airport by County and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect Airline. Notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of a claim or ten (10) calendar days following the date of service of process of a lawsuit. Accident or property damage claims in an amount less than One Thousand Dollars (\$1,000.00) shall be excluded from the requirements of this paragraph.

- m. The time limitations set forth above are directory. If the notice required to be given is not given within the time limitations set forth herein, then the party giving notice shall not be precluded from establishing that notice actually given was timely under the circumstances of the particular claim or lawsuit, unless by the failure to give such notice within the applicable time period, the other party has been prejudiced in its ability to consider such claim or to respond to, or properly defend, such lawsuit. If the other party is so prejudiced by a late notice, then the late notice shall not be deemed to be prompt and timely.

(j) *Indemnification.*

- (1) It is the Aviation Commission's policy that, as a condition of Airport use, each Airline shall indemnify the Aviation Commission from losses arising out of Airline's use and/or occupancy of Airport facilities.
- (2) By continuing to use and occupy Airport facilities following notice of this division, Airline is deemed to have agreed to protect, defend, and hold the County and Aviation Commission and their officers and employees completely harmless from

and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to Airline's use or occupancy of, or operation of Airline at or about, the Airport or the acts or omissions of Airline's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless if injury, death, or damage may occur, unless such injury, death, or damage is caused by the sole negligence of the Aviation Commission. The Aviation Commission shall give Airline reasonable notice of any such claims or actions.

(k) *Rules and Regulations.*

- (1) Each and every Airline must observe and obey all lawful and reasonable rules and regulations promulgated from time to time by the County and Aviation Commission governing conduct on and operations at the Airport and use of its facilities.
- (2) No Airline shall violate nor permit its officers, agents, employees, contractors, subcontractors, licensees, or invitees acting on Airline's behalf to violate any such rules and regulations that are now in effect or as may from time to time be promulgated by the County and the Aviation Commission.

(l) *Compliance With Law.* No Airline shall use the Airport or any part thereof, or permit the same to be used by any of its employees, officers, agents, contractors, subcontractors, subtenants, invitees, or licensees for any illegal purposes and will, at all times, comply with all applicable Ordinances, laws, rules, or regulations of any government, and of any political division or subdivision or agency, authority, or commission thereof that may have jurisdiction to pass regulations with respect to the use and occupancy of Airport facilities.

(Ord. No. 6407, § 1, 7-3-01; Ord. No. 6737, §§ 1—12, 11-3-05)

Sec. 1-3-8.5. Indemnity and insurance.

Upon entering the Airport and as an express condition for licenses granted to an Aircraft Operator, each Aircraft Operator agrees as follows:

- (a) *Indemnity.* Each Aircraft Operator shall indemnify, protect, defend and hold completely harmless Augusta, its members, officers, employees and agents from and against any and all liabilities (including without limitation, liability under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601, et seq., or any other federal, state or local environmental statute, ordinance, regulation or rule), losses, suits, claims, demands, judgments, fines, penalties, damages, costs and expenses (including all costs for investigation and defense thereof, including but not limited to court costs, expert fees and reasonable attorneys' fees prior to or after institution of legal proceedings and at both trial and appellate levels) which may be incurred by, charged to or recovered from any of the foregoing, (i) by reason or on account of damage to or destruction of the property of Augusta, or any property of, injury to or death of any person, resulting from or arising out of use, occupancy, or maintenance of such Aircraft Operator's Premises or any improvements thereto, of such Aircraft Operator's operations thereon, or any environmental matters relating thereto or the acts or omissions of such Aircraft Operator's officers, agents, employees, contractors, subcontractors, invitees or licensees, regardless of where the damage, destruction, injury or death occurred, except to the extent that such liability, loss, suit, claim, demand, judgment, fine, penalty, cost or expense was proximately caused solely by the negligence or willful misconduct of Augusta or any person other than such Aircraft Operator or its officers, agents, employees, contractors, subcontractors, invitees or licensees. The Executive Director shall give such Aircraft Operator reasonable notice of any such claims or actions. The provi-

sions of this section shall survive the expiration or earlier termination of the term of this Ordinance with respect to any acts or omissions occurring during the term.

The foregoing provisions of this section are not intended and shall not be construed to limit in any manner whatsoever the protection or benefits to which Augusta otherwise would be entitled as an additional insured under any liability insurance policy maintained or required to be maintained by an Aircraft Operator hereunder.

- (b) *Liability Insurance Requirements.* Each Aircraft Operator shall, at its own costs and expense, purchase, carry and keep in force during the term of this Ordinance automobile liability insurance (any auto, including owned autos, nonautos and hired autos), commercial general liability insurance (including, but not limited to premises/operations, products/completed operations, contractual, independent contractors, broad form property damage, and personal injury coverage, as applicable, and such other coverage as may from time to time as may be requested by Augusta, from time to time) and environmental liability coverage (including without limitation, liability under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601, et seq., or any other federal, state or local environmental statute, ordinance, regulation or rule), protecting such Airline Operator, Augusta, its members, officers, employees and agents of each, each of whom shall be named as additional insureds, from and against any and all liabilities arising out of or relating to such Aircraft Operator's use and occupancy of the Premises, or the conduct of its operations on the Airport (whether such operations are by such Aircraft Operator or its direct air carriers or contractors, or their agents, representatives or employees) and in such form and with such company or companies approved for issuance in the State of Geor-

gia as Augusta may reasonably approve, with a combined single limit (or its equivalent) per occurrence of not less than the amount \$100,000,000, with a deductible reasonably acceptable to Augusta, with a waiver of any right of subrogation that the insurer may have against Augusta, with contractual liability coverage for such Aircraft Operator's covenants to and indemnification of Augusta under this Ordinance and with the insurance company obligated to use counsel reasonably acceptable to Augusta in carrying out its obligations to Augusta. This insurance shall provide that it is primary insurance as respects any other valid and collectible insurance Augusta may possess, including any self-insured retention or deductible Augusta may have, and that any other insurance Augusta does possess shall be considered excess insurance only. This insurance shall also provide that it shall act for each insured and each additional insured as though a separate policy has been written for each; PROVIDED, however, that this provision shall not operate to increase the policy limits of the insurance.

Each Aircraft Operator shall purchase and maintain fire and extended coverage insurance on, or shall self-insure, its contents, improvements, modifications, equipment, furnishings, betterments and other incidental personal property.

The Aircraft Operators hereby releases and discharges Augusta from all claims or liabilities arising from or caused by fire or other casualty covered by insurance in effect on the Terminal Building or contents and personal property in, at or on the Terminal Building. All such policies shall include a waiver of subrogation with respect to the provisions of this Ordinance to the extent permitted by each party's insurance carrier.

No Aircraft Operator shall do or permit to be done any act or thing upon the Airport which will invalidate or conflict with any outstanding insurance policies.

- (c) *Workers Compensation Insurance.* If the nature of an Aircraft Operator's use or business operations on the Airport is such as to place any or all of its employees or any leased employees under the coverage of local workers' compensation or similar statutes, such Aircraft Operator shall obtain and also keep in force, at its expense, workers' compensation or similar insurance with a company or companies acceptable to Augusta affording the required statutory coverage and containing the requisite statutory limits.
- (d) *Certificate(s) of Insurance.* At least three (3) business days prior to the commencement of the term of this Ordinance and at least ten (10) days prior to the expiration of any policy or policies heretofore provided hereunder by each Aircraft Operator, each Aircraft Operator shall cause its insurer to furnish Augusta with a certificate(s) of insurance, evidencing all of the required insurance coverage. Such certificate(s) shall provide that the policies of insurance referred to therein shall not be subject to cancellation, lapse or other material change except after delivery of written notice by certified or registered mail to Augusta at least thirty days prior to the effective date of such cancellation or material change. Each Aircraft Operator, no later than thirty (30) days prior to the effective date of such cancellation, lapse or material change shall provide Augusta with substitute certificate(s) of insurance complying with this Article.

Each Aircraft Operator understands and agrees that the minimum limits of the insurance required in this Article may become inadequate during the period this Ordinance is in effect, and further agrees that Augusta may raise such minimum requirements to then current airport industry standards.

If at any time an Aircraft Operator shall fail to obtain and maintain in force the insurance required herein, Augusta may but shall have no obligation to, on written notice to such Aircraft Operator, obtain

such insurance for such Aircraft Operator's account and obtain reimbursement within thirty (30) days. Notwithstanding the foregoing, Augusta may elect to terminate this the Aircraft Operator's rights under this Ordinance immediately upon the failure to provide such insurance.

- (e) *Waiver of Damage.* Each Aircraft Operator hereby expressly waives and releases any cause of action or right of recovery for compensation for any and all loss or damage sustained by reason of any fire, defect, deficiency or impairments of any of the services in or to the Premises or the Airport, including, but not limited to, electrical power, gas, telephone service, steam, heating, air conditioning, water supply, drainage or sewage systems, or from wires leading to or inside of any space or structure, or by reason of any loss resulting from the failure of any such system or facility unless such loss or damage is due to the negligence or willful misconduct of Augusta or its officers, agents or employees.

(Ord. No. 6407, § 1, 7-3-01)

Sec. 1-3-8.6. Acknowledgment.

By continuing to serve the Airport and paying the appropriate fee each Aircraft Operator acknowledges that it understands and will comply with the terms and conditions contained in this Ordinance.

(Ord. No. 6407, § 1, 7-3-01)

ARTICLE 2 GENERAL AVIATION COMMISSION

Sec. 1-3-9. Creation; appointment and terms of members; vacancies.

There shall be a board consisting of ten (10) members (plus an additional two members should the Richmond County Legislative Delegation choose to appoint two members) to be known as the General Aviation Commission. Except as provided herein, all members of the General Aviation Commission shall be appointed by the Commission for terms of four (4) years. In case of a vacancy on such a commission for any cause prior to the expiration of the term of a member thereof, an appointment shall be made for the unexpired portion of such term.

- (a) Except as provided herein, members of the General Aviation Commission of the City of Augusta who were serving on said commission on January 1, 1997, having had no fixed terms, shall serve until their successors are appointed and qualified.
- (b) Current members of the General Aviation Commission serving as of January 1, 1997, shall continue to serve until their successors are appointed by the Commissioner representing the respective District and qualified and are to represent the districts as herein set forth, to wit:

			<i>Term Expires</i>
(1)	Richard Isdell	District 1	1/14/2002
(2)	Linda Roberts	District 2	3/31/2000
(3)	Robert Moore	District 3	1/14/2000
(4)	Michael Cooper	District 4	3/31/2000
(5)	Appointment TBA	District 5	3/31/98
(6)	Bert Harbin	District 6	1/1/98
(7)	Marcie Wilhelmi	District 7	1/14/2000
(8)	R.A. McElmurry, Jr.	District 8	3/31/2000
(9)	Appointment TBA	District 9	3/31/98
(10)	Braye Boardman	District 10	3/31/2000

- (c) The successor to the member representing District 6 shall serve until March 31, 2000, or until his successor is appointed and qualified.
- (d) Members of the board appointed by the Commissioner of the respective Districts to succeed those appointed in subsections (b) and (c) hereof shall serve for terms of office of four (4) years and until their successors are appointed and qualified.
- (e) Should the Richmond County Legislative Delegation choose to appoint two (2) members as provided in the Consolidation Act, such members shall serve for a term of four (4) years and until their successors are appointed and qualified. In the event the appointed authority of the Legislative Delegation is removed from the Consolidation Act, this subsection shall automatically be repealed.
- (f) All terms shall expire on March 31 of the applicable year, and new terms shall begin on April 1 of the applicable year.

Sec. 1-3-10. Mayor to be ex officio member; member to serve without compensation.

The mayor shall be an ex officio member of the General Aviation Commission and all other members of such commission shall serve without compensation.

Sec. 1-3-11. Election of chairman.

The Chairman of the General Aviation Commission shall be elected annually by the General Aviation Commission.

Sec. 1-3-12. Qualifications of members.

All appointees to the General Aviation Commission shall be citizens of Augusta-Richmond County who have at least ten (10) years business experience and have manifested some interest in the advancement of aviation.

Sec. 1-3-13. Powers and duties—Generally.

The General Aviation Commission shall take charge of Daniel Field and all other property

incidental to the operation of Daniel Field owned by Augusta-Richmond County, and such commission shall take all necessary actions toward the construction, improving and repairing of such facility, including the construction, alteration and repair of buildings and the removal, lowering, marking and lighting of airport obstructions. Such commission shall be empowered to acquire any lands or property interest necessary either for construction or to protect such airports and the approaches thereto, make surveys and prepare plans and specifications for this purpose and to employ adequate personnel therefor.

The General Aviation Commission shall be expressly authorized and empowered to enter into contracts with airlines and other operators of aircraft for the use of such airport and airport facilities and shall be authorized to make the necessary contracts and agreements with the federal government or any branch or agency thereof in connection with air mail service in connection with the operation of such facility. Such commission shall also make studies of and put into operation facilities to raise additional revenue in connection with such facility, such facility to be operated by such commission or leased to a responsible person, whichever the commission deems most advantageous to Augusta-Richmond County; provided, that any contract made by such commission exceeding a term of one (1) year shall be subject to the approval of the Augusta-Richmond County Commission.

Sec. 1-3-14. Airport manager—Employment.

The General Aviation Commission shall have the discretion of employing an airport manager for Daniel Field.

Sec. 1-3-15. Same—Powers, duties, salary, etc.

Should the General Aviation Commission appoint any airport manager pursuant to the preceding section, such manager shall be paid a salary to be fixed by the General Aviation Commission and shall have immediate supervision and control of Daniel Field and related facilities and it shall be his duty to enforce all rules and regulations prescribed by such commission, and

such manager shall report to such commission any violation thereof. He shall be charged with the duty of maintaining such airport and buildings thereon in good condition.

Sec. 1-3-16. Meeting rules; reports to Augusta-Richmond County Commission; inspection of minutes and documents.

The General Aviation Commission shall make its own rules with reference to meetings and shall make monthly reports to the Commission. All of their minutes and documents shall be readily available at all times to the Commission.

ARTICLE 3 GENERAL PROVISIONS AS TO DANIEL FIELD

Secs. 1-3-17—1-3-18. Reserved.

Sec. 1-3-19. When aircraft may begin a take-off.

It shall be unlawful for any aircraft to begin a take-off until there is no risk of collision with landing aircraft and until preceding aircraft are clear of the field.

Sec. 1-3-20. Height of aircraft when over urban services district or assembly of persons.

Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

- (a) *Anywhere.* An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.
- (b) *Over congested areas.* Over any congested area of Richmond County, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.
- (c) *Over other than congested areas.* An altitude of 500 feet above the surface, except over open water or sparsely populated

areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.

- (d) *Helicopters.* Helicopters may be operated at less than the minimums prescribed in paragraph (b) or (c) of this section if the operation is conducted without hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with any routes or altitudes specifically prescribed for helicopters by the Administrator.

Sec. 1-3-21. Right to use of field by landing aircraft.

When landing and maneuvering in preparation to land, the aircraft at the greater height shall be responsible for avoiding the aircraft at the lower height, and shall, as regards landing, avoid all stationary aircraft, although a landing plane has the right of way over planes moving on the ground or taking off.

Sec. 1-3-22. Aircraft moored on flying field to display light at night.

Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise all aircraft not in a hangar and which are moored or anchored on the flying field, shall show a white light visible for at least one (1) mile in all directions.

Sec. 1-3-23. Transportation of persons for hire.

No private, commercial or industrial pilot shall transport any person for hire or reward until such pilot first exhibits to the airport manager the proper license as prescribed by the rules of the United States Department of Transportation.

Sec. 1-3-24. Acrobatic flying.

No person shall acrobatically fly an aircraft from or over any aviation field under the jurisdiction of Augusta-Richmond County without the consent in writing of the Mayor and the airport management.

Sec. 1-3-25. Dropping objects from aircraft in flight.

Except when necessary to the personal safety of the pilot, passengers or crew, when aircraft is in flight the pilot shall not drop or release, or permit any person to drop or release, any object or thing which may endanger life or injure property.

Sec. 1-3-26. Flexibility of preceding regulations.

The provisions of the preceding sections of this article may be deviated from when special circumstances render a departure necessary to avoid immediate danger or when such departure is required because of stress of weather conditions or other unavoidable cause.

Sec. 1-3-27. Regulations to be posted.

A copy of the sections of this chapter regulating aircraft shall be posted in one or more conspicuous places on every flying field over which Augusta-Richmond County may have jurisdiction and suitable protection from the weather shall be provided in order to keep the contents thereof legible and distinctive.

Sec. 1-3-28. Responsibility for damages at flying fields.

Whenever any property damages occur at any flying field over which Augusta-Richmond County may have jurisdiction, which damages are caused by the negligence of aviators, automobile drivers or others, the person causing such damages shall be held responsible to Augusta-Richmond County.

ARTICLE 4 AIRPORT APPROACH AND TURNING ZONES AT DANIEL FIELD

Sec. 1-3-29. Definitions.

When used in this article, the following terms shall have the meaning ascribed to them by this section unless the context otherwise requires:

- (a) Airport. The Daniel Aviation Field Municipal Airport.
- (b) Airport hazard. Any structure or tree or use of land which obstructs the airspace

required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

- (c) Nonconforming use. Any structure, tree or use of land which does not conform to a regulation prescribed in this chapter or an amendment thereto, as of the effective date of such regulation.
- (d) Structure. Any object constructed or installed by man, including but not limited to buildings, towers, smokestacks and overhead transmission lines.
- (e) Landing area. The area of the airport used for the landing, take-off or taxiing of aircraft.
- (f) Tree. Any object of natural growth.
- (g) Map. The airport approach standards map.

Sec. 1-3-30. Map to be filed, etc.

A copy of the airport approach standards map shall be filed in the office of the Clerk of the Commission and be available for inspection upon request.

Sec. 1-3-31. To be established.

All the land within the boundaries of the airport and within two (2) miles of the landing area of the airport shall be divided into airport approach zones and airport turning zones. The inner area of the airport approach zones shall be as shown on the map. The turning zones and the outer area of the airport approach zones shall be that area within two (2) miles of the boundaries of the landing area and the inner area of the airport approach zones.

Sec. 1-3-32. Height limits.

Except as otherwise provided in this article no structure or tree shall be erected, altered, allowed to grow or maintained in any airport approach zone or airport turning zone to a height in excess of the following height limits:

- (a) Inner area airport approach zones. As shown on map.

- (b) Outer area airport approach zones. One hundred and fifty (150) feet above the elevation of the boundaries of the airport landing areas.
- (c) Turning zones. One hundred and fifty (150) feet above the elevation of the boundaries of the airport landing areas.

Sec. 1-3-33. Restrictions on use of land within.

Notwithstanding any other provisions of this article, no use may be made of land within any airport approach zone or airport turning zone in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair the visibility in the vicinity of the airport or otherwise endanger the landing, taking off or maneuvering of aircraft.

Sec. 1-3-34. Existing nonconforming uses; structures begun before effective date of article.

The regulations prescribed in sections 1-3-25 and 1-3-26 of this Chapter shall not be construed to require the removal, lowering or other change or alteration of any nonconforming use not conforming to the regulations as of the effective date hereof or otherwise to interfere with the continuance of any nonconforming use, and nothing contained in this article shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article, and is diligently prosecuted and completed within two (2) years thereof.

Sec. 1-3-35. Permit required to alter, erect, etc., structures, change use of land, etc., therein—Generally.

No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted or otherwise established in any airport approach zone or airport turning zone unless a permit therefor shall have been applied for and granted.

Sec. 1-3-36. Same—Applications for permits; when permits to be granted.

Every application for a permit required by the preceding section shall indicate the purpose for which the permit is desired with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this article. If such determination is in the affirmative, the permit applied for shall be granted.

Sec. 1-3-37. Same—Existing structures, uses, etc.

Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, within an airport approach zone or airport turning zone, a permit must be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this article or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement, change or repair of an existing use, structure or tree shall be granted.

Sec. 1-3-38. Same—Variances.

Any person desiring to erect any structure or to increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this article may apply for a variance therefrom. A permit for such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this article.

Sec. 1-3-39. Same—Same—Permit may be conditioned to allow Augusta-Richmond County to install, etc., lights.

Any permit or variance granted pursuant to the preceding section may, if such action is deemed

advisable to effectuate the purposes of this article and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit Augusta-Richmond County, at its own expense to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

Sec. 1-3-40. Administration of article—Inspector of buildings to enforce regulations.

The Director-Building Official (see section 7-1-27) is designated the administrative agency charged with the duty of administering and enforcing the regulations prescribed in this article.

Sec. 1-3-41. Same—Appeals to planning commission from decision of director-building official.

(a) Any person aggrieved, or taxpayer affected, by any decision of the Director-Building Official made in the administration of this article, if of the opinion that a decision of the Director-Building Official is an improper application of this article, may appeal to the planning commission.

(b) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the planning commission, by filing with the Director-Building Official and with the planning commission a notice of appeal specifying the grounds thereof. The inspector of buildings shall forthwith transmit to the planning commission all the paper constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Director-Building Official certifies to the planning commission, after the notice of appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of the planning commission on notice to the inspector of buildings and on due cause shown.

(d) The planning commission shall fix a reasonable time for the hearing of the appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(e) The planning commission may, in conformity with the provisions of this article, reverse, or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Director-Building Official.

(f) The planning commission shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such fact in reversing, or affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this article.

(g) The concurring vote of a majority of the members of the planning commission shall be sufficient to reverse any order, requirement, decision or determination of the Director-Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this article, or to affect any variation in this article.

ARTICLE 5 AIRPORTS AND AVIATION

Sec. 1-3-42. Adoption of rules and regulations of general aviation commission—For Daniel Field.

There is hereby adopted for the purpose of establishing rules and regulations for the operation of Daniel Field, Augusta Municipal Airport, those certain rules and regulations of the General Aviation Commission dated July 21, 1997, on file in the office of the Clerk of Commission, and the same are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the operations of such airport. Same are attached as an Exhibit to this Code.

Sec. 1-3-43. Same—Augusta Regional Airport at Bush Field.

There is hereby adopted, for the purpose of establishing rules and regulations for the operation of Augusta Regional Airport at Bush Field those certain rules and regulations of the Augusta Aviation Commission, dated July 1, 1950, a copy of which is on file in the office of the Clerk of Commission, and the same are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the operations of such airport. (Resolution of February 8, 1999; Ord. No. 6939, § 2, 1-18-07)

Chapter 4

BOARDS AND AUTHORITIES**ARTICLE 1 GENERAL PROVISIONS****Sec. 1-4-1. Appointment; qualifications; prohibition against appointment to more than one board or authority.**

(a) The Augusta-Richmond County Commission has the responsibility under the Augusta-Richmond County Code and its Ordinances, and certain Acts of the General Assembly, to appoint members to certain boards, commissions, committees, panels, and authorities. The Augusta-Richmond County Commission deems it to be in the best interest of the citizens of Richmond County to prohibit any one individual from being appointed to more than one permanent board, commission, committee, panel, or authority for which said Commission has the authority of appointment or ratifying appointments and to provide qualifications for members on same.

(b) No person who is serving on a permanent board, commission, committee, panel, authority, or other entity appointed by the former Board of Commissioners of Richmond County, the former City Council of Augusta, or the Augusta-Richmond County Commission, shall, while serving as such a member, be qualified to be appointed to any other such permanent board, commission, committee, panel, authority, or other entity.

(c) No individual shall be eligible to be appointed to, or serve upon, any board, commission, authority, or other agency for which the Augusta-Richmond County Commission has the power of appointment, or the responsibility of approving appointments, who:

- (1) Has been convicted of a felony or a crime of moral turpitude, unless such individual has had his civil rights restored as provided by law;
- (2) Is under indictment for a felony or a crime of moral turpitude; or

- (3) Is not a resident of Richmond County, or fails to maintain his residency in Richmond County, except where otherwise permitted by law.

(d) It shall be the duty of any prospective appointee to any such permanent the Augusta-Richmond County Commission to indicate to the Augusta board, commission, committee, panel, authority, or other entity appointed by Richmond County Commission, in advance of his appointment, his membership on any other such permanent board, commission, committee, panel, authority, or other such entity and his qualification to serve as provided herein.

(e) The Clerk shall notify any such appointee of his duty to notify the Augusta-Richmond County Commission of his membership on any other board, commission, committee, panel, authority, or other such entity by appointment by the former Board of Commissioners of Richmond County, the former City Council of Augusta, or the Augusta-Richmond County Commission and of his not being disqualified to serve for failing to meet the qualifications set forth in subparagraph (g) hereof. (Ord. No. 6244, § 1, 1-18-00)

Sec. 1-4-1.1 Attendance at meetings; removal.

(a) Faithful and prompt attendance at all meetings of boards, committees, commissions, panels, or authorities, and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on such board, committee, commission, panel or authority.

(b) Except as hereinafter provided, should a member fail to attend three (3) consecutive regular meetings of such board, committee, commission, panel or authority, and should there be no adequate excuse for such absences as determined by such board, committee, commission, panel or authority, same shall recommend to the Augusta-Richmond County Commission that such member be removed as provided in § 1-4-1. Nothing herein shall be deemed to apply to any member of the Augusta-Richmond County Commission who may be a member of any such board, committee, commission, panel or authority.

(Ord. No. 6201, § 2, 9-21-99; Ord. No. 6244, § 2, 1-18-00)

Sec. 1-4-2. Code of ethics.

(a) Notwithstanding any provision of law to the contrary, each member of any board, commission, committee, panel, authority, or other entity appointed by the Augusta-Richmond County Commission, shall, upon appointment to such entity, whether directly or upon ratification of the appointment recommended or nominated by another body or entity, be subject to the Code of Ethics and Rules of Conduct set forth in Title 1, Chapter 1, Articles 2 and 3 of this Code.

I, _____ shall:

- (1) Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;
- (2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;
- (3) Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of my governmental duties;
- (4) Never use any information coming to me confidentially in the performance of governmental duties as a means for making private profit;
- (5) Expose corruption wherever discovered;
- (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of my official duties;
- (7) Never accept any economic opportunity under circumstances where I know or should know that there is a substantial possibility that the opportunity is being afforded me with intent to influence my conduct in the performance of my official duties;
- (8) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and

(9) Never take any official action with regard to any matter under circumstances in which I know or should know that I have a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

(b) Upon formal charges being filed with the Mayor of the Augusta-Richmond County Commission relative to a violation of the Code of Ethics set forth in subsection (a) hereof on the part of a member of any such board, commission, committee, panel, authority, or other entity appointed by the Augusta-Richmond County Commission, the Augusta-Richmond Commission shall conduct a hearing for the purpose of receiving evidence relative to the merits of such charges. The member so charged shall be given at least thirty (30) days written notice prior to such hearing. If such charges are found to be true, the Augusta-Richmond County Commission shall forthwith remove such member from such board, commission, committee, panel, authority, or other entity appointed by said Commission, and the vacancy shall be filled as provided by the Ordinance, Code, or special or general law providing for the membership of such entity. Any member removed from such entity shall have the right to judicial review of such decision by the Augusta-Richmond County Commission by the filing of a petition within thirty (30) days after the service of the final decision of the Commission, or if a rehearing is requested, within thirty (30) days after the decision thereon. The petition shall be filed in the Superior Court of Richmond County, Georgia. Copies of the petition shall be served upon the Mayor of the Augusta-Richmond County Commission. The petition shall state the nature of petitioner's interest, the facts showing that the petitioner is aggrieved by the decision, and the ground as specified herein upon which the petitioner contends that the decision shall be reversed or modified. The petition may be amended by leave of court.

(c) The filing of the petition does not itself stay enforcement of the decision of the Commission. Except as otherwise provided, the Commission may grant, or the reviewing Court may order, a stay upon appropriate terms for good cause shown.

(d) Within thirty (30) days after the service of the petition or within further time allowed by the Court, the Commission shall transmit to the reviewing Court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the Court for the additional costs. The Court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the Court for leave to present additional evidence and it is shown to the satisfaction of the Court that the additional evidence is material and there were good reasons for failure to present it in the proceedings before the Commission, the Court may order that the additional evidence be taken upon conditions determined by the Court. The Commission may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing Court.

(f) The review shall be conducted by the Court without a jury and shall be confined to the record. In case of alleged irregularities in procedure before the Commission, not shown in the record, proof thereon may be taken in the Court. The Court, upon request, shall hear oral argument and receive written briefs.

(g) The Court shall not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact. The Court may affirm the decision of the Commission. The Court may reverse or modify the decision if substantial rights of the petitioner have been prejudiced because the findings, inferences, conclusions, or decisions of the Commission are: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the Commission; (3) made upon unlawful procedures; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or (6) arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. (Ord. No. 6244, § 2, 1-18-00)

State law reference—(Ga. Laws 1976, p. 344, § 1.)

Sec. 1-4-3. Appeals.

In any appeal or contested case:

- (a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in the trial of civil nonjury cases in the superior courts shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under such rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs or it consists of a report of medical, psychiatric, or psychological evaluation of a type routinely submitted to and relied upon by an agency in the normal course of its business. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;
- (b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of this state;
- (c) A party may conduct such cross-examination as shall be required for a full and true disclosure of the facts; and
- (d) Official notice may be taken of judicially cognizable facts.

§ 1-4-4. Removal; procedure.

Upon good cause shown, including without limitation, a violation of the Code of Ethics and Code of Conduct set forth in Title 1, Chapter 1, Articles 2 and 3 or a failure to meet the qualifications set forth in § 1-4-1 hereof, the Augusta-

Richmond County Commission may remove from the membership of any board or authority any member which it has appointed to that board or authority. The procedure for such removal shall be as set forth in § 1-4-2 (b) through (g) and § 1-4-3-above.
(Ord. No. 6244, § 3, 1-18-00)

Sec. 1-4-5. Reserved.

ARTICLE 2 DEVELOPMENT AUTHORITY OF RICHMOND COUNTY

Sec. 1-4-6. Purpose.

It has heretofore been determined and declared an urgent, existing and future need for a development authority to function in Richmond County, Georgia, for the purpose of developing and pro-

moting for the public good and general welfare trade, commerce, industry and employment opportunities in such county thereby promoting the general welfare of its citizenry.

Sec. 1-4-7. Creation; board of directors—Composition.

The public body corporate and politic known as the Development Authority of Richmond County shall continue in existence. There are hereby elected as members of the board of directors of the development authority nine (9) persons, each of whom is a taxpayer of the county and only one of whom may be an officer or employee of the county; provided, however, the initial appointments shall be made as follows:

- (a) Members of the Development Authority of Richmond County appointed are as herein set forth, to wit:

			<i>Term Expires</i>
(1)	Charlene Sizemore	2 years	6/3/99
(2)	Harrell Tiller	4 years	6/3/2001
(3)	Monty Osteen	4 years	6/3/2001
(4)	Abram Serrota	4 years	6/3/99
(5)	Charles Walker	4 years	6/3/2001
(6)	Terry Elam	4 years	6/3/2001
(7)	Dr. Ronald Lewis	2 years	6/3/99
(8)	Walter Hornsby	4 years	6/3/2001
(9)	William Thompson	2 years	6/3/99

Sec. 1-4-8. Terms of members.

Successors to the members named in section 1-4-7, members are to be appointed for four-year terms.

Sec. 1-4-9. Director to remain in office until successor elected.

If at the end of any term of office of any director a successor thereto shall not have been elected then the director whose term of office shall have expired shall continue to hold office until his successor shall be so elected.

Sec. 1-4-10. Duties.

The board of directors hereinbefore elected shall organize itself, carry out its duties and

responsibilities and exercise its powers and prerogatives in accordance with the terms and provisions of the development authorities law, as it now exists and as it might hereafter be amended or modified.

Sec. 1-4-11. Dissolution of authority.

Upon the dissolution or liquidation of the development authority of the county the directors shall, after paying or making provision for the payment of all of the liabilities of the development authority, dispose and transfer all of the assets of the development authority exclusively to the Commission for the county.

Sec. 1-4-12. Use of authority assets, etc.

No part of the assets, income or profit of the development authority of the county shall be

distributable to or inure to the benefit of the members of the board of directors of the development authority of the county or its officers or any officer or employee of the county.

Sec. 1-4-13. Reserved.

ARTICLE 2.1 DOWNTOWN DEVELOPMENT AUTHORITY

Sec. 1-4-14. Purpose.

It has heretofore been determined by the City Council of Augusta (the "City of Augusta" being hereinafter sometimes referred to as the "City") that there is an existing and urgent need to provide incentives for the investment of funds for the rehabilitation and the redevelopment of the central business district of the City.

It has further been determined and declared that adequate financing for the rehabilitation and redevelopment of the central business district of the City cannot be provided through the ordinary operation of private enterprise, and the involvement of a public agency as herein contemplated in such an undertaking would not be competitive with private enterprise.

The City Council of Augusta has heretofore determined that there is a need for a downtown Development Authority to function in the City to help finance the cost of rehabilitation and redevelopment of the central business district of the City.

The City Council of Augusta, after a thorough study and investigation, has heretofore determined that it is desirable and necessary that a Downtown Development Authority be activated to function in the City with the powers granted it by the Act to issue revenue bonds and bond anticipation notes for the purpose of providing funds to finance the cost of rehabilitation and redevelopment of the central business district of the City.

It has heretofore been determined and declared a pressing, existing and future need for a Downtown Development Authority (as more fully described in the Act) to function in the City for the purpose of providing adequate financing for the rehabilitation and redevelopment of the central business district of the City, thereby promoting the welfare of the people of the City of Augusta.

Sec. 1-4-15. Creation; board of directors—Composition, terms of members.

The Downtown Development Authorities Law (Ga. Laws 1981, page 1744 et seq., as amended, codified as Chapter 36-42-4, Ga. Code Ann.) (The "Act"), which was enacted by the General Assembly of the State of Georgia, creates for every municipal corporation in the State of Georgia a public body corporate and politic to be known as the Downtown Development Authorities law of such municipal corporation, which will consist of a board of seven (7) directors to be appointed by the governing body of such municipal corporation for initial terms of two (2), four (4), and six (6) years and thereafter for staggered terms of four (4) years.

The public body corporate and politic known as the "Downtown Development Authority of the City of Augusta" (hereinafter referred to as the "Authority"), which Authority was created pursuant to the Act, Georgia Laws 1981 p. 1744 et seq. heretofore activated, shall continue in existence. Said Act shall, by reference, be incorporated herein and made a part hereof.

There is hereby elected as members of the Board of Directors of the Authority seven (7) persons, each of whom is a taxpayer residing in the City and only one of whom may be an officer or employee of the City; provided, however, the initial appointments shall be made as follows:

- (a) Members of the Downtown Development Authority of the City of Augusta appointed are as herein set forth, to wit:

Term Of Office

(1)	Margaret Woodard, Director	
(1)	Julian Roberts, Chairman	4 Years
(2)	James Carter III, Secretary	4 Years

Term Of Office

(3)	Cassandra Brinson, Director	4 Years
(4)	Paul King, Director	4 Years
(5)	J.R. Hatney, County Commissioner	4 Years
(6)	Steve Kendrick, Vice-Chairman	4 Years
(7)	Phil Wahl, Treasurer	4 Years

- (b) Each of said persons named as directors above shall serve in such capacity for the number of years set forth opposite their respective names; and if at the end of any term of office of any director, a successor thereto shall not have been elected as hereinafter provided, then the director whose term of office shall have expired shall continue to hold office until his successor shall be so elected. No person shall receive any compensation for serving as a director but a director may be reimbursed for his actual expenses incurred in the performance of his duties.

- (c) In the event that a director at any time ceases to be a taxpayer residing in the City, his eligibility to serve as a director shall cease, and his term of office shall end.

- (d) The Board of Directors hereinbefore elected shall organize itself, carry out its duties and responsibilities and exercise its powers and prerogatives in accordance with the terms and provisions of the Act as it now exists and as it might hereafter be amended or modified.

(Ord. No. 6939, § 3, 1-2-07)

Sec. 1-4-16. Designation of development area.

The central business district of the City is hereby designated as the downtown development area of the City as required by Section 3 of the Act and that said area and district are geographically constituted as follows:

From the west side of Fifteenth Street through the west side of East Boundary, and from the Savannah River through the south side of Laney Walker Boulevard.

Sec. 1-4-17. Accordance with development authorities law.

The board of directors hereinbefore elected shall organize itself, carry out its duties and responsibilities and exercise its powers and prerogatives in accordance with the terms and provisions of the development authorities law, as it now exists and as it might hereafter be amended or modified.

Secs. 1-4-18—1-4-55. Reserved.

ARTICLE 3 HOUSING AUTHORITY

Sec. 1-4-56. Purpose; commissioners; tax-exempt status of its property; power to contract.

- (a) It has heretofore been determined that there is need for a housing authority, as contemplated by the Georgia Laws of 1937, in Richmond County, Georgia, by reason of unsanitary and unsafe inhabited dwelling accommodations in such county, and a shortage of safe and sanitary dwelling accommodations in such county for persons of low income at rentals they can afford.

- (b) Five (5) persons of the county shall be appointed as commissioners of the Housing Authority, such appointees to be appointed for the terms and for the purposes as set out in the Housing Authorities Laws of Georgia of 1937. The Quality Housing and Work Responsibility Act of 1998 requires The Board of each public housing agency to contain no less than one (1) member who is directly assisted by the public housing agency. O.C.G.A. § 8-3-1 et seq. (as amended), relating to Housing Authorities, provides for the appointment of one (1) or two (2) additional com-

missioners who shall be known as resident commissioner of said City, County and Regional Housing Authorities in compliance with Federal Law.

(c) Any and all appointees as a commissioner of the housing authority shall accept such appointment divested of any authority as stated in section 21 of the housing authorities law, to wit:

"and such property and authority shall be exempt from all taxes and special assessments of Augusta-Richmond County, the county, the state or any political subdivision thereof;ellipsis;"

and the housing authority is hereby declared to be divested at all times of holding or possessing any property exempt from taxes and special assessments of the county, the state and/or Augusta-Richmond County. However, the governing bodies of the county or of Augusta-Richmond County or of the state in their discretion respectively may exempt from all taxes and/or any special assessments, or any taxes or any special assessments, such property as owned, held or possessed by the housing authority.

(d) No commissioner of the housing authority nor the housing authority shall have any power, nor shall he nor it make any contract of any nature, either of employment or otherwise, to bind the county for the payment of any sum whatsoever, without first obtaining the written authority of such Commission, in regular meeting of such Commission.

(Ord. No. 6939, § 4, 1-2-07)

State law references—Purpose of housing authority, Ga. Code Ann., § 8-3-2; appointment, qualifications and tenure of commissioners of housing authority, Ga. Code Ann., § 8-3-50; tax-exempt status of property of housing authority, Ga. Code Ann., § 8-3-8.]

Secs. 1-4-57—1-4-59. Reserved.

ARTICLE 4 RICHMOND COUNTY HOSPITAL AUTHORITY

Sec. 1-4-60. Purpose.

There has previously been determined and declared by the Board of Commissioners of Richmond County a pressing, existing and future need for a hospital authority to function in the area included within the county for the purpose of the

prevention of disease, cure of disease, administering to the sick and the rendering of medical and surgical service to the citizens of the designated area, and to construct, maintain, modernize, repair and otherwise provide adequate and necessary hospital and other medical facilities effectively to carry out the named purposes and other purposes incidental thereto and usually connected therewith.

Sec. 1-4-61. Creation.

The body corporate and politic known as The Richmond County Hospital Authority previously created by the Board of Commissioners of Richmond County is hereby ratified and confirmed, which authority shall consist of a board of nine (9) trustees with all the powers, privileges, immunities, rights and liabilities as set forth in the constitutional amendment to article 7, section 6 of the Constitution of the State of Georgia and the Statutes of Georgia, including particularly Georgia Acts of 1941, page 241 et seq.

State law reference—Creation of hospital authority, Ga. Code Ann., § 31-7-72.

Sec. 1-4-62. Board of trustees—Vacancies; term of members.

Upon the death or resignation or inability of any trustee to serve prior to the expiration of his term, then the Commission of the county shall appoint a successor or successors for the unexpired term or terms as hereinafter provided. Each appointment to the board of trustees shall be made for a period of four (4) years. All members of the board of trustees shall be appointed to serve until their term expires or until a successor has been appointed.

State law reference—Hospital authorities generally, Ga. Code Ann., § 31-7-70 et seq.

Sec. 1-4-63. Same—Composition.

(a) The hospital authority shall consist of nine (9) members, who shall be residents of Richmond County. The members of the hospital authority shall represent the broad interests of the community and shall not use personal influence for the gain of specific individuals or groups.

(b) Of the nine (9) members of the hospital authority at least one member must be of the Jewish faith, at least one (1) member of the Catholic faith, at least one (1) member of the Black race, and two (2) members must be active medical staff members of the University Hospital.

Sec. 1-4-64. Same—Same—Additional members.

Two (2) trustees shall be selected and appointed from the members of the active medical staff of the University Hospital who are residents of Richmond County. These two (2) new members shall be appointed effective January 1, 1970, with the initial appointment of one of the members to be for two (2) years and the other for four (4) years. At the expiration of these initial terms, each appointment thereafter shall be for a period of four (4) years. For each such additional member, and for the appointment to fill the vacancy upon the expiration of the term of each such additional member, the hospital authority shall select three (3) names from a list of ten (10) submitted to it by the active medical staff; and the appointment shall then be made from this list pursuant to the procedure now in force for the appointment of trustees.

Sec. 1-4-65. Same—Successor trustees.

One (1) trustee and the successors of that trustee shall be appointed by the Commission among the Commissioners and shall serve for a term the shorter of four (4) years or until no longer a Commissioner. Appointment of all other successor trustees shall be made by the Commission as hereinafter provided from the names of three (3) persons submitted by the County Hospital Authority to the Commission; however, the name of no person shall be submitted by the Hospital Authority for consideration for appointment to the Board of Trustees unless and except that the person whose name is being submitted for membership shall have been personally consulted with by the Hospital Authority, and has agreed to serve in the event of his appointment; and all shall be residents of the county.

State law references—See O.C.G.A. § 31-7-72(c); 1985 Ga. Laws 3892-3894. (Ord. No. 6939, § 5, 1-2-07)

Sec. 1-4-66. Same—Advisors and their selection and qualifications.

In addition to the regular members of the Board of Trustees of Hospital Authority, the Volunteer Board of the University Hospital shall have the right to appoint one (1) of its members as an advisor to the Board of Trustees, but such advisor shall not be a member of the Board of Trustees, shall have no voting power in matters handled by such Board and such advisor's services shall be advisory only in all matters. (Ord. No. 6939, § 6, 1-2-07)

Sec. 1-4-67. Area of operation.

The area of operation of the hospital authority is hereby defined as including all of the territorial limits and affecting all the citizens within the limits of the boundary of the county.

Sec. 1-4-68. Not to participate in unemployment compensation program.

The hospital authority shall not participate in the unemployment compensation program.

Secs. 1-4-69—1-4-75. Reserved.

ARTICLE 5 HOSPITAL AUTHORITY OF AUGUSTA

Sec. 1-4-76. Purpose.

There has previously been determined and declared by the City Council of Augusta to be an existing and future need for a Hospital Authority (as more fully described and defined in the Hospital Authorities law), to function in Augusta and its environs for the purpose of providing certain additional health care facilities for the residents of Augusta and its environs thereby promoting the general welfare of the citizenry of Augusta.

Sec. 1-4-77. Creation; name change.

The public body corporate and politic known as the Hospital Authority of the City of Augusta which was previously created by the force and effect of the Hospital Authorities Law, and by the

City Council of Augusta, is hereby ratified and confirmed and shall hereafter be named the Hospital Authority of Augusta.

Sec. 1-4-78. Initial members.

The Board of Trustees of the Hospital Authority of Augusta shall be composed of the following

(1)	Catherine J. Cato	<i>Term of Office</i> 2 years
(2)	Rev. Clyde Hill, Sr.	2 years
(3)	Pat Blanchard	2 years
(4)	Greg Hodges	4 years
(5)	Rodger Giles	4 years

Sec. 1-4-79. Service through term of office.

Each of said persons named as trustees above shall serve in such capacity for the number of years set forth opposite their respective names, and if at the end of any term of office of any trustee, a successor thereto shall not have been elected pursuant to the procedure set forth in the Hospital Authorities Law, then the trustee whose term of office shall have expired shall continue to hold office until his or her successor shall be so elected.

Sec. 1-4-80. Operation of board.

The Board of Trustees hereinabove elected shall organize itself, carry out its duties and responsibilities and exercise its powers and prerogatives in accordance with the terms and provisions of the Hospital Authorities Law as it now exists and as it might hereafter be amended and modified.

ARTICLE 6 AUGUSTA-RICHMOND COUNTY PLANNING COMMISSION

Sec. 1-4-81. Creation.

There is hereby created a planning commission with the membership, powers and duties as set forth herein. The commission created herein shall be known as the Augusta-Richmond County Planning Commission.

named persons, each of whom is a resident of Augusta-Richmond County:

Sec. 1-4-82. Membership, terms of office and compensation.

(a) The Augusta-Richmond County Planning Commission (hereinafter referred to as the Planning Commission) shall consist of ten (10) members (plus an additional two members should the Richmond County Legislative Delegation choose to appoint two members) to be appointed for terms of four (4) years; provided, however, the initial appointments shall be made as follows:

- (1) There shall be one (1) member who resides in each of the ten (10) districts of Augusta-Richmond County appointed by the Augusta-Richmond County Commission.
- (2) Except as provided herein, members of the Planning Commission of Richmond County and the City of Augusta who were serving on said boards on January 1, 1997, having had no fixed terms, shall serve until their successors are appointed and qualified.
- (3) Members of the Planning Commission serving as of January 1, 1997, shall continue to serve until their successors are appointed by the Commissioner representing the respective District and qualified and are to represent the districts as herein set forth, to wit:

			<i>Term Expires</i>
a.	Patricia Jefferson	District 1	2/1/99
b.	Thelma Mack	District 2	3/31/2000
c.	Nick Dickinson	District 3	3/31/98
d.	Richard Colclough	District 4	4/1/99
e.	Frank Knapp, III	District 5	3/31/98
f.	Appointment TBA	District 6	3/31/2000
g.	James Randall Hall	District 7	3/31/98
h.	Hugh Fulcher, Jr.	District 8	3/31/2000
i.	Margaret Armstrong	District 9	3/31/98
j.	Ed Dickerson	District 10	2/1/98

- (4) The successor to the member representing District 1 shall serve until March 31, 2002, or until his successor is appointed and qualified.
- (5) The successors to the members representing Districts 4 and 10 shall serve until March 31, 2000, or until their successors are appointed and qualified.
- (6) Members of the board appointed by the Commissioner of the respective Districts to succeed those appointed in subsections 3, 4 and 5 hereof shall serve for terms of office of four (4) years and until their successors are appointed and qualified.
- (7) Should the Richmond County Legislative Delegation choose to appoint two (2) members as provided in the Consolidation Act, such members shall serve for a term of four (4) years and until their successors are appointed and qualified. In the event the appointed authority of the Legislative Delegation is removed from the Consolidation Act, this subsection shall automatically be repealed.
- (8) All terms shall expire on March 31 of the applicable year, and new terms shall begin on April 1 of the applicable year.
 - (b) In the event of a vacancy by reason of a death, disqualification, resignation or other reason, the Augusta-Richmond County Commission shall appoint a person to serve the remainder of the term of such member.
 - (c) No vacancy on the Planning Commission shall impair the right of the quorum to exercise all of their rights and perform all of the duties of the Planning Commission.

(d) The Chairman of the Planning Commission shall not be entitled to vote upon any issue, motion or resolution, except where his vote will change the result on said motion, resolution or question.

(e) Members of the Planning Commission shall serve for such compensation as shall be established by the Augusta-Richmond County Commission.

(f) No member of the Planning Commission may be removed from office prior to the expiration of his term except for cause after having been given notice and afforded a hearing before the Augusta-Richmond County Commission. Prior to said hearing, said member shall be served by registered or certified mail addressed to his residence as shown in the files of the Planning Commission, at least ten (10) days before the date set for said hearing with written specifications of the charges against him.

Sec. 1-4-83. Organization, rules, staff, finances.

(a) The Planning Commission shall elect a Chairman and Vice-Chairman from its members. The terms of office of the Chairman and Vice-Chairman shall be one (1) year with eligibility for reelection to no more than two (2) consecutive terms.

(b) The Planning Commission may appoint a secretary who may be an official or employee of the Planning Commission, or of the Augusta-Richmond County Commission.

(c) The Planning Commission shall make its own rules of procedure in accordance with the general provisions of this ordinance and determine its time and place of meeting. All meetings of the Planning Commission, at which official actions are taken, shall be a public record.

(d) The Planning Commission is empowered to appoint such employees, consultants, legal counsel, and staff as it may deem necessary for its work and may contract with municipal planning and other consultants for such services as it may require for the performance of its work.

(e) The Planning Commission may purchase such equipment and supplies as it may deem necessary.

(f) The expenditures of the Planning Commission, exclusive of gifts and grants, shall be within the amounts approved for it by the Augusta-Richmond County Commission.

Sec. 1-4-84. Principal powers and duties.

It shall be the function and duty of the Planning Commission to make such careful and comprehensive surveys and studies of existing conditions and probable future developments and to prepare such plans for physical, social and economic growth as will best promote the public health, safety, morals, convenience, prosperity, or the general welfare as well as efficiency and economy in the development of Augusta-Richmond County. In particular, the Planning Commission shall have the power and duty to:

- (a) Prepare a master plan or parts thereof for the development of Augusta-Richmond County.
- (b) Prepare and recommend for adoption to the Augusta-Richmond County Commission a zoning ordinance and map or maps.
- (c) Prepare and recommend for adoption to the Augusta-Richmond County Commission regulations for the subdivision of land within its political jurisdiction.

Sec. 1-4-85. Miscellaneous powers and duties.

In addition to the principal powers and duties set forth above, the Planning Commission may:

- (a) Cooperate with, contract with, or accept funds from Federal, State or local governments, public or semipublic agencies or private individuals or corporations; expend such funds; and carry out such cooperative undertakings and contracts as may be necessary for the performance of its duties and to promote the planning of Augusta-Richmond County, including the authority to enter into agreements with jurisdictions and agencies in adjacent counties and states.
- (b) Prepare, publish and distribute maps, plans, reports and recommendations relating to the planning and development of Augusta-Richmond County.
- (c) Recommend to the Augusta-Richmond County Commission programs for public improvements and the financing thereof.
- (d) Secure, within a reasonable time, from all public officials such available information as it may require for its work.
- (e) In the performance of its functions, enter upon land, make examinations and surveys, and place and maintain necessary signs, monuments or markings thereon.
- (f) Any other function or duty which may from time to time be delegated to the Planning Commission by order, directive, ordinance or resolution of the Commission of Augusta-Richmond County, or officials thereof.

Sec. 1-4-86. Performance of duties—Master plan.

(a) It shall be the duty of the Planning Commission to make a master plan of Augusta-Richmond County and to perfect it from time to time.

(b) Such master plan may show, among other things, the following:

- (1) Existing and proposed streets, highways, expressways, bridges, tunnels and viaducts and approaches thereto; routes of railroads and transit lines; terminals, ports and airports.
- (2) Parks, playgrounds, forests and other public open spaces.
- (3) Sites for public buildings, structures and facilities.
- (4) Land areas for residential, business, industrial, recreational, agricultural, forestry, and special purposes and uses.
- (5) Limited development areas for purposes of conservation, water supply, sanitation, drainage, historic preservation, protection against flooding and similar environmental considerations.
- (6) Areas for housing development, slum clearance, and urban renewal and redevelopment.
- (7) Location of public utilities whether publicly or privately owned, including but not limited to sewerage and water supply systems.
- (8) Zoning districts and other planning features.
- (9) Time and priority schedules and cost estimates for the accomplishment of the proposals.

(c) The master plan shall be based upon and include appropriate studies of the location and extent of present and anticipated other pertinent data.

(d) Such plan may be adopted, added to and changed from time to time by the Augusta-Richmond County Commission. It shall be a public record, but its purpose and effect shall be solely to aid the Planning Commission in the performance of its duties.

Sec. 1-4-87. Performance of duties—Zoning ordinance and maps.

(a) It shall be the duty of the Planning Commission to prepare and recommend for adoption to the Augusta-Richmond County Commission a zoning ordinance and map or maps. The purpose of such ordinance and map or maps shall be to regulate:

- (1) The location, height, bulk, number of stories, and size of buildings and other structures.
- (2) The percentage of lot which may be occupied, the sizes of yards, courts, and other open areas.
- (3) The density and distribution of population and dwelling units.
- (4) Land areas designated for business and industrial use, residences, recreation, agriculture, forestry, conservation, historic preservation, water supply, sanitation, protection against floods, governmental activity and other special purposes.

(b) The map or maps shall divide Augusta-Richmond County into districts of such number, shape and size as the Planning Commission may determine; and within such districts it may regulate the erection, construction, reconstruction, alteration, and use of buildings and structures and uses of land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

(c) At such time the Commission of Augusta-Richmond County deems it necessary to enact an entirely new zoning ordinance and map or maps, the governing bodies shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be published in a newspaper of general circulation in Augusta-Richmond County. All procedural standards set forth in the Official Code of Georgia shall be complied with.

- (1) No change or departure from the text or maps, as certified by the Planning Commission, shall be made unless such change

or departure is first submitted to the Planning Commission for review and recommendation.

- (2) The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission fails to submit a report within a thirty-day period, it shall be deemed to have approved the change or departure.

(d) The zoning ordinance, including the map or maps, may be amended from time to time; but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Planning Commission for review and recommendation.

- (1) The Planning Commission shall conduct, on behalf of the Augusta-Richmond County Commission, all public hearings on proposed amendments to the zoning ordinance and maps.
- (2) Policies and procedures as specified by the official Code of Georgia shall be followed by the Planning Commission in considering such public hearings.

Sec. 1-4-88. Zoning board of appeals.

(a) The City Council of Augusta and the Board of Commissioners of Richmond County has heretofore created and appointed a Zoning Board of Appeals for Augusta-Richmond County. Said Board if hereby continued and shall be known as the Augusta-Richmond County Board of Zoning Appeals and is hereinafter referred to as the Appeals Board as is hereinafter provided. At their discretion, the Augusta-Richmond County Commission may, by ordinance, designate the Planning Commission to act as the Appeals Board of Augusta-Richmond County.

(b) If the Planning Commission is designated to act as the Appeals Board of Augusta-Richmond County, then:

- (1) Such authority shall be in addition to the powers and duties of the Planning Commission set forth herein and shall be carried out in accordance with the provisions of this Section; and
- (2) Section 1-4-82 of this article shall apply to the membership, terms of office and compensation and section 1-4-83 of this article shall apply to the organization, rules, staff, and finances of the Appeals Board in the event that the Planning Commission is designated by ordinance to act as the Board of Zoning Appeals.

(c) If said Appeals Board is separate from the Planning Commission, then said Appeals Board shall consist of ten (10) members (plus an additional two members should the Richmond County Legislative Delegation choose to appoint two (2) members) to be appointed for terms of four (4) years, provided; however, the initial appointments shall be made as follows:

- (1) There shall be one (1) member who resides in each of the ten (10) districts of Augusta-Richmond County appointed by the Augusta-Richmond County Commission.
- (2) Except as provided herein, members of the Appeals Board of Richmond County and the City of Augusta who were serving on said boards on January 1, 1997, having had no fixed terms, shall serve until their successors are appointed and qualified.
- (3) Members of the Appeals Board serving as of January 1, 1997, shall continue to serve until their successors are appointed by the Commissioner representing the respective District and qualified and are to represent the districts as herein set forth, to wit:

			<i>Term Expires</i>
a.	Jacqueline Fason	District 1	3/31/98
b.	Dr. I. E. Washington	District 2	4/4/98
c.	Jewel Childress	District 3	3/31/98
d.	Emmerstine Mackie	District 4	3/31/2000

			<i>Term Expires</i>
e.	George Mitchell	District 5	3/31/98
f.	Appointment TBA	District 6	3/31/2000
g.	K. Glenn Watson	District 7	3/31/98
h.	Hardie Davis, Jr.	District 8	3/31/2000
i.	Thelonius Jones	District 9	3/31/98
j.	Don Grantham	District 10	3/31/2000

- (4) The successor to the member representing District 2 shall serve until March 31, 2000, or until his successor is appointed and qualified.
- (5) Members of the board appointed by the Commissioner of the respective Districts to succeed those appointed in subsections 3 and 4 hereof shall serve for terms of office of four (4) years and until their successors are appointed and qualified.
- (6) Should the Richmond County Legislative Delegation choose to appoint two (2) members as provided in the Consolidation Act, such members shall serve for a term of four (4) years and until their successors are appointed and qualified. In the event the appointed authority of the Legislative Delegation is removed from the Consolidation Act, this subsection shall automatically be repealed.
- (7) All terms shall expire on March 31 of the applicable year, and new terms shall begin on April 1 of the applicable year.
- (8) Thereafter, members appointed by the Commission of Augusta-Richmond County shall serve a term of four (4) years.
- (9) All members shall be eligible for re-appointment to said Appeals Board upon expiration of their terms.
- (10) Any vacancy in membership shall be filled for the unexpired term by the Augusta-Richmond County Commission.
- (11) Any member may be removed for cause, on written charges, after a public hearing by the Augusta-Richmond County Commission.
- (12) All members of the Appeals Board shall serve for such compensation as shall be established by the Commission.
- (13) None of the members shall hold any other public office or position with Augusta-Richmond County, except that one (1) member may also be a member of the Planning Commission.
 - (d) The Board of Zoning Appeals shall elect one (1) of its members as chairman, who shall serve a one (1) year term or until reelected or a successor is elected.
 - (1) The Chairman shall have the power to vote on matters before the Appeals Board only where his vote will change the result.
 - (2) The Appeals Board shall appoint a secretary who may be an official or employee of Augusta-Richmond County or of the Planning Commission.
 - (3) The Appeals Board shall adopt rules in accordance with the provisions of this ordinance.
 - (4) Meetings of the Appeals Board shall be held at the call of the Chairman and at such other times as the Appeals Board may determine.
 - (5) The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses by subpoena.
 - (6) The Appeals Board shall keep minutes of its proceeding, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be

immediately filed in the office of the secretary of the Appeals Board and shall be a public record.

(e) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any official, department head, board or bureau of Augusta-Richmond County affected by a decision of an administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Appeals Board, by filing with the secretary of the Appeals Board a notice of appeal specifying the grounds thereof.

- (1) Upon notice by the secretary of a filing of appeal, the official from whom the appeal is taken shall forthwith transmit to the Appeals Board all papers constituting a record upon which the action appealed was taken.
- (2) An appeal stays all legal proceedings in furtherance of action appealed from, unless the official from whom the appeal is taken certifies to the Appeals Board, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Appeals Board or by a court on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- (3) Upon receipt of notice of appeal in a form prescribed by the Appeals Board, the Board of Zoning Appeals shall:
 - a. Fix a reasonable time for the hearing of the appeal or other matter referred to it.
 - b. Publish once in a newspaper of general circulation in Augusta-Richmond County a notice of public hearing on the appeal. Such notice shall be published at least fifteen (15) days prior to the date of the hearing and shall indicate the time and place of the hearing and the nature of the appeals to be considered by the Appeals Board.

- c. Send postal cards or letters to property owners of record whose property lies within a 300-foot radius of the property subject to the appeal, giving notice of the time, place and nature of appeal.

(f) The Appeals Board shall have the following powers:

- (1) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance adopted by Augusta-Richmond County pursuant to this division.
- (2) To hear and decide special exceptions to the terms of the zoning ordinance upon which the Appeals Board is required to pass under such ordinance.
- (3) To authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as will not be contrary to the public interest where, owing to special conditions, literal enforcement of the provisions of the zoning ordinance will, in an individual case, result in an unnecessary hardship, so that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon finding by the Appeals Board that:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
 - b. The application of the zoning ordinance to this particular piece of property would create an unnecessary hardship; and
 - c. Such conditions are peculiar to the particular piece of property involved; and
 - d. Relief, if granted, would not cause substantial detriment to the public

good or impair the purposes and intent of the zoning ordinance; however, no variance may be granted for the use of land or building or structure which is prohibited by the zoning ordinance.

- (4) In exercising the above powers, the appeals board may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination; and to that end, the board shall have all of the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

(g) Any person or persons severally or jointly aggrieved by any decision of the Appeals Board or with any official charged with the enforcement of any order, requirement or decision of said board may take an appeal to the Superior Court of Richmond County, Georgia. Said appeal shall be the same as an appeal to the superior court from any decision made by the probate court, except that said appeal shall be filed within thirty (30) days from the date of the decision of the Appeals Board or of any official charged with the enforcement of any order, requirement or decision in connection therewith; and upon failure to file said appeal within thirty (30) days, the decision of the Appeals Board shall be final.

Sec. 1-4-89. Performance of duties, subdivision regulations.

(a) From and after the time that the Augusta-Richmond County Planning Commission established in accordance with this article shall have prepared and adopted a master plan or at least the major street portion of such master plan and shall have recommended to the governing body of Augusta-Richmond County regulations for the subdivision of land within Augusta-Richmond County, which regulations shall have been adopted by the governing bodies, then no plat of a subdivision of land within Augusta-Richmond County shall be filed or recorded in the office of the clerk of the superior court of the county until it shall have been submitted to and approved by the Planning Commission and such approval entered in writing on the plat by the secretary of the

Planning Commission. The clerk of the superior court shall not file or record a plat of a subdivision which does not have the approval of the Planning Commission as required by this division.

(b) The Planning Commission shall prepare and recommend to the Augusta-Richmond County Commission for adoption regulations governing the subdivision of land within Augusta-Richmond County. At their discretion, the Commission may readopt such subdivision regulations, along with any amendments, which may have been adopted and in force pursuant to authority which existed prior to and were superseded by the ratification of the home rule provisions of the Constitution of the State of Georgia; however, such regulations shall generally conform to the provisions of this division.

(c) Subdivision regulations prepared by the Planning Commission and recommended to the Augusta-Richmond County Commission for adoption may provide, in whole or in part, for:

- (1) The harmonious development of Augusta-Richmond County;
- (2) The coordination of streets within subdivisions with other existing or planned streets;
- (3) The size of blocks and lots;
- (4) The dedication or reservation of land for streets, school sites, and recreation areas and easements for utilities and other public services and facilities; and
- (5) A distribution of population, dwelling units and traffic which will tend to create conditions favorable to health, safety, convenience, prosperity or general welfare.

(d) Such regulations may include requirements as to the extent to which and the manner in which streets shall be graded, surfaced and improved; and water, sewers, septic tanks and other utility mains, piping, connections, or other facilities shall be installed as a condition precedent to the approval of a subdivision plat. Such regulations may provide that, in lieu of the completion of such work and installations previous to the final approval of a plat, the Augusta-Richmond County Commission may accept a bond, in

an amount and with surety and conditions satisfactory to it or a valid contract for the performance of the work and installations along with a letter of guarantee for the subdivider, providing for and securing to Augusta-Richmond County the actual construction and installation of improvements and utilities within a period specified by the Planning Commission and expressed in the bond or letter of guarantee.

(e) The subdivision regulations may be amended from time to time; but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Planning Commission for review and recommendation.

- (1) The Planning Commission shall conduct, on behalf of the Augusta-Richmond County Commission all public hearings on proposed amendments to the subdivision regulations.
- (2) The Planning Commission shall hold such hearings after giving at least fifteen (15) days' notice of the time and place in a newspaper of general circulation in Augusta-Richmond County. The Planning Commission shall have thirty (30), days within which to submit its report; and, if the planning commission fails to submit a report within the thirty (30) day period, it shall have deemed to approve the proposed amendment.
- (3) The Planning Commission is hereby given the authority to give tentative approval or disapproval to preliminary plats and to approve or disapprove final plats, but in each case their action shall be taken within thirty (30) days after the submission thereof, otherwise, such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Planning Commission on demand; however, the applicant for the Planning Commission's approval may waive this requirement and consent to the extension of such period. The ground for disapproval of any plat shall be stated upon the records of the Planning Commission.

(f) The approval of a plat by the Planning Commission shall not be deemed to constitute or effect an acceptance by Commission or the public of the dedication of any street or other ground upon the plat.

(g) From and after the time Augusta-Richmond County have adopted subdivision regulations in accordance with this article:

- (1) Unless provided for by exemption within said regulations, an owner or agent of an owner of any land to be subdivided who transfers or sells or agrees to sell or negotiate to sell such land by reference to or exhibition of or by other use of a plat of subdivision of such land before such plat has been approved by the Planning Commission and recorded in the office of the clerk of Superior Court in Richmond County shall be in violation of this division; and the Augusta-Richmond County Commission, through the Augusta-Richmond County attorney, may enjoin or set aside such transfer, sale or agreement by appropriate action.
- (2) The Augusta-Richmond County Commission or other public authority shall not accept, lay out, open, improve, grade, pave or light any street or lay or authorize the laying of any water mains, sewers, connections, or other facilities or utilities in any street within Augusta-Richmond County unless such street shall have been accepted or opened as, or shall otherwise have received the legal status of, a public street prior to the adoption of said subdivision regulations, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Planning Commission or on a street plat prepared for and adopted by the Planning Commission.
- (3) No building permit shall be issued for and no building or other structure shall be erected on any lot within Augusta-Richmond County unless the street giving access to the lot shall be accepted or opened as, or shall otherwise have received the legal status of, a public street

prior to that time, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Planning Commission or on a street plat prepared for and adopted by the Planning Commission or with a street located and accepted by the governing body of Augusta-Richmond County. Any building erected in violation of this division or the duly adopted subdivision regulations shall be deemed an unlawful structure; and the chief building inspection official, Augusta-Richmond County attorney, or other official designated by the governing body may bring appropriate action to enjoin such erection or cause it to be vacated or removed.

Sec. 1-4-90. Cumulative powers.

All powers and authority granted by this division to the Augusta-Richmond County Planning Commission shall be cumulative and in addition to all other powers and authority said Planning Commission now has or may later have under other laws.

Sec. 1-4-91. Amendments to zoning ordinance, map and subdivision regulations.

Any amendments to the Augusta-Richmond County Comprehensive Zoning Ordinance, the zoning maps, and any amendments to the subdivision regulations of land shall only require the approval of the Augusta-Richmond County Commission when the property is located in Augusta-Richmond County and does not lie within the incorporated area of City of Hephzibah or the Town of Blythe. The Commission of Augusta-Richmond County may make amendments to the comprehensive zoning ordinance and subdivision regulations of land when the governing body of Augusta-Richmond County determines that such a change would be in the best interest of their respective political subdivision.

State law reference—Supplementary power of county regarding planning and zoning, Ga. Const., art. IX § IV, II.

Secs. 1-4-92—1-4-94. Reserved.

ARTICLE 7 AUGUSTA-RICHMOND COUNTY BEAUTIFICATION-CLEAN COMMUNITY COMMISSION

Secs. 1-4-95—1-4-102. Reserved.

ARTICLE 8 LIBRARY

Sec. 1-4-103. Name.

The name of the library shall be the Augusta-Richmond County Public Library.

State law reference—Library Const., Art. I.

Sec. 1-4-104. Quarters.

The headquarters of the library shall be in the Augusta-Richmond County Public Library in Augusta-Richmond County.

State law reference—Library Const., Art. II.

Sec. 1-4-105. Purpose.

The purpose of the Augusta-Richmond County Public Library shall be to offer a full program of library service to all citizens of Augusta-Richmond County to meet their informational, educational and recreational needs; to acquire and purchase library materials; to circulate materials to the public through existing service points; to develop existing libraries and to establish and develop branch libraries, and deposits, as appropriate to the needs; to build a reference collection adequate to provide current and reliable information of a reference nature as demanded by the community; and to promote the use of libraries by means of instruction, library centered programs, exhibits and other public relations media.

(Ord. No. 6939, § 7, 1-2-07)

State law reference—Library Const., Art. III.

Sec. 1-4-106. Governing body.

(a) The governing body of the Augusta-Richmond County Public Library shall be a board of trustees composed of ten (10) members, one (1) appointed by each Augusta Commissioner with

the possibility of two (2) additional members appointed by the Richmond County Legislative Delegation.

- (1) Members shall be appointed for a four (4) year term beginning on April 1 of the year in which the appointing Commissioner assumes office and until their successors are appointed. If a member of the board resigned or is removed for cause, a new member will be appointed to fill the unexpired term.
- (2) Should the Richmond County Legislative Delegation choose to appoint two (2) members as provided in the Consolidation Act, such members shall serve for a term of four (4) years.

(b) The officers of the board of trustees shall be a president, a vice-president, a secretary, and a treasurer (except, at the discretion of the board, the library director employed by the board may discharge any of the duties of the secretary and of the treasurer as directed by the board and shall be elected annually from board members. The officers shall be bonded for an amount commensurate with the amount of funds handled, and a copy of the bond filed with the Division of Public Library Services of the Georgia Department of Education. The term of office of the president shall be limited to two (2) successive terms of one (1) year each.

(c) Committees of the board of trustees may be appointed from time to time by the president as needed.

(d) An executive committee, composed of the officers of the board of trustees, shall be entrusted to govern in the name of the board of trustees between meetings of the board.
(Ord. No. 6939, § 8, 1-2-07)

Sec. 1-4-107. Interlibrary cooperation.

The Augusta-Richmond County Public Library may enter into cooperative endeavors with other library systems, either by sharing of personnel, materials, and/or services, by confederation, or by merger as seen fit by the governing bodies of both

library systems, provided that the resulting cooperative endeavor is conducive to the mutual growth and development of the library system.

Sec. 1-4-108. Amendments to constitution.

This constitution may be amended at any regular meeting of the board of trustees by a two-thirds ($\frac{2}{3}$) vote of the members present, provided that a notice in writing is given at least two (2) weeks prior to the meeting, and provided that a quorum is present.

Sec. 1-4-109. Reserved.

**ARTICLE 9 HUMAN RELATIONS
COMMISSION***

Sec. 1-4-110. Establishment.

The Human Relations Commission for Augusta-Richmond County, (hereinafter ("HRC")), previously established by the Board of Commissioners of Richmond County, Georgia, is hereby amended, revised, continued, and reconfirmed by the Augusta-Richmond County Commissioners, (hereinafter, ("the Commission")).
(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-111. Composition, appointments, and voting.

The HRC shall be composed of twelve (12) members with each Augusta-Richmond County Commissioner appointing one (1) member to the HRC to represent each Commission District, and the Augusta-Richmond County legislative delegation appointing two (2) members at large. Each member shall be of majority age and reside within Augusta-Richmond County. The Mayor of Augusta-Richmond County (hereinafter "Mayor") or his or her designee, shall be an ex-officio non-voting member of the HRC. Appointment shall be made in accordance with § 1-4-1 of the Augusta-Richmond County Code (hereinafter "the Code").

***Editor's note**—Ord. No. 6776, § 1, adopted 3-15-05, amended Art. 9 in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter.

The HRC chairman shall not vote except in the event of a tie vote among the voting HRC commissioners.

(Ord. No. 6776, § 1, 3-15-05; Ord. No. 6805, § 1, 6-21-05)

Sec. 1-4-112. Terms of office.

Members of the HRC appointed by Commissioners shall serve four-year terms beginning April 1st of the calendar year in which his or her appointing Commissioner began his or her four-year term on January 1st. Members appointed by the Augusta-Richmond County Legislative Delegation shall serve four-year terms beginning April 1st of the calendar year following even-numbered years that are not evenly divisible by 4. In the event of a vacancy, a successor may be appointed to serve during the unexpired term. Except as provided in this paragraph, a member of the HRC may not be removed from office prior to the expiration of his or her term except for cause as set forth in § 1-4-4 of the Code. The provisions of Code § 1-4-2(b) and § 1-4-3 shall govern removal actions. The unexcused absence of any member of the HRC from three (3) consecutive regular meetings, or absences from more than four (4) meetings during any twelve month period, shall constitute cause for removal of a member of the HRC. Per Code § 1-4-1.1, the members of HRC shall determine whether an excuse for an absence is adequate. The HRC may recommend removal of any member failing to meet attendance requirements.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-113. Officers; terms of office, limits thereon.

The HRC shall elect a Chairman, Vice-Chairman and such other officers as it deems necessary from its members. Such officers shall serve in their respective offices for an initial term of one year or until their successors shall be appointed. Officers shall serve for no more than two (2) consecutive one-year terms in the same office.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-114. Compensation.

Members of the HRC shall serve without compensation. Members may be reimbursed for rea-

sonable personal expenses incurred in the performance of their duties. Request for approval of reasonable personal expenses shall be submitted in writing. Approved requests for reimbursement shall be required before disbursement of reimbursement proceeds, in accordance with applicable policies of Augusta-Richmond County and Code § 1-4-120 below.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-115. Executive director and staff: director's duties.

The HRC shall employ an Executive Director qualified to provide leadership concerning human relations among diverse members of this community. The Director shall serve at the pleasure of the HRC, subject to the authority of the Commission. The termination of the Director, or the employment of a new Director, shall require the concurrence of the Commission. The Director shall coordinate the activities of the HRC and its staff. Subject to approval of the HRC and within the budget of the HRC, the Director may employ necessary staff. The compensation of the Director and other staff shall be as provided in the budget after such positions have been classified and a salary grade established by the Augusta-Richmond County Personnel Board with the approval of the Commission. The HRC shall perform an annual review of the Director's performance and submit an annual written report to the Administrator of Augusta-Richmond County on or before March 31st. It shall be the Duty of the Director, with the assistance of his staff, to:

- (a) Receive, initiate, investigate, decide and pass upon complaints alleging unlawful conduct and other discrimination in employment or public accommodations because of race, religion, color, sex, national origin, handicap or age;
- (b) Develop such policies and procedures for its own use in hearing and determining such complaints consistent with due process; and
- (c) Issue rulings determinations to remedy any situation found to violate this article and prevent its recurrence, to include, but not limited to, the restoration of the

complainant's rightful place at his/her employer as if the violation of this article had not occurred.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-116. Duties and powers.

It shall be the duty of the HRC to:

- (a) Promote amicable relationships among diverse groups of individuals and organizations through non-discriminatory and equal treatment of others; investigate allegations of unlawful and discriminatory practices; attempt to act as conciliator in controversies involving human relations; issue remedies for violations of this article and prevent recurrence; conduct such investigations, studies and surveys and conduct such public hearings as are necessary for the performance of the duties of HRC; conduct such public hearings as are necessary for the performance of the duties of HRC; assist in improving the equality of opportunity for employment and advancement in Augusta-Richmond County government;
- (b) Educate the community through conferences, forums and other methods with respect to human relations and unlawful practices;
- (c) Coordinate activities among individuals and organizations concerned with these relationships;
- (d) Investigate, receive and endeavor to remove inequalities in housing, recreation, education, employment, law enforcement and other matters;
- (e) Recommend methods of eliminating unlawful employment practices; recommend to the Commission such additional ordinances and/or changes to existing ordinances as will aid in the carrying out the purpose of this article; recommend such legislative action as HRC may deem appropriate; and

(f) Adopt, promulgate, amend or rescind suitable rules and procedures to carry out the provisions of this article.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-117. Unlawful employment practices.

(a) It shall be an unlawful employment practice for an employer of fifteen (15) or more employees:

- (1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual, with respect to his or her compensation, benefits, terms, conditions or privileges of employment because of such individual's race, color, religion, sex, national origin, age or handicap;
- (2) To limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities because of race, color, religion, sex, national origin, age or handicap.

(b) It shall be an unlawful employment practice for an employment agency to discriminate against any individual because of his/her race, religion, color, national origin, age, sex or handicap in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers covered by this article.

(c) It shall be unlawful employment practice for a labor organization with fifteen (15) or more members to exclude or to expel from its membership any individual or to discriminate in any way against any of its members or against any employer or any individual employee of an employer because of the race, religion, color, national origin, sex, age or handicap of any individual.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-118. Procedures for investigation/hearing of complaints.

Detailed procedures are set forth in the HRC Policy Manual and are incorporated by reference

herein. A copy of the policy can be obtained at the offices of Augusta-Richmond County. The following is a summary outline of the procedures:

- (a) Any person or persons alleging an unlawful practice prohibited by this article must file a written complaint with the HRC Director, or one of his designated representatives, no later than one hundred eighty (180) days after the alleged unlawful practice occurred.
- (b) Upon receipt of a complaint, the HRC Director shall serve a copy of the complaint on the respondent within ten (10) days of receipt thereof and shall initiate an investigation of the complaint.
- (c) In conducting an investigation of a complaint filed under this article, the HRC Director, or his designated representatives, shall have access at any reasonable time to premises, records, documents, individuals and other evidence or possible sources of evidence relevant to the complaint and shall have the right to examine, record, photograph and copy such materials and take and record the testimony or statements of such person as are reasonably necessary for the furtherance of the investigation; however, the HRC Director, and/or designated representatives, must first comply with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. Failure of any party to cooperate in the reasonable investigative efforts shall be noted in the official report of investigation.
- (d) If the HRC Director determines after such investigation that there is reasonable cause to believe the charge is true, he shall endeavor to eliminate any such alleged unlawful practice by informal and voluntary methods of conference, conciliation and persuasion. During such informal endeavors, he may seek from the respondent such relief as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay, or any other equitable relief.
- (e) All investigations, conferences and negotiations for conciliation pursuant to this article shall be confidential. Further, at no time shall the results of any conciliation be made public without the expressed written consent of the parties involved.
- (f) If within ten (10) days after the HRC Director has determined that conciliation efforts have failed, he shall so notify the parties in writing; and the respondent may request a hearing before the HRC within ten (10) days of the receipt of such notice. If the HRC Director determines that the complaint as alleged is not true, he shall dismiss the complaint and notify the parties in writing of such determination. Within ten (10) days of receipt of such notice of dismissal, the complainant may request a hearing before the HRC. A request for a hearing shall be granted expeditiously. No hearing may be had from a finding and determination of a lack of jurisdiction. At such hearing to be conducted by a quorum of the HRC, the HRC may affirm or set aside the findings as set forth in subsection (d) above, in whole or in part.
- (g) If the HRC determines after a hearing that any respondent has committed an unlawful act prohibited by this article, and the respondent refuses to comply with an order of the HRC within sixty (60) days after notification of such final disposition, or if the respondent fails to request a hearing before the HRC within ten (10) days after receipt of notice of failure of conciliation, the HRC may institute a civil court action in the appropriate court for violation of any provision of this article or failure to comply with an order of the HRC.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-119. Office space and facilities.

The HRC is authorized to secure adequate office space for its Director and staff, subject to the approval of the Augusta-Richmond County Commission.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-120. HRC budget and financial matters.

The HRC Director shall submit an annual proposed budget to the HRC subject to and consistent with the budget process of Augusta-Richmond County. After approval by the HRC, the proposed budget shall be submitted to the Administrator of the Augusta Richmond-County Commission for timely approval. The budget shall contain all revenues, regardless of source, and expenditures. The HRC shall be authorized to contract with state and federal agencies. The HRC may apply for grants subject to the approval of the Commission. All expenditures of the HRC shall be limited to those specified in the budget or expenditures authorized through any received grants.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-121. Inspection and audit of financial records.

The financial records of the HRC shall be maintained by the Commission at its offices and may be audited annually by a qualified external auditor, in the discretion of the Commission.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-122. Meetings.

The Human Relations Commission regularly meets on the fourth Wednesday of each month at 3:30 o'clock p.m. in the Lee Beard Augusta-Richmond County Commission Chambers on the eighth floor, Augusta-Richmond County Municipal Building, 530 Greene Street, Augusta, Georgia 30911 and may set the time, place and frequency of any special meetings to effectuate the purpose of this article. All such meetings, both regular and special, shall be open to the public and be conducted consistent with the Georgia Open Meetings and Open Records statutes.

(Ord. No. 6776, § 1, 3-15-05; Ord. No. 6805, § 2, 6-21-05)

Sec. 1-4-123. Quorum.

Six (6) members of the HRC shall constitute a quorum for the transaction of business.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-124. Rules, bylaws and policy manuals.

The HRC shall adopt such rules as it shall deem expedient for the conduct of its business. HRC employees shall perform their duties in accordance with the Policy Manual adopted by the HRC. HRC employees are employed by Augusta-Richmond County and are also subject to the Personnel Policies and Procedures applicable to Augusta-Richmond County employees.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-125. Reports.

Not more than 30 days next following the ending of a calendar quarter, the HRC Director shall submit a written report to the HRC summarizing the primary activities of the HRC employees. Such reports shall be made at least quarterly, along with such other reports as the Director may elect in his discretion to submit. Copies of all reports shall be submitted to the Mayor, Administrator and Commission.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-126. Exemptions from the jurisdiction of the ordinance.

This article shall not apply to religious corporations, religious associations, religious educational institutions or religious societies with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporations, associations, educational institutions or societies of its activities. This article shall not apply to those individuals and organizations otherwise exempted from the provisions of this Article by law.

(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-127. Remedies/appeals.

The HRC may institute a civil action in the appropriate court for violation of any provision of

§ 1-4-117 of this article or failure to comply with an order of the HRC. The parties to the action would be entitled to a trial de novo.
(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-128. Cooperation.

The HRC shall invite and enlist the cooperation of ethnic, racial and religious groups and community organizations in carrying on its work and act as a coordinating agency among them and such other groups in the establishment and maintenance of education programs with a view to bringing about better intergroup and racial relationships necessary or desirable to carry out specific programs designed to lessen the tensions or improve understanding. The HRC shall also cooperate with the Mayor, Commission, other Augusta-Richmond County agencies, state and federal agencies, citizens or citizens' organizations, the ARC Board of Education and parochial and private schools as appropriate in effectuating the purposes and the objectives of the HRC to promote better human relations.
(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-129. Legal services.

Legal representation of the Human Relations Commission, the Executive Director, and the officers and employees of the Human Relations Commission in the course of their employment exclusively in civil actions, including without limitation the rendering of advice and review of contracts and other materials, shall be provided by the Augusta-Richmond County attorney or his designee. Legal representation by counsel other than the Augusta-Richmond County attorney or his designee shall require Commission approval.
(Ord. No. 6776, § 1, 3-15-05)

Sec. 1-4-130. Age limitations.

The prohibitions in this article in reference to age shall be limited to individuals who are at least forty (40) years of age.

Secs. 1-4-131—1-4-139. Reserved.

Chapter 5

CEMETERIES AND PARKS**ARTICLE 1 GENERALLY****Sec. 1-5-1. Augusta-Richmond County cemeteries enumerated; promulgation of governing rules, etc.**

The cemeteries of Augusta-Richmond County shall be the three now existing, namely, Magnolia Cemetery, West View Cemetery and Cedar Grove Cemetery.

It shall be the duty of the Commission, whenever it becomes necessary, to lay out or alter avenues and walks, and to make such rules and regulations as deemed requisite and proper for the management of such cemeteries and those employed therein.

Sec. 1-5-2. Superintendent of cemeteries—Generally; bonds.

The Director of the Trees and Landscape is hereby declared to be the general superintendent of Magnolia, Cedar Grove and West View Cemeteries.

Sec. 1-5-3. Superintendent—Duties—Generally.

The superintendent enumerated in the preceding section shall perform the following duties:

- (a) He shall have charge of the cemeteries to which he is assigned and shall report to the Sheriff's Department all violations of the provisions of this article or other ordinances relative thereto which may come to his knowledge;
- (b) He shall superintend the digging of all graves and all interments therein. No grave shall be dug less than three and one-half feet deep; nor shall any grave be dug or corpse interred, except under the direction or superintendence of such superintendent;
- (c) He shall keep a book of record of all burials in each cemetery, mentioning the

names and ages, and the places where buried, and make a report, at least annually to the Augusta-Richmond County Commission of the same;

- (d) He shall record, or cause to be recorded, all burial permits, subject to the inspection of all who may be concerned;
- (e) He shall exact prompt payments for all lots, quarter sections, half sections or sections, in such cemeteries, at the time of the sale, and receipt therefor, and make a return monthly of such sums to the comptroller, specifying to whom sold, with a description of the ground sold;
- (f) He shall have all sections in the cemeteries requiring it properly cleaned, and the trees and shrubbery therein trimmed, the same to be paid for by the owners of such sections.

Sec. 1-5-4. Authority of cemetery superintendents—Generally.

The superintendent of Augusta-Richmond County cemeteries shall have authority to:

- (a) Clean up neglected sections and remove all objects that are obstructions to cemetery equipment;
- (b) Remove flowers and stands from sections five (5) days after the undertaker's canopy is removed;
- (c) Fill sunken graves or sections where water stands;
- (d) Approve or disapprove the setting of monuments and the bricking of sections, and the privileges granted under section 1-5-12 shall be subject hereto.

Sec. 1-5-5. Assistant superintendent of Cedar Grove Cemetery.

The Superintendent may appoint an employee to be known as the assistant to the superintendent of Cedar Grove Cemetery. Such person shall have charge of such cemetery and shall be subject to the same rules and regulations as the superintendent of Magnolia and Cedar Grove cemeteries, to whom he shall make all necessary reports.

Sec. 1-5-6. Assumption of care of Rollersville Cemetery; supervision; convict labor to be used.

The Augusta-Richmond County Commission assumes the care of Rollersville Cemetery, using therefor the services of convicts for the purpose of keeping such cemetery in a clean and sanitary condition.

(City of Augusta Code 1952, Ch. 12, § 14)

Sec. 1-5-7. Digging graves and building vaults—By whom performed; supervision.

The digging of graves and the building of vaults in the several cemeteries of Augusta-Richmond County shall be done by the employees of Augusta-Richmond County under the supervision of the superintendents of the several cemeteries, respectively. If this work cannot be performed practically or economically by Augusta-Richmond County employees, then the same may be done by other employees under the direction of the superintendents of the several cemeteries, respectively.

Sec. 1-5-8. Same—Schedule of fees.

The fees for all work described in the two (2) preceding sections shall be collected and paid over to the proper officer and shall be as follows:

- (a) For opening and closing of single graves: Two hundred dollars (\$200.00) on weekdays before 4:00 p.m., two hundred fifty dollars (\$250.00) on weekdays after 4:00 p.m. and two hundred fifty dollars (\$250.00) on weekends and holidays. For opening and closing of double graves (two individuals to a single plot): Four hundred dollars (\$400.00) on weekdays, and five hundred dollars (\$500.00) on weekends and holidays. For purposes of this subsection, "weekends" includes up to 1:00 p.m. on the following Monday, and "holidays" includes up to 1:00 p.m. on the following business day and includes all national, state and local holidays. For burial of children under twelve (12) years of age,

seventy-five dollars (\$75.00). For cremations and burial of stillborn babies, fifty dollars (\$50.00).

- (b) In addition to the foregoing fees, fees for all other and miscellaneous work shall still be collected and paid over to Augusta-Richmond County. Exceptions to the fees shall be approved by the Administrator and Superintendent of Cemeteries.

Sec. 1-5-9. Same—No charge for indigent.

No charge shall be made for digging graves and attending funerals of the indigent.

Sec. 1-5-10. Cemetery employees to work exclusively in cemeteries, etc.

No Augusta-Richmond County cemetery employee shall be permitted to work within Augusta-Richmond County cemeteries during his regular work hours except for Augusta-Richmond County government.

Sec. 1-5-11. Purchase of cemetery materials.

All material used in Augusta-Richmond County cemeteries shall be purchased by Augusta-Richmond County on requisition, and monthly accounts of all transactions shall be kept by the superintendent and reported to the Administrator.

Sec. 1-5-12. Right of lot owners to cultivate trees, grass, etc.; removal when dangerous, etc.

- (a) The proprietor of each cemetery lot shall have the right to enclose the same with a wall, fence or railing, except of wood, and to cultivate trees, shrubs and plants in the same, but no tree growing within the wall or lot, shall be cut down or destroyed without the consent of the Superintendent of Cemeteries. If any trees or shrubs situated in any cemetery lot shall, by means of their roots, branches or otherwise, become detrimental to the adjacent lots or avenues, or dangerous or inconvenient to pedestrians, it shall be the duty of the Commission, and it shall have the

right, to enter the lot and have such trees or shrubs, or such parts thereof as are detrimental, dangerous or inconvenient, removed.

(b) The proprietor of each such cemetery lot shall also have the right to plant and cultivate grass thereon, but if any grass, whether planted by the proprietor or growing naturally upon the lot, is neglected by the proprietor and permitted to grow wild, and such grass, weeds or underbrush are allowed to grow unattended or such lot otherwise is not kept clean, the superintendent of the cemetery wherein the lot is located shall mail to the proprietor of the lot ten (10) days written notice at his last known address to remedy the condition, or if the proprietor or his address be unknown or if the proprietor is deceased, then written notice shall be posted upon the lot for ten (10) days requiring the condition to be remedied. If at the expiration of such ten-day period from the mailing or the posting of such written notice the condition has not been remedied, then Augusta-Richmond County shall be authorized to kill and destroy the grass, weeds and underbrush, thoroughly clean the lot and cover the same with sand, gravel, or any accepted chemical in general use which will thereafter prevent vegetation upon such lot.

Sec. 1-5-13. Destruction, etc., of tombs, monuments, trees, etc.; use of firearms, etc.

Any person who shall destroy, mutilate, deface or in anyway injure or remove any tomb, monument, gravestone or other structure or article for the protection or ornament of any Augusta-Richmond County cemetery, or of any lot within any Augusta-Richmond County cemetery or shall willfully destroy, cut, break, remove or injure any tree, shrub, plant, flower or ornament, or shall use firearms of any description, or commit any other trespass, within the limits of such cemeteries, shall be punished as provided in section 1-6-1 hereof. Any such fine, when recovered, may be applied by the Commission, in its discretion, to the reparation and restoration of the property destroyed or injured.

Sec. 1-5-14. Plucking, etc., flowers without permission.

It shall be unlawful for any person to cut, pluck or carry away any flower on or from any cemetery lot, other than his own, except by permission of the owner of such lot.

Sec. 1-5-15. Removal of improper, etc., monuments, etc., use of coping prohibited.

(a) If any monument, effigy or enclosure, or any structure or inscription placed in or upon any cemetery lot shall be determined by the Commission to be offensive, or improper or injurious to the surrounding lots or grounds, the Commission shall have the right to enter upon such lot and have the offensive or improper object removed.

(b) The use of coping in Augusta-Richmond County cemeteries is prohibited.

Sec. 1-5-16. Permission required for burial outside city cemetery.

It shall be unlawful for any person to bury, or cause to be buried, any dead person in any other place within Augusta-Richmond County than a public cemetery without the permission of the county board of health.

Sec. 1-5-17. Permits to bury or move dead bodies required.

No superintendent or other person in charge of any cemetery under the jurisdiction of Augusta-Richmond County shall bury or remove from Augusta-Richmond County the body of any deceased person without first obtaining from the board of health a proper burial permit. No undertaker, or agent of any railroad, or conductor of any railroad train, or agent or employee of any express company, or any other person, shall remove the body of a deceased person who died in Augusta-Richmond County, or may have been brought into Augusta-Richmond County for burial beyond the limits thereof, without such a permit from the board of health, or from a person designated by it.

Sec. 1-5-18. Burial of paupers in family plots.

Where a deceased person has been certified by the department of family and children's services to be a pauper at the time of death and the family owns a plot in one of Augusta-Richmond County cemeteries and agrees for the person to be buried there, such a burial shall be permitted.

Secs. 1-5-19—1-5-25. Reserved.

ARTICLE 2 SALE AND MAINTENANCE OF LOTS

Sec. 1-5-26. Prices.

The prices of single lots and single graves per grave site in the several cemeteries of Augusta-Richmond County shall be two hundred dollars (\$200.00), which price includes perpetual care. The two hundred dollars (\$200.00) collected, as provided for above, shall be distributed as follows: One hundred dollars (\$100.00) to the general fund and one hundred dollars (\$100.00) to perpetual care.

Sec. 1-5-27. Maintenance of lots or sections by Augusta-Richmond County; perpetual care agreement.

In consideration of the respective sums of moneys stipulated in section 1-5-26 to be paid, Augusta-Richmond County will covenant and agree for the benefit of all persons living or dead, interested therein, to perpetually care for and maintain in neat, orderly and becoming condition such lots or sections.

Sec. 1-5-28. Issuance of contract; contents of contract.

Upon payment of the charge prescribed in section 1-5-26, the superintendent shall issue to the person paying such charge a contract in accordance with the provisions of this article in which the location of the lot described as section or part of section in accordance with the methods employed by the cemetery where the same is located, the amount paid for the lot or section, the number of graves, the cemetery where located and the name in which recorded shall be designated.

Sec. 1-5-29. Record books containing contracts, etc., required; index.

There shall be kept at the office of the cemetery where any lot referred to in the preceding section is located a substantially bound printed book, printed in the form of the contract issued under the provisions of the preceding section and the superintendent of the cemetery shall, contemporaneously with the execution and delivery of such

contract, fill out in such book an exact copy of the contract so delivered, identifying it with his signature, and shall also contemporaneously send a copy of such contract, likewise identified, to the Clerk of Commission, by whom there shall be kept a loose-leaf book wherein he shall promptly and permanently fix such contract copy. There shall be kept by both such superintendent and such Clerk of Commission an accurate index to such books, under the name of the owner of the lot as it appears on the records of the cemetery under the lot number, also under the name of the person paying for such permanent upkeep and maintenance.

Sec. 1-5-30. Record required of condition of municipal-maintained lots; inspections; index.

(a) In addition to the books specified in the preceding section there shall also be kept in the office of the superintendent of the cemetery a book in which shall be provided appropriate spaces for the record of each lot which the Augusta-Richmond County Commission is obligated to keep up and maintain, and spaces opposite thereto for the record each three (3) months of the fact that all necessary work has been done on such lot and that it is in a neat, orderly and becoming condition.

(b) It shall be the duty of the superintendent to personally inspect all of such lots at frequent intervals, in no case longer than three months, and to see to it that the obligations of the Augusta-Richmond County Commission are fully complied with, and to make entries on such book in accordance with the facts revealed by such inspections. He shall promptly after making such entries transmit a certified copy thereof to the Clerk of the Commission who shall promptly and permanently fix such copy in a loose-leaf book provided for such purpose. Such books shall be indexed as provided in the preceding section.

Sec. 1-5-31. Erection of marker upon acceptance of contract.

(a) Upon the acceptance of a cemetery contract as provided in section 1-5-29, a stone marker or monument bearing the letters A.R.C. shall be fixed or erected on the lot designated in the contract.

(b) All monuments erected at the grave sites in the cemeteries owned and operated by Augusta-Richmond County shall be placed upon a concrete foundation as hereinafter set forth.

(c) In order to guarantee that said monuments will be placed on a solid foundation, no tombstone may be placed until Augusta-Richmond County has fixed a proper cement foundation for the support of said monument.

(d) The charges for the laying of said foundation shall be payable in advance and that the charges for laying said foundation shall be in accordance with the base size of the monument and the charges for each size shall be set from time to time by the Commission with a schedule of the charges maintained in the Clerk of the Commission's office.

(e) The cemetery crews that are employed by Augusta-Richmond County shall see to it that a proper and solid foundation is laid immediately after the payment of the fees.

Sec. 1-5-32. Augusta-Richmond County not responsible for monuments, structures, etc.

Nothing contained in this article shall be construed as imposing any obligation on Augusta-Richmond County with respect to monuments, curbing, mausoleum, ornaments, memorial, structures, headstones or other improvements, whose sole obligation shall be to perpetually care for and maintain in a neat, orderly and becoming condition the lot or section described in the contract.

Secs. 1-5-33—1-5-39. Reserved.

ARTICLE 3 PARKS

Sec. 1-5-40. Commercial vehicles in parks.

The driveways of the parks of Augusta-Richmond County not being public thoroughfares, it shall be unlawful for vehicles engaged in the transportation of goods, etc., to use such driveways.

Sec. 1-5-41. Riding horses, motorcycles and motorbikes in parks, etc., when prohibited and posted.

It shall be unlawful for any person to ride horseback or to operate a motorcycle or motorbike, or to ride thereon, in any public park or playground within Augusta-Richmond County, if the Commission has proscribed such activity, and notice thereof has been posted in such park. Any person violating this section shall be punished as provided in section 1-6-1.

Sec. 1-5-42. Riding motorcycles, etc., on walkways.

It shall be unlawful to ride motorcycles or similar motorized vehicles along the walkways of Augusta-Richmond County parks or greens.

Sec. 1-5-43. Speed limit for vehicles, etc.

It shall be unlawful to drive or run vehicles, or to ride horses or bicycles, along the driveways of Augusta-Richmond County parks at a greater rate of speed than six (6) miles an hour.

Sec. 1-5-44. Defacing, etc., monuments, etc.

It shall be unlawful to deface or injure in any way any public structure or monument located in Augusta-Richmond County parks or greens or to break, cut, bend or injure in any way the trees, shrubs or plants in such parks or greens.

Sec. 1-5-45. Damaging, etc., park property—Generally.

Any person who shall climb upon or otherwise damage the fences around any of the public or private parks in Augusta-Richmond County, or who shall sit, stand or swing on the gates or turnstiles of any such park enclosures, or shall cut, break, deface or in any other way mutilate any of such enclosures, or any tree or shrub planted within any of such parks, or any seat, statue, fountain, work of art or object of adornment placed therein, shall be punished as provided in section 1-6-1.

Sec. 1-5-46. Removing articles from parks.

It shall be unlawful for any person to remove any article of whatever kind from any park of Augusta-Richmond County.

Sec. 1-5-47. Fishing or bathing in lakes, ponds or fountains—Generally.

Except as otherwise provided in this Code, it shall be unlawful for any person to fish, seine or bathe in the lakes, ponds or fountains located in the parks or greens of Augusta-Richmond County.

Sec. 1-5-48. Fishing prohibited in Lake Olmstead except with hook and line; west end of Lake Olmstead to be used for fishing only.

(a) It shall be unlawful for any person to take fish from or out of Lake Olmstead, by fishing or otherwise, in any other manner than by fishing with a hook and line held in the hand. All persons are expressly forbidden to fish in Lake Olmstead by set or trot lines, seining or netting, basketing or trapping, shooting fish with firearms of any description, dynamiting or killing with any explosive, gigging or spearing, liming the water or using any poisonous substance whatever.

(b) The entire west end of Lake Olmstead, that is, the area west of the Lake Olmstead bridge, shall be used for fishing only; except, that boats may use such area for the purpose of permitting the owners thereof to propel the same between docks and boat houses located within such area and the remaining portion of Lake Olmstead east of the Lake Olmstead bridge.

(c) Any person violating the terms of this section shall be punished as provided in section 1-6-1.

Sec. 1-5-49. Parks to be cleared by 11:00 p.m.

It shall be unlawful for any person to remain in any park after 11:00 p.m. It shall be the duty of the Sheriff's Department to clear all parks by 11:00 p.m.

Sec. 1-5-50. Lake Olmstead—Operation of boats.

Boats over ten (10) horsepower shall be permitted to operate on Lake Olmstead on Tuesday, Thursday and Saturday from 3:00 p.m. until dark and at such times on weekends when there exists a bona fide ski tournament being held on said lake. All other times motorboats shall be limited to those with ten (10) horsepower or less. All boats operated on said lake must have underwater exhaust systems or mufflers. Violations of this section shall be subject to penalties as provided in section 1-6-1 of this Code. The Sheriff's Department shall be authorized to issue permits for bona fide water sport functions at times in conflict with this section.

Sec. 1-5-51. Lake Olmstead—Speed—Generally.

It shall be unlawful for any person to operate a boat of any kind on Lake Olmstead at Julian Smith Park at a speed greater than is reasonable and prudent under the conditions then existing, and in no event in excess of twenty-five (25) miles per hour, except as provided in section 1-5-50.

Sec. 1-5-52. Lake Olmstead—Persons under the influence of liquor or drugs.

It shall be unlawful for any person to ride in or operate a boat on Lake Olmstead who is under the influence of intoxicating liquor or narcotic drugs.

Sec. 1-5-53. Police powers of supervisors.

The supervisors of the parks of Augusta-Richmond County are hereby clothed with police powers to enforce the provisions of this article.

Sec. 1-5-54. Riverwalk.

(a) The use of skateboards, roller skates, unicycles, bicycles, tricycles, mopeds, motorcycles, trail bikes, go-carts, and other motor vehicles is prohibited on the Riverwalk; provided, however, that bicycle riding shall be permitted along the brick walkway constructed along the top of the levee.

(b) No person shall play a radio or any sound recording device on the Riverwalk.

(c) No person shall be permitted to bring a dog on the Riverwalk; provided, however, that persons shall be permitted to walk dogs on a leash along the brick walkway constructed along the top of the levee.

(d) No person shall be allowed to fish off the Riverwalk.

(e) The term Riverwalk as used herein is defined as that portion of the Augusta Levee located between 6th Street and 10th Street, including any property between said portion of said Levee and the Savannah River, together with that portion of 8th Street between Reynolds Street and said Levee.

(f) Any person found in violation of any provision of subsections (a) through (d) above shall be punished as provided in section 1-6-1 of this Code.

Chapter 6

COURTS, FINES AND IMPRISONMENT**ARTICLE 1 IN GENERAL****Sec. 1-6-1. General penalty for violation of Code, etc.; continuing violations.**

Whenever in this Code or in any ordinance of Augusta-Richmond County or any rule or regulation or order promulgated by any officer or agency of Augusta-Richmond County under authority duly vested in him or if any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance or rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor where no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance, rule, regulation or order shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding sixty (60) days, either or both, in the discretion of the judge of the court having jurisdiction. Each day any violation of any provision of this Code or of any such ordinance or rule, regulation or order shall continue shall constitute a separate offense.

Sec. 1-6-2. Confinement of drunk and disorderly persons in law enforcement center or stockade.

Any person found drunk or acting in a disorderly manner in any place within Augusta-Richmond County may be committed to the Law Enforcement Center or the Augusta-Richmond County stockade by the Sheriff's Department, until brought before the Municipal Court, and discharged by due course of law.

Sec. 1-6-3. Paroles by judge.

The judge of any court having jurisdiction may parole any person sentenced by such judge to serve part or all of such sentence outside of the Law Enforcement Center of the Augusta-Richmond County Stockade.

Sec. 1-6-4. Judge may require parolees to report, etc.

The judge of any Court having jurisdiction may require any person paroled by them to report to any person designated by them at any time and place and as often as they may require.

Sec. 1-6-5. Paroled person's failure to abide by terms; effect of revocation.

If any paroled person fails to abide by the terms of his parole, such person shall be subject to arrest and without further trial required to serve the remaining part of his sentence in confinement at the place provided for prisoners by the Sheriff's Department. Any person whose parole shall have been revoked shall not have the right to be paroled the second time for and while serving the remainder of the original sentence.

Sec. 1-6-6. Paroled person's ineligibility when convicted again for some offense within six months.

Any person who has been paroled in accordance with this chapter shall not be eligible for parole if convicted again for the same offense within a period of six months from the date of expiration of the last previous sentence or parole.

Sec. 1-6-7. Reserved.**ARTICLE 2 MUNICIPAL COURT****Sec. 1-6-8. Jurisdiction.**

The Municipal Court of Augusta-Richmond County shall have concurrent jurisdiction with the State Court of Richmond County to try misdemeanor offenses under the laws of Georgia punishable as set forth in O.C.G.A. §§ 17-10-3 and 17-10-4. The Municipal Court shall have jurisdiction of all violations of the ordinances of the Augusta-Richmond County Commission.

State law references—O.C.G.A. § 36-32-10.2; Act #381, effective 4/21/97; H.B. 1020, effective 6/1/97.

Sec. 1-6-9. General provisions.

(a) Except as otherwise provided herein or by local act, the Municipal Court of Richmond County, and the judges of said Court, shall have the power and authority set forth in Chapter 32 of Title 36 of the Official Code of Georgia Annotated.

(b) The Chief Judge of the Municipal Court shall be responsible for the overseeing and directing of the operation of Municipal Court and for allocating and scheduling cases and other judicial duties so as to distribute the workload equitably among the Judges having misdemeanor jurisdiction in Richmond County.

(c) No Judge of Municipal Court shall be a member of the Augusta-Richmond County Commission during the term of the Commission in effect at the time of appointment, nor be eligible for election to the Commission during such service as Judge of Municipal Court.

Sec. 1-6-10. Sessions of court; judges' failure to attend sessions.

The sessions of the Municipal Court shall be held at such times and hours as the Chief Judge of Municipal Court may from time to time determine. For all failure on the part of any judge in attending said daily sessions over which he is scheduled to preside, a corresponding deduction shall be made from his salary.

Sec. 1-6-11. Removal of judges from office.

Any Judge of Municipal Court, other than the State Court Judge who shall serve as the Chief Judge of Municipal Court, may be removed by the Commission from office for cause by a majority vote of all the members of Commission upon written charges, in accord with the procedures set forth in section 1-4-2(b) and 1-4-3.

ARTICLE 3 SOLICITOR**Sec. 1-6-12. General provisions.**

The Solicitor of the State Court of Richmond County shall serve as the prosecuting attorney in the Municipal Court. The Solicitor shall have the

power and authority set forth in Chapter 32 of Title 36 of the Official Code of Georgia Annotated.

ARTICLE 4 STOCKADE**Sec. 1-6-13. Operations.**

The stockade shall be under the direction and supervision of the Sheriff of Richmond County.

Chapter 7

PERSONNEL**ARTICLE 1 IN GENERAL****Sec. 1-7-1. Payment of claims or judgments against county employees.**

The Augusta-Richmond County Commission hereby adopts the following policy establishing the terms and conditions under which it may pay part or all of any claim or civil judgment against any person whose defense the Augusta-Richmond County Commission is authorized to undertake under section 45-9-21 of the Georgia Code Annotated (Georgia Laws 1974, page 702): The Augusta-Richmond County Commission will pay any judgment rendered against a county employee when the Commission feels that the employee was performing his duty as an Augusta-Richmond County employee.

State law reference—Payments of claims or judgments for members of governing bodies of municipalities, counties, etc., O.C.G.A. § 45-9-22.

Sec. 1-7-2. County attorney to defend county employees.

(a) As a part of the compensation and terms of employment of members of the Commission, department heads, other elected and appointed officials, and employees of the Augusta-Richmond County Commission, the county attorney is hereby directed to defend all civil, criminal or quasi-criminal actions brought against such persons described above arising out of the performance of their duties or in any way connected therewith, whether based upon negligence, violation of contract rights, or violation of civil, constitutional, common law or statutory rights; provided, however, the county attorney shall not be authorized to furnish a defense to any person charged with a criminal offense involving theft, embezzlement or other like crime with respect to the property or money of Augusta-Richmond County or any other governmental entity; and provided further, the county attorney shall not be required to furnish a defense where liability insurance has been provided by Augusta-Richmond County to protect outside parties and pay damages by reason of the

occurrence or action complained of. It is hereby resolved that Augusta-Richmond County may expend public funds to furnish all costs in connection with the defense of such action, including but not limited to attorney's fees, court costs, deposition costs, witness fees and compensation.

(b) In addition to the above and apart from the provisions of the above statute of Georgia, the Commission may authorize the payment of any judgment against Augusta-Richmond County and/or its elected officials, department heads or employees where it is determined by the Commission that the occurrence of action complained of resulted from good-faith conduct on the part of Augusta-Richmond County official or employee in carrying out the duties of his or her office and such conduct was not in violation of any rules, regulations or ordinance of Augusta-Richmond County or of state or federal law.

Secs. 1-7-3—1-7-10. Reserved.**ARTICLE 2 PERSONNEL SYSTEM****Sec. 1-7-11. Persons included and excluded—Generally.**

All employees of the governing authority of Augusta-Richmond County are hereby placed under the personnel system except the following: director of recreation; director of Daniel Field; director of Human Resources; director of the fire department; director of indigent defense; director of public works; director of utilities (water); director of public transit; director of animal control; director of the Richmond County Correctional Institute; director of Augusta Regional Airport at Bush Field; director of finance; director of housing & neighborhood development; director of Main Street Augusta; Administrator; director of information technology; director of purchasing; tax assessor; director of license and inspections; director of trees and landscape; director of human relations; county attorney; director of emergency management; clerk of commission; and internal auditor. Other department heads and professional positions in county government under the

jurisdiction of the Augusta-Richmond County Commission may also be excluded by said Commission by appropriate resolution.
(Ord. No. 6939, § 2, 1-2-07)

Sec. 1-7-12. Inclusion of present employees.

All those individuals already employed by Augusta-Richmond County and not excluded herein under the provisions of section 1-7-11 and not excluded in the future under the provisions of section 1-7-11 shall be covered under the personnel system without further examination.

Sec. 1-7-13. Personnel board—Established, composition; appointment, terms of office, selection of mayor, filling of vacancies; removal from office; compensation.

(a) There is hereby established by the governing authority of Richmond County a personnel board composed of ten (10) citizens of Augusta-

Richmond County of known interest in the improvement of public administration by impartial selection of qualified and efficient personnel (plus an additional two members should the Richmond County Legislative Delegation choose to appoint two members) to be appointed for terms of four (4) years; provided, however, the initial appointments shall be made as follows:

- (1) Except as provided herein, members of the personnel board of Richmond County and the City of Augusta who were serving on said boards on January 1, 1997, having had no fixed terms, shall serve until their successors are appointed and qualified.
- (2) Members of the personnel board serving as of January 1, 1997, shall continue to serve until their successors are appointed by the Commissioner representing the respective District and qualified and are to represent the districts as herein set forth, to wit:

Term Expires

a.	Colis Ivey	District 1	3/31/98
b.	Dr. Velma Curtis	District 2	3/31/2000
c.	James Watson	District 3	3/31/98
d.	Deborrah Howard	District 4	3/31/2000
e.	Al Ferguson	District 5	3/31/98
f.	Appointment TBA	District 6	3/31/2000
g.	Owen Crickenberger	District 7	2/28/2000
h.	Robert W. Silas	District 8	3/31/2000
i.	Appointment TBA	District 9	3/31/98
j.	William Mayfield	District 10	3/31/2000

- (3) The successor to the member representing District 7 shall serve until March 31, 1998, or until his successor is appointed and qualified.
- (4) Members of the board appointed by the Commissioner of the respective Districts to succeed those appointed in subsections 2 and 3 hereof shall serve for terms of office of four (4) years and until their successors are appointed and qualified.
- (5) Should the Richmond County Legislative Delegation choose to appoint two (2) members as provided in the Consolidation Act,

such members shall serve for a term of four (4) years and until their successors are appointed and qualified. In the event the appointed authority of the Legislative Delegation is removed from the Consolidation Act, this subsection shall automatically be repealed.

- (6) All terms shall expire on March 31 of the applicable year, and new terms shall begin on April 1 of the applicable year.
- (b) No member of the personnel board may be removed from office prior to the expiration of his term except for cause, as provided in section 1-4-4

herein, after having been given notice and afforded a hearing before the Augusta-Richmond County Commission pursuant to section 1-4-2(b) and section 1-4-3.

(c) Members of the personnel board shall be paid the sum of twenty dollars (\$20.00) per diem for time actually devoted to the business of the board, not exceeding thirty (30) days in any calendar year, and shall be reimbursed for actual and necessary travel expenses.

Sec. 1-7-14. Same—Meetings.

All meetings of the personnel board shall be held in the chambers of the Commission in the Municipal building of Richmond County. Said board shall hold regular meetings at least once each month, and may hold such additional meetings as may be required for the proper discharge of its duties.

Sec. 1-7-15. Same—Purpose; duties and powers.

(a) *Purpose.* It shall be the duty, function and responsibility of the personnel board to represent the interests of the public in the improvement of personnel administration and the selection of qualified personnel.

(b) *Duties and Powers.* The duties and functions of the personnel board shall be as follows:

- (1) [The personnel board shall have the responsibility] to propose rules and regulations and standards of the personnel system, and thereafter recommend to the board of commissioners the adoption of rules and regulations and standards effectuating the personnel system established under this article. Such rules and regulations shall include provisions for the establishment and maintenance of job classification and compensation plans, the conduct of examinations for appointment under the personnel system; the certification of eligible persons, appointments, promotions, transfers, demotions, separations, tenure, service ratings, reinstatements, appeals and such additional regulations as may be deemed to be in the best interest of impartial selection

of efficient personnel and improvement of public administration. Such rules and regulations shall prohibit political activity by any employee covered by the personnel system or the personnel board. The rules and regulations may provide for establishment of a register of persons eligible for appointment under the personnel system. Said rules and regulations when proposed by the personnel board as aforesaid and approved and adopted by the board of commissioners shall have the force of law and be binding upon all employees, departments and offices of the county governing authority that are not excluded herein [, provided, however, that] the board of commissioners shall have authority to amend, change or make additions to any rules and regulations adopted hereunder.

- (2) [The personnel board shall have responsibility] to conduct hearings and render decisions on dismissals and to hear appeals from any employee who claims to have been improperly dismissed. The personnel board shall consider only complaints or grievances of employees as to dismissals. All complaints or grievances of any employees as to, transfers or suspensions shall be considered by the county administrator, whose decision shall be final.
- (3) The personnel board shall keep and maintain an accurate record of minutes and shall be authorized to hire a clerk to keep and maintain its minutes; the compensation of such clerk is to be in accordance with the pay plan adopted for other employees under the personnel system.
- (4) Said personnel board shall be authorized to make recommendations as to amendments, additions to, and changes in said rules and regulations from time to time; and, when said amendments, changes or additions are adopted by the board of commissioners, said amendments shall have the force of law and be binding on all parties affected by said personnel system.

Sec. 1-7-16. Same—Payment of costs from county funds.

All costs for salaries, fees, expenses, personnel and supplies for the operation of the personnel board and its office shall be paid out of county funds with prior approval of the Commission.

Sec. 1-7-17. Director of human resources.

The Augusta-Richmond County Commission shall select and appoint a qualified person as director of human resources and shall fix his compensation.

Sec. 1-7-18. Limitation on employee's right of action.

No employee shall be entitled to any type of action, complaint or grievance procedure as to dismissal until such employee has been in continuous employment for twelve (12) consecutive months. Continuous employment shall mean employment unbroken by discharge or resignation. Reelection or reappointment at the end of the term shall be regarded as continuous employment.

Sec. 1-7-19. Employee dismissal, right to appeal.

No employee of any department or office of Augusta-Richmond County which has been brought under the personnel system pursuant to this article may be dismissed from employment in said department or office except for good cause and in accordance with the rules and regulations adopted by the Commission. Any employee who is dismissed shall have the right of appeal pursuant to the terms of the rules and regulations prescribed for appeal by the personnel board.

Secs. 1-7-20—1-7-30. Reserved.

ARTICLE 3 CLASSIFICATION PLAN

Sec. 1-7-31. Adoption; salary grade allocation incorporated as part by reference.

The position classification as adopted and amended from time to time is hereby adopted as

the classification plan for Augusta-Richmond County and its employees under the jurisdiction of the Commission.

Editor's note—Copies of the position classification plan and the salary grade allocation made by reference a part thereof may be found on file in the office of the director of human resources.

Sec. 1-7-32. Coverage.

This classification plan shall include all full-time permanent classes of classified positions in Augusta-Richmond County government under the jurisdiction of the Commission, with the exception of the following: director of recreation; director of Daniel Field; director of Human Resources; director of the fire department; director of indigent defense; director of public works; director of utilities (water); director of public transit; director of animal control; director of the Richmond County Correctional Institute; director of finance; director of housing & neighborhood development; director of Main Street Augusta; Administrator; director of information technology; director of purchasing; director of license and inspections; director of trees and landscape; director of human relations; county attorney; director of emergency management; Equal Opportunity Officer; clerk of commission; and internal auditor. Other department heads and professional positions in county government under the jurisdiction of the Augusta-Richmond County Commission may also be excluded by said Commission by appropriate resolution.

Sec. 1-7-33. Reserved.

Sec. 1-7-34. Administration and maintenance; reallocation, reclassification of positions.

(a) The director of human resources shall be responsible for the administration and maintenance of the position classification plan.

(b) Department heads shall be responsible for bringing to the attention of the director of human resources any material change in the nature of the duties, responsibilities, working conditions and other factors affecting the classification of any position. Following the receipt of such information concerning any position, the director of

human resources shall then restudy the position and determine if the classification of the position should be changed. Authority to reallocate positions to classes on the basis of kind and level of duties and responsibilities is vested in the personnel board subject to the approval of the Augusta-Richmond County Commission. The director of human resources shall report any recommended reclassifications from the personnel board to the Augusta-Richmond County Commission for their approval. Copies of the reclassification plan, as amended, will be furnished to members of the Augusta-Richmond County Commission, to the personnel board, to the department heads, and shall be on file in the office of the director of human resources.

Sec. 1-7-35. Establishment, classification of new positions.

The Commission has the authority to determine the need for new positions, and to create and establish any needed position. The Commission has the responsibility to review budget requirements based on their initiative or that of department heads. The director of human resources shall, before filling any new position not excluded by the Commission under the coverage of this plan, prepare a job description, determine the recommended salary grade thereof, and report same to the personnel board, which shall allocate new positions to the existing classes or to new classes or positions in Augusta-Richmond County's service, subject to the approval of the Commission. The director of human resources shall report the recommended allocation of the new positions, recommended by the personnel board to the Commission for their approval.

Secs. 1-7-36—1-7-50. Reserved.

ARTICLE 4 PERSONNEL POLICIES AND PROCEDURES

Sec. 1-7-51. Adopted personnel policies and procedures..

(a) There is hereby adopted the Augusta-Richmond County Personnel Policies and Procedures Manual, also known as the Augusta, Geor-

gia Employee Handbook, designated as Appendix B to the Augusta-Richmond County Code and incorporated herein by reference and which includes all amendments through the date of the recodification of this Code and all amendments thereafter.

(b) The Richmond County Personnel Policies and Procedures heretofore adopted and designated as an appendix to the Augusta-Richmond County Code, and incorporated by reference, are amended by amending Section 11B.8. such that it shall read as follows:

8. Abuse or theft of Augusta-Richmond County property; provided, however, theft of property, constituting an offense under O.C.G.A. Title 16, Chapter 8, Article 1, shall require mandatory dismissal from employment by Augusta-Richmond County. For purposes of this paragraph, an admission of guilt, a plea of nolo contendere, or a plea under the first offender probation statute, O.C.G.A. § 42-8-60, et seq. shall be deemed an admission of the offense.

Further Section 11.C.3.e. is hereby amended such that it shall read as follows:

- e. The Administrator shall render a decision on the proposal for dismissal based on all the relevant information; provided, however, any employee who commits a theft of Augusta-Richmond County property shall be dismissed.

(Ord. No. 6199, § 1, 10-5-99)

Sec. 1-7-52. Department to certify payroll.

The department head shall certify by signature on each payroll that each person whose name appears on the payroll has been lawfully appointed and that they have actually worked the time for which they are being paid or were authorized leave with pay. Department heads shall further certify that such leave, if any, has been approved and that it has been reported to the human resources department.

Secs. 1-7-53—1-7-59. Reserved.

ARTICLE 5 AFFIRMATIVE ACTION

Sec. 1-7-60. Policy.

Augusta-Richmond County does hereby reaffirm its policy to insure equal opportunity in employment for all persons and to provide, to the maximum extent possible, the same employment, placement, training, promotion and salary opportunities without regard to race, sex, color, national origin, religion, political affiliation, age, physical handicaps (except where age, sex or physical handicap constitute a bona fide occupational qualification), or any other non-merit factor, and to promote the full realization of equal employment opportunity through a continuing affirmative action plan applicable to each department of Augusta-Richmond County and to be an integral part of the total personnel management program.

Secs. 1-7-61—1-7-65. Reserved.

ARTICLE 6 RETIREMENT PLAN

Sec. 1-7-66. Adopted by reference.

The Retirement Plan for Employees of Richmond County, set out in an Appendix [Ordinance of November 23, 1976, from which this section is derived], a copy of which is made by reference a part hereof, is hereby adopted as the retirement plan for employees of Augusta-Richmond County effective January 1, 1996. A copy of the retirement plan adopted in this section shall be on file in the office of Augusta-Richmond County Clerk.

Chapter 8

RAILROADS**ARTICLE 1 IN GENERAL****Sec. 1-8-1. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) *Locomotive engine.* Any self-propelled steam, electric, Diesel or other railroad engine or car used for moving or hauling railroad cars upon railroad tracks whether such be used to move or haul freight or passengers, and such definition shall extend to and include hand cars whether such be propelled by human or other power.
- (b) *Railroad cars.* Any railroad freight or passenger cars or other rolling stock other than a locomotive.
- (c) *Train.* Any locomotive engine with one or more railroad cars attached thereto or being propelled thereby.

Sec. 1-8-2. Reserved.**Sec. 1-8-3. Getting on or off moving engines or cars.**

It shall be unlawful for any person to get on or off any locomotive engine or railroad car while such is in motion; provided, that this section shall not apply to the officers, agents or employees of any railroad company, nor to passengers getting on or off such cars at the proper street crossings when such is done by permission of the railroad company.

Sec. 1-8-4. Discharging water, etc., From trains; construction of drains.

Any person who shall throw or discharge, or permit to be thrown or discharged, from any locomotive engine or train any water or wet substance of any kind upon any street or crosswalk shall be punished as provided in section

1-6-1. Any railroad corporation that shall fail to construct a proper drain to carry off such water or wet substance when so required by the board of health shall be subject to a similar punishment.

Sec. 1-8-5. Trespassing upon railroad property—Generally.

(a) It shall be unlawful for any person to enter upon the tracks, rights of way, yards, piggyback facilities, agencies, buildings or other properties of any railroad company operating in Augusta-Richmond County.

(b) It shall be unlawful for any person to tamper with any railroad switch, wire line or signal or to place any object on the track that would otherwise obstruct the movement or operation of a train.

(c) It shall be unlawful for any person to get on or off any locomotive engine, railroad car, trailer or container; provided that this section shall not apply to on-duty officers, agents or employees of any railroad company operating in Augusta-Richmond County or those persons conducting bona fide business with the railroad company.

Secs. 1-8-6—1-8-15. Reserved.**ARTICLE 2 CROSSINGS****Sec. 1-8-16. Use prohibited when automatic signal indicates approach of locomotive.**

It shall be unlawful for any person to proceed over any railroad crossing when an automatic gong and flashing light signal at such crossing indicates the approach of a locomotive engine or railroad car.

Sec. 1-8-17. Kicking or bumping railroad cars across.

It shall be unlawful for any railroad company to move or attempt to move any railroad cars across any street crossing in Augusta-Richmond County by kicking or bumping such cars.

Secs. 1-8-18—1-8-19. Reserved.

Chapter 9

**WATERWAYS AND RELATED
STRUCTURES****ARTICLE 1 IN GENERAL****Sec. 1-9-1. Fishing near of canal.**

It shall be unlawful for any person to fish with a net, or any other instrument or contrivance, except a hook and line, in the Savannah River opposite Augusta-Richmond County, within one hundred yards of the eastern shore of the canal dam at the head of the canal.

Sec. 1-9-2. Cutting away earth from levee or bank.

It shall be unlawful for any person, upon any pretense, to cut away or carry off any earth from the levee or the bank of the Savannah River or the banks of the canal, without the express approval of the Augusta-Richmond County Commission.

Sec. 1-9-3. Throwing trash, etc., in river.

It shall be unlawful for any person to throw into the Savannah River any slabs, or any vegetable or animal matter, or any oils or lubricants, or any offensive substance, or any trash or other material calculated to obstruct or fill up the channel in any way.

Sec. 1-9-4. Bathing or swimming in the river or canal.

It shall be unlawful for any person to swim or bathe in the canal. Further, it shall be unlawful for any person to swim or bathe in the Savannah River

- a. within 100 feet of either side of the city's raw water intake site;
- b. within 100 yards of the city's diversion dam; or
- c. along Georgia's shoreline between 5th Street and 13th Street.

(Ord. No. 6517, § 1, 6-18-02)

Sec. 1-9-5. Extent of police power on certain bridges.

The police power of Augusta-Richmond County extends over the bridge across the Savannah River at the foot of McKinne Street, known as the North Augusta or Thirteenth Street Bridge, over the Fifth Street Bridge and over the Gordon Highway Bridge, to the South Carolina side of the river.

Secs. 1-9-6—1-9-15. Reserved.**ARTICLE 2 CANAL—GENERALLY****Sec. 1-9-16. Stone, concrete or brick culverts for flumes, etc., in streets.**

All flumes, races or other waterways, for the passage of water between the canal and any mill, factory or other works driven by water power, or across or through any of the public streets, shall be covered over and protected in the streets by substantial stone, concrete or brick culverts by the proprietors of such mill, factory or other works, within such time as may be specified by the commissioner of public works. On failure of such proprietors to construct the required culverts within the time prescribed, the same shall be constructed under the direction of the commissioner at the expense of the proprietors.

Sec. 1-9-17. Permit for operation of engine-driven boat required.

(a) It shall be unlawful for any person to operate any gasoline or diesel powered boat on the Augusta Canal without first obtaining a written permit from the Executive Director of the Augusta Canal Authority.

(b) It shall be unlawful for any person to operate any motorized vehicle on any public property within the boundaries of the Augusta Canal National Heritage Area, unless such area is designated as a public street or public parking area, without first obtaining a written permit from the Executive Director of the Augusta Canal Authority.

(Ord. no. 6252, § 1, 3-21-00)

Sec. 1-9-18. Washing clothes, animals, etc.; depositing offensive matter; polluting.

It shall be unlawful for any person in any part of any of the levels, flumes or waterworks of the canal to wash any clothes, horse, dog or any other thing therein, or to deposit any offensive matter therein or to do anything by which the water thereof shall be rendered offensive or impure.

Sec. 1-9-19. Depositing sticks, tree trimmings, etc.

It shall be unlawful for any person in any part of the levels, flumes or waterways of the canal to deposit any sticks, trimmings of trees or refuse of gardens therein.

Sec. 1-9-20. Occupation of bank or right of way—Generally.

It shall be unlawful for any person to occupy any unused part of the canal bank or right of way for any purpose, except upon the written consent of the Mayor and upon the payment of such rent as the Commission may require.

Sec. 1-9-21. Same—Camping, etc., on banks.

It shall be unlawful for any person to camp and make a fire on or near the banks of the canal within one hundred yards of any dwelling or other building.

**ARTICLE 3 USE FOR WATER POWER—
GENERALLY**

Sec. 1-9-22. Consent of commission prerequisite.

No person shall be entitled to use the waterpower of the canal except with the consent in writing of the Commission.

Sec. 1-9-23. Terms, conditions, restrictions and limitations—Generally.

(a) The term grantor as used in this section shall mean the Commission, and the term grantees, as used in this section, shall mean the persons using or desiring to use the waterpower of the canal.

(b) In addition to the provisions of section 1-9-23 to 1-9-32, the waterpower of the canal shall be let and rented only on the following terms, conditions, restrictions and limitations:

- (1) *Bulkheads.* The water shall be drawn through a bulkhead. All bulkheads hereafter constructed or repaired shall be constructed or repaired by the grantees under the direction and control of the Director of Utilities. Such Director shall have the right to appoint inspectors to be present at all times during the progress of such work, which inspectors shall be under his control. The compensation of such inspectors and such other expenses that the Augusta-Richmond County Commission may incur by reason of such work shall be borne by such grantees. Before commencing such work the grantees shall execute to the Augusta-Richmond County Commission a bond with security acceptable to the Commission in the sum of ten thousand dollars conditioned to perform the work in a substantial and workmanlike manner and to hold the Augusta-Richmond County Commission safe and harmless against any loss or damage occasioned by such work. The Augusta-Richmond County Commission may, in its discretion, at any time, fix such bond at any amount not exceeding fifty thousand dollars.
- (2) *Ninety-foot strip for towing path.* No building of any description shall be erected on the land adjacent to the towing path side of the canal, from the Harrisburg Bridge to Coleman's Branch, within ninety feet of the canal water of the first level. This ninety-foot strip shall be reserved for a highway and towing path. The water granted to the grantees shall be conveyed from the bulkhead aforesaid through a culvert, or as the grantor shall direct, under such ninety-foot strip of land, and the culvert shall be substantially constructed, free from leaks and kept in good repair by the grantees.
- (3) *Bulkhead gates; leaks.* The bulkhead gates aforesaid shall be at all times under the

control of the grantor. There shall be no leaks through any portion of the channel through which the water is conveyed to the water wheels of the grantees. Should any leaks occur in any of the structures through which the water is conveyed, the same shall be stopped by the grantees immediately upon being notified thereof. If the grantees do not proceed immediately, on such notice being given, to stop such leaks, the grantor may close the bulkhead gates and shut off the water from the premises of the grantees.

- (4) *Tail races.* The tail races shall be so constructed as to be accessible at all times, in such form and size as will convey the water from the wheels without piling or backing up above the outlet, and shall have at least five one-hundredths of a foot fall in one hundred feet. The bottom and sides of tail races shall be smooth and even, so that the channel will be of uniform width.
- (5) *Right to enter for inspection.* The grantor reserves the right to enter at all times upon premises for the purpose of inspecting the bulkhead, cylinders, forbay, flumes, water wheels, water gates, tail race, and every other structure connected with the hydraulic power.
- (6) *Horsepower standard.* The power of the water shall be reduced to horsepower. The theoretical power of the water is the standard by which the value of the water used is to be ascertained and paid for. A horsepower is the unit of measure, and is hereby defined to be five hundred and twenty-eight (528) cubic feet of water falling one (1) foot per minute.
- (7) *Measurement of water.* The grantor reserves the right to measure at any time the quantity of water used by the grantees in the head races and tail races, in the canal above the bulkhead, by the issues of the turbine wheels and by the gauges, if any are in use. The grantees shall render all needful facilities to accomplish a correct measurement of all the water used and wasted, through leaks and otherwise, by the grantees.
- (8) *Determination of amount of power used.* The amount of power used by the grantees shall be ascertained by multiplying the whole fall in feet of the water from the surface of the canal whence it is drawn to the surface of the water in the tail race, as it would be if constructed in accordance with subsection (d) of this section, by the number of cubic feet of water drawn from the canal per minute, and dividing the product by the divisor five hundred and twenty-eight (528) and the quotient will be the number of horsepower.
- (9) *Gauges.* If overshot or breast wheels are used by the grantees, cast iron gauges shall be fixed at the water gates to the wheels, and the size of these gauges shall be determined as follows: The quantity of water per second necessary to give the amount of power granted shall be ascertained as provided by subsection (h) of this section; then such quantity shall be divided by the product of the square root of the head of water above the middle of the aperture, the multiplier, 8.0125, and the quotient will be the area of the gauge in square feet, from which the form of the aperture may be fixed to suit the local circumstances. The thickness of such gauge shall not exceed one inch. No plank, or any wood, or any other material, shall be within three inches of the edges of the aperture which forms the gauge. If turbine water wheels are used, the issue of the wheel shall be the gauge, and the aggregate area of such issues shall be fixed according to the head of water above the surface of the water in the tail race as follows: The square root of the head of water shall be multiplied by 8.0125, and the ascertained quantity in cubic feet, according to subsection (h) of this section, divided by the product.
- (10) *Meaning of Head and Fall.* When the quantity of water necessary to give the power granted is to be ascertained, the

words head and fall are understood to mean the whole distance from the surface of the water in the canal whence the water is drawn, to the surface of the water in the tail races. In no case shall the head and fall be taken at less than the head and fall named in subsection (h) of this section. When the quantity which the gauges and issues mentioned in the foregoing and succeeding paragraphs and subsections will discharge is to be ascertained, then the word head is the distance from the surface of the water in the canal whence the water is drawn, to the middle line of the gauges and issues or to the surface of the water in the tail races, according to the kind of wheel used.

- (11) *Construction of grant; maintenance of dam and canal.* The grant of power made by the grantor is forever to be subject to all prior grants made by the grantor, and to the natural and providential changes in the river, the grantor not intending to grant anything beyond the capabilities of the dam at the head of the canal and the canal, both of which the grantor is hereby bound to maintain. Should the grantor neglect and refuse to keep the dam and canal in good repair, so that the waters of the river are not conveyed to the premises in quantities fulfilling such capabilities of the dam and canal, then, in that case, the grantees may, after a notice of thirty days, proceed to put the dam and canal in the condition required to give them, the grantees, the water due to them, and may collect from the grantor, by suit at law, all the costs and charges which shall accrue in putting the dam and canal in such condition.
- (12) *Reservation of water for use of city.* The grantor hereby reserves for the use of Augusta-Richmond County water enough from the first and second levels of the canal to drive the pumps of Augusta-Richmond County waterworks, and to supply the reservoir of the waterworks with water at all times. This right shall have precedence over all the grants of water made by the grantor on the first and second levels of such canal. The grantor also reserves the right to supply all needs of Augusta-Richmond County for water for any purpose, from any level of the canal, and this right shall have precedence over all the grants made by the grantor on any level of the canal.
- (13) *Inspection of wheels; use of wheels discharging more water than, granted; increase in amount of water use.* The grantor shall be allowed to inspect all the water wheels used by the grantees, and to prevent, by any lawful means, the grantees from using any wheel that will discharge more water than they are entitled to draw under the grant, except under the circumstances named in subsection (n) of this section; nevertheless, if any applicant for waterpower desires to use a turbine wheel of greater capacity than he, in the commencement of his business, wished to pay for, which wheel will discharge more water than his grant entitles him to draw, he may fix a cast-iron gauge, like that described in subsection (i) of this section for overshot water wheels, at the bottom of, or elsewhere in, his wheel pit, through which all the water he is entitled to draw shall pass to his wheel, which gauge shall be of such size as will discharge no more water than the applicant or grantees agree to pay for. If such applicant shall, after a time, desire to enlarge such gauge and pay for a larger quantity of water and the grantor shall have the water to sell, then such gauge may be enlarged to such a size as may be agreed upon. The grantor shall be allowed to inspect such gauge at all reasonable times and to prevent, by any lawful means, the applicant or grantees from using any gauge that may discharge more water than the grantees are entitled to draw under the grant.
- (14) *Increase in use of water when the river is high.* It shall be lawful for the grantees to use all increased quantity of water when the water from the river is flush and back upon the tail races. Such increase shall

only be sufficient to keep the amount of power up to the number of horsepower granted, but this can only be done by the use of additional wheels, to be used only when the river is higher than the tail races.

- (15) *Explosives; nuisances.* No part of the premises bordering on the canal or the ninety-foot strip designated as a towing path shall be used for the storage or manufacture of explosive fluids or mixtures of any kind, or for any purpose that shall be a nuisance.
- (16) *Meaning of surface of canal; lowering the established surface water line.* The surface of the canal mentioned in this section is understood to be the established surface water line as hereinafter described. If, at any time, the water shall not be kept up to the established line and it shall be found by the grantor impossible to maintain that line, giving to all the grantees of Augusta-Richmond County the power granted to them, it shall be lawful for the grantor to establish a different surface water line at a lower elevation, and the grantees shall be entitled to draw an increased quantity of water, sufficient to give them the power granted.
- (17) *What constitutes the established surface water line.* The established surface water line in the canal is to be an inclined plane, having the spill of the dam across the river for its summit; from thence it is to fall at the rate of one hundredth of a foot in one hundred (100) feet to the lower end of the canal.
- (18) *Passing water across premises in Longstreet's Branch.* The grantor reserves the right to pass water across any of the premises in the creek known as Longstreet's Branch.
- (19) *Drawing water from canal to clear out obstructions, etc.* The grantor hereby reserves the right to draw the water from the canal at any time when it deems it necessary to clear out obstructions in the canal, and when repairs and improve-

ments to any part of the canal are deemed necessary, or at any other time, or for any other purpose, when the grantor deems it necessary to do so to protect the interests of the canal or Augusta-Richmond County, without being liable for damages to the grantees any further than the amount of water rent during the time the water is so drawn off.

- (20) *Keeping canal supplied with water.* Subject to any limitation imposed on the Grantor by the Federal Energy Regulatory Commission, the grantor shall keep the canal supplied with water in quantity sufficient to supply all the grantees with all the water granted to them by the grantor, so far as the water in the river above the dam will fill the canal to the established surface water line above mentioned, except when it is cut off for the purposes and under the circumstances named in subsection (19) of this section.
- (21) *Contracts required.* No person shall be entitled to the benefits and conditions set out in this section until he shall enter into a contract with Augusta-Richmond County council which contract shall contain the terms herein contained.
- (22) *Arbitration of disagreements.* In case of any disagreement arising between the Augusta-Richmond County Commission and any of the grantees with respect to the construction to be given to any of the foregoing subsections or paragraphs of this section, the matter of disagreement may be submitted to the arbitration of experts in the science of hydraulics, each party to select one person known to be an expert in such science, and the two (2) persons thus selected shall select a third person of known attainments in such science, and to such three persons, as arbitrators, the matter in dispute may be submitted for final decision. The award made by such arbitrators shall be final and conclusive on both parties.

Sec. 1-9-24. Rate per horsepower.

The rental charge for waterpower in the canal shall be as established by contract between Augusta-Richmond County and such user.

Sec. 1-9-25. When and to whom payable.

The water rent for water from the canal used for waterpower purposes shall be paid quarterly on the first days of January, April, July and October of each year, in advance, to the comptroller.

Sec. 1-9-26. Shutting off water upon failure to pay.

In the event any water rent for water from the canal used for waterpower purposes is not paid within ten (10) days from the date it is due, the Augusta-Richmond County Commission reserves the right to shut off the water from the premises of the person in arrears, and to keep the water shut off until all claims for water rent are paid. This reservation shall in no way interfere with the rights of the Augusta-Richmond County Commission to enforce all its claims for all water rent due at the date of the failure to pay, or to enforce its claims for any water rent which shall accrue in the event Augusta-Richmond County council does not exercise the right to shut off the water from the premises of the person in arrears reserved by this section.

Sec. 1-9-27. Lien for unpaid water rent—Generally.

The claim of the Augusta-Richmond County Commission for unpaid water rent for water from the canal used for waterpower purposes shall constitute a lien, from the date the water is taken, upon the property of the grantee, namely, upon the mill, machinery and real estate, in the nature of a mortgage lien, under the laws of the state.

Sec. 1-9-28. Same—Enforcement.

The lien provided for in the preceding section may be enforced by the Commission as provided by the laws of the state for the foreclosure of mortgages upon real estate, whenever the water rent referred to in such section shall remain unpaid for the space of thirty days from the date it is due and payable.

Sec. 1-9-29. Executions for unpaid water rent.

The Augusta-Richmond County Commission may issue execution for unpaid water rent for

water from the canal used for waterpower purposes whenever the same is due and remains unpaid for the space of five days, and sell thereunder.

Sec. 1-9-30. Renewal leases.

The Augusta-Richmond County Commission may enter into renewal leases of waterpower of the canal with the present users of such power at the rates per horsepower per annum as established by the Commission, which leases shall contain the stipulations, terms, restrictions and limitations as provided for in this article. Prior notice of renewal of any leases, or of any new lease, shall be given to the Augusta Canal Authority.

Chapter 10

PROCUREMENT

Note—Under Review-Reference Court Order 3/14/07 enjoining race-based portion of DBE Program—*Thompson Wrecking Company v Augusta Civil Rights Action*.

ARTICLE 1 GENERAL PROVISIONS AND DEFINITIONS**Sec. 1-10-1. Purpose.**

The purpose of this Augusta-Richmond County Procurement Procedures is to provide detailed administrative procedures for implementation of procurement policies for Augusta-Richmond County. This chapter shall contain all of the administrative rules, regulations, and procedures needed to purchase goods and services and provide other procurement services for Augusta-Richmond County government.
(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-2. Applications of this chapter.

The requirements of this chapter apply to contracts for the procurement of commodities, services, construction, professions, and consultant service products solicited or entered into by Augusta-Richmond County. It shall apply to every expenditure of public funds irrespective of the source of the funds. It shall also apply to the disposal of Augusta-Richmond County supplies and personal assets. When the procurement involves the expenditure of State or Federal assistance or contract funds, the procurement shall be conducted in accordance with applicable State and Federal laws and regulations. Nothing in this chapter shall preclude Augusta-Richmond County from complying with the terms and conditions of any grant, gift, or bequest that are otherwise consistent with State law.

Sec. 1-10-3. Supplementary laws.

The Uniform Commercial Code of Georgia (O.C.G.A. 11-1 thru 11-11 as amended) plus other applicable Federal, State, and local laws shall apply, as appropriate, to the procurement process. Questions of specific legal applicability may be

directed through the Augusta-Richmond County Administrator to the Augusta-Richmond County Attorney.

Sec. 1-10-4. Good faith provision.

All parties involved in the negotiation, performance, or administration of Augusta-Richmond County contracts shall act in good faith. Good faith means honesty in fact in the conduct or transaction concerned.

State law reference—O.C.G.A. § 11-2-201.

Sec. 1-10-5. Public access to procurement information.

Procurement information shall be a public record to the extent required by the laws of the State of Georgia; except, a request for proposals (RFP) shall not become public record until the final contract is negotiated and awarded. Any financial or commercial data contained in the request for proposals are privileged and confidential and shall not be disclosed.

Sec. 1-10-6. Preference for local suppliers, professional services and contractors.

(a) Augusta-Richmond County encourages the use of local suppliers of goods, services and construction products whenever possible. Augusta-Richmond County also vigorously supports the advantages of an open competitive market place. Nothing in this Section shall be interpreted to mean that the Augusta-Richmond County Administrator or Procurement Director are restricted in any way from seeking formal bids or proposals from outside the Augusta market area.

(b) When the quotation or informal bids selection method is used by the Procurement Director or using agency head to seek firms to quote on Augusta-Richmond County commodity, service and construction products, local firms should be contacted, if possible, first. Then if the Procurement Director or using agency head believes that there may not be at least three (3) qualified informal bidders, quotes shall be sought from outside the Augusta market area.

(c) In the event of a tie bid (see section 1-10-43 (h)), when all other factors are equal, the Augusta-Richmond County Administrator is encouraged to select the bid from within the local market area. The Administrator shall retain the flexibility to make the award of contract to a bidder outside of the local market area if evidence supports collusive bidding in favor of a local source.

(d) The local vendor preference policy shall be applied when the lowest bidder is within 5% or \$10,000.00, whichever is less of the lowest non-local bidders. The lowest local bidder will be allowed to match the bid of the lowest non-local bidder, if matched the lowest local bidder will be awarded the contract.

For the purposes of this section, "local bidder" shall mean a business which:

- (1) Has had a fixed office or distribution point in and having a street address within Augusta for at least six months immediately prior to the issuance of the request for competitive bids or request for proposals by Augusta and
- (2) Holds any business license required by the Augusta-Richmond County Code and
- (3) Employees at least one full time employee, or two part time employees whose primary residence is in Augusta, or if the business has no employees, the business shall be at least 50% owned by one or more persons whose primary residence is in Augusta.

(e) The Procurement Director shall develop a program to routinely search out local firms that offer products or services which Augusta-Richmond County may purchase and encourage such firms to place themselves on the bidder's list.

(f) The Procurement Director shall work closely with Augusta-Richmond County's Disadvantaged Business Enterprise Program (see Article 7*) in an effort to place such qualified firms on the approved list and their products on the qualified products list.

Note—*Article 7, the City's Disadvantaged Business Program is under revision, reference Judge B. Avant Edenfield's Court Order, Enjoining Race-Based Portion of the DBE Program.

(g) Nothing in this section shall be interpreted to mean that the Augusta-Richmond County Administrator may abrogate the provisions of O.C.G.A. §§ 36-10-1 through 36-10-5, Public Works Contracts. This provision of the State Code requires that all County public works contracts of twenty thousand dollars (\$20,000.00) or more, as defined therein, be publicly advertised before letting out the contract to the lowest bidder. Further, nothing in this section shall be interpreted to mean the County Administrator may abrogate the provisions of the Augusta-Richmond County Code requiring public advertising before letting certain contracts.

(Ord. No. 6890, § 1, 6-15-06; Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-7. Value analysis.

(a) *Purpose.* A significant portion of the Augusta-Richmond County Annual Budget is committed each year to various purchase contracts such as raw materials, equipment, equipment parts or components, general supplies, and professional and non-professional services. Therefore, it is essential that maximum value be obtained for every public tax dollar spent. A proven technique for obtaining this goal is value analysis.

(b) *Definition of value analysis.* Value analysis is the organized and systematic study of every element of cost in a part, material, or service to make certain it fulfills its function at the lowest possible cost. It employs techniques which identify the functions the user wants from a product or service; it establishes by comparison the appropriate cost for each function; then, it causes the required knowledge, creativity; and initiative to be used to provide each function for that cost.

(c) *Application of value analysis to the procurement process.* Simply stated, value analysis is a study of function and the value of any service, material, or product is established by the minimum cost of other available alternatives, materials, products, or services that will perform the same function. To achieve high value, emphasis must be placed on obtaining high use value at the lowest possible cost.

Value analysis is a helpful tool in evaluating bids, but the concept is even more effective if

applied at the beginning of the process when the need or requirement is being defined. Consequently, the solicitation process can more effectively and accurately reflect and describe Augusta-Richmond County's requirements and acceptable levels of quality and functionality. As the input of other departments such as Finance is critical to performing a good value analysis, it is advisable for Procurement and the User to seek the cooperation of these disciplines prior to proceeding with major purchases.

Sec. 1-10-8. Compliance with state and federal requirement.

When the procurement transaction involves the expenditure of State or Federal Assistance, the transaction shall be conducted in accordance with any applicable mandatory State or Federal laws and authorized regulations which are not reflected in this chapter.

Notwithstanding where State and Federal assistance or contract funds are used in procurement transaction, any applicable local requirements that are more restrictive than State or Federal requirements shall be followed.

Sec. 1-10-9. Definitions—Generally.

The terms, phrases, words, and their derivations set forth below shall have the meaning given herein. Words not defined herein or within the Official Code of Georgia Annotated shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. Words used in the singular shall include the plural, and the pleural the singular; words used in the present tense shall include the future tense. The words shall, will, and must are mandatory and not discretionary. The word may is permissive.

- (a) *Agreement.* The bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in O.C.G.A. § 11-1-205 and § 11-2-208. Whether an agreement has legal consequences is determined by the provision of

this title, if applicable; otherwise, by the law of contracts (O.C.G.A. § 11-1-103). (O.C.G.A. § 11-2-201)

- (b) *Bid.* An offer by an intending purchaser to pay a designated price for property which is about to be sold at auction, and an offer to perform a contract for work and labor or supplying materials or goods at a specified price. (Black's Law Dictionary, 5th Edition)
- (c) *Bid Bond.* A type of bond required in public construction projects which is filed at the time of the bid and which protects Augusta-Richmond County in the event that the bidder refuses to enter into a contract after the award to him or withdraws his bid before the award. A type of indemnity bond. (Black's Law Dictionary, 5th Edition)
- (d) *Bidders List.* Augusta-Richmond County's official list of qualified persons or vendors to be invited to respond to any type of invitation for bids or requests for proposals which shall be maintained by the Procurement Director.
- (e) *Bill of Lading.* A document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. Airbill means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill. (O.C.G.A. § 11-1-201)
- (f) *Blind Trust.* An independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other disposition of, the property subject to the trust.
- (g) *Business.* Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, firm, or any other private legal entity.
- (h) *Buyer in ordinary course of business.* A person who, in good faith and without knowledge that the sale to him is in

violation of the ownership rights or security interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. Buying may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total a partial satisfaction of money debt. (O.C.G.A. § 11-1-201)

- (i) *Change Order.* The formal document effecting a bilateral contract modification that alters the specification, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual agreement of the parties to the contract.
- (j) *Commodities.* Those things that are useful or serviceable, particularly articles of merchandise moveable in trade. Goods, wares, supplies, and merchandise of any kind; movables; articles of trade or commerce are all included within this definition. (Black's Law Dictionary, 5th Edition)
- (k) *Construction.* The process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- (l) *Contract.* The total legal obligation which results from the parties' agreement as affected by this title and any other applicable rules of law. (O.C.G.A. § 11-1-201)
- (m) *Contract Administration.* All activity necessary after award of a contract to administer a contract and to ensure full compliance with its terms, conditions, and scope of services.
- (n) *Contract Directive.* A written order signed and issued by the Augusta-Richmond County Administrator, directing the contractor to make changes which the Changes clause of the contract authorized Augusta-Richmond County to order without the consent of the contractor.
- (o) *Contract Documents.* All items which define the scope of the project including plans and specifications, including but not limited to, advertisement for bids, instructions to bidders, bid proposal, proposed contracts, proposed bond form, general conditions, special conditions, and technical specifications.
- (p) *Contract Modification.* Any change order, contract price adjustment or contract revision or similar document which modifies an existing contract.
- (q) *Contractor and/or Sub-Contractor.* Any person having a contract with Augusta-Richmond County, a using agency of Augusta-Richmond County, or a contractor thereof.
- (r) *Cooperative Procurement.* Acquiring commodities, services, and construction by, or on behalf of, more than one public procurement unit.
- (s) *Cost Analysis.* The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
- (t) *Cost Data.* The factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.
- (u) *Cost-reimbursement Contract.* A contract under which a contractor is reimbursed for costs which are allowable and in accordance with the contract terms and the provisions of this chapter, and a fee or profit, if any.
- (v) *County.* Richmond County, Georgia.
- (w) *County Commission.* The Board of Commissioners of Richmond County which is the governing body of Richmond County.

- (x) *County Commission Mayor.* The chief executive officer of Richmond County who is authorized to sign all contracts for the Board of Commissioners.
- (y) *County Administrator.* The chief appointed administrative office of Richmond County.
- (z) *Creditor.* Includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate. (O.C.G.A. § 11-1-201)
- (aa) *Days.* Richmond County working days.
- (bb) *Debarment.* To bar, exclude, or preclude from having or doing something. Exclusion from government contracting and subcontracting. (Black's Law Dictionary, 5th Edition)
- (cc) *Delivery with respect to instruments, documents of title, chattel paper, or securities.* Voluntary transfer of possession.
- (dd) *Designee.* A duly authorized representative of a person holding a superior position.
- (ee) *Direct or Indirect Participation.* Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- (ff) *Document of Title.* Includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. (O.C.G.A. § 11-1-201)
- (gg) *Emergency.* Any reasonably unforeseen circumstances, i.e. breakdown in major equipment, threatened termination or curtailment of an essential service, or development of a dangerous condition that creates an immediate threat to public health, welfare or safety.
- (hh) *Employee.* An individual drawing a salary or wages from Richmond County, whether elected or not; any non-compensated individual performing personal services for Richmond County or any department, agency, commission, council, board, or any other entity established by the executive, legislative or judicial branch of the County; and any non-compensated individual serving as an elected official of Richmond County.
- (ii) *Fault.* Wrongful act, omission or breach. (O.C.G.A. § 11-1-201)
- (jj) *Financial Interest.* All direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is ten (10) percent or more. (O.C.G.A. § 36-67A-1)
- (kk) *Firm.* Any individual, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice or offer professional or consultant services.
- (ll) *Fungible with respect to goods or securities.* Goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purpose of this title to the extent that under a particular agreement or document unlike units are treated as equivalents. (O.C.G.A. § 11-1-201)
- (mm) *Good Faith.* Honesty in fact in the conduct or transaction concerned. (O.C.G.A. § 11-1-201)

- (nn) *Gratuity*. A payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- (oo) *Genuine*. Free of forgery or counterfeiting. (O.C.G.A. § 11-1-210)
- (pp) *Holder*. A person who is in possession of a document of title or an instrument or an investment security drawn, issued, or endorsed to him or to his order or to bearer or in blank. (O.C.G.A. § 11-1-201)
- (qq) *Honor*. To pay or to accept and pay, or where a credit so engages, to purchase or discount a draft complying with the terms of credit. (O.C.G.A. § 11-1-201)
- (rr) *Immediate Relative or Immediate Family*. Father, mother, son, daughter, brothers, sisters, grandparents or grandchildren, wife or husband, or the wife or husband of any of the preceding persons.
- (ss) *Invitation for Bids*. A type of advertisement used by one who desires bids to be submitted for a particular project and includes all documents, whether attached or incorporated by reference, utilized for soliciting an intelligent bid.
- (tt) *Let (contracts)*. Award to one of several persons, who have submitted proposals (bids) therefor, the contract for erecting public works or doing some part of the work connected therewith, or rendering some other service to the government for a stipulated compensation. Letting the contract is the choosing of one from among the number of bidders, and the formal making of the contract with him. The letting, or putting out, is a different thing from the invitation to make proposals; the letting is subsequent to the invitation. It is the act of awarding the contract to the proposer, after the proposals have been received and considered. (Black's Law Dictionary, 5th Edition)
- (uu) *Lowest and Best Bidder*. The most responsive bidder or offerer as herein defined who has offered the requested goods, services, or construction for the lowest cost.
- (vv) *Nominal Value*. Any gift or gratuity of less than twenty-five dollars.
- (ww) *Notice*. Knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised diligence. (O.C.G.A. § 11-1-201)
- (xx) A person has *notice* of fact when:
- (1) He has actual knowledge of it; or
 - (2) He has received a notice or notification of it; or
 - (3) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.
- A person *knows* or has knowledge of a fact when he has actual knowledge of it. Discover or learn or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this title. (O.C.G.A. § 11-1-201)
- (yy) A person *notifies* or *gives* a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person receives a notice or notification when:
- (1) It comes to his attention; or
 - (2) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications. (O.C.G.A. § 11-1-201)

(zz) *Offer*. A proposal or bid submitted in response to a request for proposal or invitation for bids.

A proposal to do a thing or pay an amount, usually accompanied by an expected acceptance, counter-offer, return promise, or act. A manifestation or willingness to enter into a bargain, so made as to justify another person in understanding that his assent to that bargain is invited and will conclude it. (Black's Law Dictionary, 5th Edition)

(aaa) *Organization*. Includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity. (O.C.G.A. § 11-1-201)

(bbb) *Party as distinct from third party*. A person who has engaged in a transaction or made an agreement within this title. (O.C.G.A. § 11-1-201)

(ccc) *Person*. Any business, individual, union, committee, club, other organization, or group of individuals.

(ddd) *Pre-qualification*. The process to determine whether a prospective bidder or proposer satisfies the criteria established for inclusion on the pre-qualified bidders or proposers list.

(eee) *Presumption or Presumed*. The trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence. (O.C.G.A. § 11-1-201)

(fff) *Price Analysis*. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.

(ggg) *Pricing Data*. The factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered selling prices, historical selling prices, and current sell-

ing prices. The definition refers to data relevant to both prime and sub-contract prices.

(hhh) *Procurement*. The buying, procurement, renting, leasing, or otherwise acquiring of any goods, supplies, services, or construction products. It also includes all functions that pertain to the obtaining of any supply, service, professional service or construction product, including description of requirements, selection, and solicitation of sources, preparation, and award of contract.

(iii) *Product*. Something produced by physical labor or intellectual effort or something produced naturally or as a result of natural process as by generation or growth. (Black's Law Dictionary, 5th Edition). As used in this chapter, the term product is a very broad term that could include all types of commodities, supplies, equipment, materials, goods, services and construction.

(jjj) *Product Reference*. A specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.

(kkk) *Professional Services*. Those licensed and professional services as defined by the laws of the State of Georgia.

(lll) *Proposal*. An offer; something proffered. An offer, by one person to another, of the terms and conditions with reference to some work or undertaking, or for the transfer of property, the acceptance whereof will make a contract between them. (Black's Law Dictionary, 5th Edition)

Proposals for professional services received by the County will be evaluated for their comparative level of compliance with the specifications issued for the project. The evaluation of proposals may or may not include proposed price as one of the evaluation criteria.

(mmm) *Public Procurement Unit.* Any unit or subunit of any federal, state, or local government, or any non-profit entity which expends public funds for the procurement of commodities, services, or construction products.

(nnn) *Public Sale.* A sale:

- (1) Held at a place reasonably available to persons who might desire to attend and submit bids; and
- (2) At which those attending shall be given the opportunity to bid on a competitive basis; and
- (3) At which the sale, if made, shall be made to the highest and best bidder; and
- (4) Except as otherwise provided in this title for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published, in the county where the sale is to be held, and which notice shall state the day and hour, between 10:00 a.m. and 4:00 p.m., and the place of sale, and shall briefly identify the goods to be sold.

The provisions of this paragraph shall not be in derogation of any additional requirements relating to notice of any conduct of any such public sale as may be contained in other provisions of this title but shall be supplementary thereto. (O.C.G.A. § 11-1-201)

(ooo) *Public Works Contract.* Any contract for a county government public works project valued at twenty thousand dollars (\$20,000.00) or more as more fully defined in O.C.G.A. § 36-10 and Article X of this chapter.

(ppp) *Purchase.* Includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift, or any other voluntary transaction creating an interest in property. (O.C.G.A. § 11-1-201)

(qqq) *Purchaser.* A person who takes by purchase. (O.C.G.A. § 11-1-201)

(rrr) *Purchase Order.* A document authorizing a seller to deliver goods with payment to be made later. A written authorization calling on a vendor or supplier to furnish goods to the person ordering such. It constitutes an offer which is accepted when the vendor supplies the quantity and quality ordered. (Black's Law Dictionary, 5th Edition)

(sss) *Procurement Director.* The supervisor of the Procurement Department and as further defined in the Richmond County Code and elsewhere in this chapter.

(ttt) *Qualified Products List.* An approved list of commodities described by model or catalog numbers, which, prior to competitive solicitation, the County has determined will meet the applicable product specifications requirements.

(uuu) *Quotations or informal bids selection method.* The method for submitting a bid to perform work or offer a commodity to the County on a proposed contract without the formality of a written proposal or sealed bid. See § 505 for additional detail defining the quotations or informal selection method.

(vvv) *Representative.* Includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another. (O.C.G.A. § 1-11-201)

(www) *Requisition.* The document whereby the using agencies request that a purchase be made on their behalf. Requisition includes, but is not limited to, a description of the requested commodity, service or construction product, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information supplied for the working of any written determination required by this chapter.

- (xxx) *Request for Proposals (RFP)*. All documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- (yyy) *Request for Qualifications (RFQ)*. A method used to predetermine the capacity of prospective bidders or proposers for a specific project.
- (zzz) *Request for Quotations (RFQ)*. An informal solicitation for prices.
- (aaaa) *Responsible Bidder or Proposer*. A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance. In considering whether a bidder is responsible, the Procurement Director, County Administrator, using agency head, or County Commission may consider the bidder's quality of work, general reputation in the community, financial responsibility, and previous employment or use by the County.
- (bbbb) *Responsive Bidder or Proposer*. A person who has submitted a bid or proposal which conforms in all material respects to the requirements set forth in the invitation for bids or request for proposal.
- (cccc) *Sealed Bid*. A method for submitting a bid to perform work on a proposed contract. In general, each party interested submits a bid in a sealed envelope, and all such bids are opened at the same time and the most favorable responsible bid is accepted. (Black's Law Dictionary, 5th Edition) See § 502 for additional detail explaining the sealed bid selection method.
- (dddd) *Sealed Proposal*. A method for submitting a proposal for services or a combination of services and commodities on a proposed contract. In general, each party interested submits a proposal in two sealed envelopes. One envelope shall contain the price proposal and the second sealed envelope shall contain the technical (non-price data) proposal. The technical proposal shall be opened and reviewed and ranked by the Procurement Director before the price proposal is opened and reviewed. The sealed proposal method is not intended to be done as a public bid opening because of the technical complexities of the proposal which must be reviewed in detail before the proposals can be compared, rated, and ranked.
- (eeee) *Security Interest*. An interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (O.C.G.A. § 11-2-401) is limited in effect to a reservation of a security interest. The term also includes any interest of a buyer of accounts, or chattel paper which is subject to Article IX of this title. The special property interest of a buyer of goods on identification of such goods to a contract for sale under O.C.G.A. § 11-2-401 is not a security interest, but buyer may also acquire a security interest by complying with Article IX of this title. Unless a lease or consignment is intended as security, reservation of title thereunder is not a security interest but a consignment is in any event subject to the provisions on consignment sale (O.C.G.A. § 11-2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease, the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security. (O.C.G.A. § 11-1-201)
- (ffff) *Send in connection with any writing or notice*. To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instru-

ment to an address specified thereon or otherwise agreed, or if there be none, to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending. (O.C.G.A. § 11-1-201)

- (gggg) *Services*. The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- (hhhh) *Signed*. Includes any symbol executed or adopted by a party with present intention to authenticate a writing. (O.C.G.A. § 11-1-201)
- (iiii) *Small Business*. A United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.
- (jjjj) *Sole Source*. That there is only one source for the procurement of any goods, supplies, services or construction. Only one source means that there is only one manufacturer or product source and/or only one vendor source for the required commodities, services or construction products.
- (kkkk) *Specification*. Any description of the physical or functional characteristics or of the nature of commodities, services, or construction products. It may include a description of any requirement for inspecting, testing, or preparing a commodity, service, or construction product for delivery.
- (llll) *Substantial Interest*. The direct or indirect ownership of more than twenty-five (25) percent of the assets or stock of any business. (O.C.G.A. § 45-10-20)
- (mmmm) *Supplies*. Those accumulated stores reserved for distribution (Black's Law Dictionary, 5th Edition), and for the purposes of this chapter shall include any goods, equipment, material or other personal property owned by Richmond County and available for use by the personnel of the organization.
- (nnnn) *Surplus Supplies*. Any County supplies no longer needed having any use to Richmond County as determined of official action of the Board of Commissioners.
- (oooo) *Suspension*. A temporary stop, a temporary delay, interruption, or cessation. A temporary cutting off or debarring one, as from the privileges of one's profession. Temporary withdrawal or cessation as distinguished from permanent severance accomplished by debarment. (Black's Law Dictionary, 5th Edition)
- (pppp) *Term*. That portion of an agreement which relates to a particular matter. (O.C.G.A. § 11-1-201)
- (qqqq) *Transact Business or transact any business*. To sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative and means to purchase surplus real or personal property on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative. (O.C.G.A. § 45-10-20)
- (rrrr) *Unauthorized signature or endorsement*. One made without actual, implied, or apparent authority and includes a forgery.
- (ssss) *Using Agency*. Any department, commission, board, office, authority, or division of Richmond County requiring commodities, services or construction products or professional or other consultant services.
- (tttt) *Using Agency Head*. The director or head of a using agency who is responsible for the administration or such using agency.
- (uuuu) *Value*. Except as otherwise provided with respect to negotiable instruments and bank collections (O.C.G.A. §§ 11-3-303, 11-4-208, and 11-4-209) a person gives value for rights if he acquires them:
- (1) In return for a binding commitment to extend credit or for the extension

of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

- (2) As security for or in total or partial satisfaction of a preexisting claim; or
- (3) By accepting delivery pursuant to a preexisting contract for purchase; or
- (4) Generally, in return for any consideration sufficient to support a simple contract. (O.C.G.A. § 11-1-201)

(vvvv) *Value Analysis.* An organized and systematic study of every element of cost in a part, material, or service to make certain it fulfills its function at the lowest possible cost.

(wwww) *Warehouse Receipt.* A receipt issued by a person engaged in the business of storing goods for hire. (O.C.G.A. § 11-1-201)

(xxxx) *Warranty Period.* A one-year period following final acceptance of the project during which the contractor is responsible for repair of any work not caused by vandalism or natural disaster.

(Ord. No. 6939, § 16, 1-2-07)

ARTICLE 2 RESERVED*

**ARTICLE 3 OFFICE OF THE
PROCUREMENT DIRECTOR**

Sec. 1-10-23. Authority and responsibility of procurement director.

(a) *Authority.* The Procurement Director is designated as the principal public procurement official for Augusta-Richmond County, and shall be responsible for the procurement of commodities, services, construction, and professional service products in accordance with the Augusta-Richmond County Code and this chapter.

***Editor's note**—Ord. No. 6239, § 2, adopted Jan. 18, 2000, repealed §§ 1-10-10—1-10-22 in their entirety. See the Code Comparative Table.

(b) *Duties.* In accordance with the Augusta-Richmond County Code, the duties of the Procurement Director are further elaborated upon to include but not be limited to:

- (1) Procuring or supervising the procurement of all commodities, services, construction, and professional and consultant service products needed by Augusta-Richmond County;
- (2) Acting to procure for Augusta-Richmond County the highest quality in commodities, construction and service products at the least cost to Augusta-Richmond County;
- (3) Discouraging uniform bidding and endeavoring to obtain as full and open competition as possible on all purchases and sales;
- (4) Keeping informed of current developments in the field of procurement, prices, market conditions and new products, and secure for Augusta-Richmond County the benefits of research conducted in the field of procurement by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses or organizations;
- (5) Prescribing and maintaining such forms as needed to operate the procurement program;
- (6) Preparing, recommending, and implementing standard procurement nomenclature for using agencies and product suppliers;
- (7) Preparing, adopting and properly maintaining a vendors' catalog file and qualified products list, if needed;
- (8) Exploring cooperative ventures and possibilities of buying in bulk so as to take full advantage of discounts;
- (9) Procuring for Augusta-Richmond County whenever possible all tax exemptions;
- (10) Cooperating with using agencies so as to secure for Augusta-Richmond County the maximum efficiency in budgeting and accounting;

- (11) Recommending to the Administrator that product vendors who are irresponsible and non-responsive or default on contracts be disqualified from receiving any business from Augusta-Richmond County for an appropriate period of time;
 - (12) Exercising general supervision over all other inventories of supplies belonging to Augusta-Richmond County;
 - (13) Establishing and maintaining programs for specifications development, contract administration, and inspecting, testing and acceptance, in cooperation with the public agencies using the commodities, services and construction products;
 - (14) Working to ensure equal opportunity for disadvantaged business owners;
 - (15) Selling, trading, or otherwise disposing or surplus supplies belonging to Augusta-Richmond County;
 - (16) Prequalifying suppliers;
 - (17) Prequalifying products, especially janitorial products, through the study of testing data;
 - (18) Maintaining the official Augusta-Richmond County bidder's list; and
 - (19) Any other duty assigned by the Administrator that is within the intent and scope of duties set forth in the Augusta-Richmond County Code.
- (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-24. Centralization of procurement function.

(a) The Procurement Director or designee shall solicit all bids or proposals for the procurement of commodities, services, and construction products, professional or consultant service products and personal property disposition for all using agencies of Augusta-Richmond County, except for certain purchases officially authorized to be made by an elected official or using agency head (refer to section 1-10-71(e)—Authority to Approve, Sign, and Execute Contracts by Type).

(b) Augusta-Richmond County shall not be legally bound by any purchase order or contract made contrary to the provisions of the Augusta-Richmond County Code and this chapter. Except as may be specifically provided herein, it shall be a violation of this chapter for any officer or employee of Augusta-Richmond County or other person to order the purchase of any commodities, make contracts for any services, or dispose of any property within the purview of this chapter other than through the Augusta-Richmond County Administrator or Procurement Director. Violators shall be subject to penalties provided in Article 8 of this chapter.
(Ord. No. 6939, § 16, 1-2-07)

ARTICLE 4 PRODUCT SPECIFICATIONS

Sec. 1-10-25. Purpose.

The purpose of a specification is to provide a description and statement of the requirements of a product, components of a product, the capability or performance of a product, and/or the service or work to be performed to create a product. The term product is a very broad term that could include commodities, supplies, goods, equipment, materials, construction and services.

Sec. 1-10-26. Types of specifications.

(a) *Design.* This specification describes and states the required functional, physical and quality characteristics of a product, components of products, or services.

(b) *Performance.* This specification describes and states the intended use, operating conditions, specific features and characteristics, and performance capability of the product. For construction or services, a performance specification states the methods to be employee and/or standards to be met, specific starting and completion schedule, and frequency of the service to be performed to develop the final product.

(c) *Design/performance.* This specification is a combination of types (a) and (b) described above. It is a complete description and statement of the required physical makeup, functionality, intended

use, operating conditions, specific features and characteristics, and performance capability of the product.

(d) *Service availability.* If availability of service is to be a criteria for awarding a contract, the specifications shall clearly state that service availability may be considered in determining the most responsible bid, and the bidders shall be required to submit information concerning their ability to service and maintain the product or equipment.

A specification should be complete in its statement requirements. Other published specifications can be incorporated (e.g., Georgia D.O.T. Specifications, Underwriters Laboratory, etc.); however, original statements are preferable. A specification may also include provisions for testing and inspecting where necessary.

Sec. 1-10-27. Maximum practicable competition.

All specifications shall be drafted so as to promote overall economy for the purpose intended and encourage competition in satisfying Augusta-Richmond County's needs, and shall not be unduly restrictive. The procedures in this Section apply to all specifications including, but not limited to, those prepared for Augusta-Richmond County by architects, engineers, designers, draftsmen, and other consulting persons.

Sec. 1-10-28. Qualified products list.

(a) Augusta-Richmond County shall advertise at least once per fiscal year for vendors to register with the procurement department the products and services they wish to offer Augusta-Richmond County. Augusta-Richmond County shall keep an index of these vendors by name and the list shall be cross referenced for products and services. The vendor's name shall be kept for two (2) years or permanently if the vendor continues to offer bids. Records shall be kept as to the number of times a vendor is contacted for informal quotes and other bids. Upon the request of a vendor, the said vendor shall be added or deleted from the list. The use of such a list is not intended to restrict competition. Any vendor may submit, prior to

product solicitation, a commodity, product or service to the Procurement Director for review and possible inclusion on the qualified products list.

(b) Vendors shall be removed from the vendor list for the following reasons:

- (1) Declining to offer bids for a two-year period.
- (2) Suspension for the following shall not be for less than three (3) months or more than three (3) years:
 - a. Failing to satisfactorily meet terms, agreements, or contracts made with the procurement department or the using agency.
 - b. Being convicted of criminal offenses in obtaining contracts or convicted of embezzlement, violation of state or federal anti-trust statutes, or any other crime which indicates a lack of business integrity or honesty.
 - c. Violating contract provisions or failing to perform without good cause or any other cause which the Procurement Director deems to be so serious as to affect the responsibility of a contractor, including disbarment or suspension from a vendor list by another governmental entity.
 - d. Violating the standards as set forth in Article II hereof for conflicts of interest.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-29. Background information on vendors.

The Department Head and/or the Administrator is directed to provide the bid amount as submitted, information concerning the vendor's previous performance, the service and quality of the products offered, the availability of the goods and services when needed, adherence to delivery schedules, and other criteria pertinent to that particular item, on vendors who have submitted bids, proposals, or contracts for the Commission's consideration. The information is to be included in the backup documents for the Commission's consideration in awarding the contract.

Sec. 1-10-30. Product references in specifications.

(a) *Use.* Product references may be used in specifications, in conjunction with other descriptive narrative, when:

- (1) No other design or performance specification or qualified products list is available;
- (2) Time does not permit the preparation of another form of purchase description;
- (3) The nature of the product or the nature of Augusta-Richmond County's requirements dictates the use of a brand name or equal reference in the specification; or
- (4) The use of a brand name or equal specification is in Augusta-Richmond County's best interests.

(b) *Designation of several products references.* Product reference or equal specifications shall seek to identify as many different product references as are practicable, as or equal references and shall further state that substantially equivalent products to those designated will be considered for award, unless conditions warrant otherwise.

Unless otherwise authorized by the Administrator, product reference or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

Where a product reference or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of the product reference is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(c) In all cases where brand name items are requisitioned by any department, the Procurement Director has the authority to determine whether similar products of equal quality offered for sale to Augusta-Richmond County at a lower price shall be ordered in lieu of the requisitioned brand name items.
(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-31. Responsibility for specifications.

The responsibility for acquiring specifications data rests primarily with the using agency head concerned. Procurement personnel will assist with this task by providing copies of previously used specifications, brochures, or other reference materials. However, the Procurement office staff's primary responsibility is to develop the data provided by the using agency head into the proper format for the solicitation of bids, proposals, or quotations.
(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-32. Inspection of purchases.

The procurement agent in conjunction with the using agency or department head shall inspect, or supervise the inspection of, all deliveries of materials, supplies or contractual services to determine their conformance with the specifications set forth in the pertinent purchase order or contract. The procurement agent may require chemical and physical tests of samples submitted with bids and samples of deliveries, which examinations are necessary to determine quality of the samples and conformance with specifications.
(Ord. No. 6939, § 16, 1-2-07)

ARTICLE 5 REQUIREMENTS FOR BIDDING OR PROPOSING ON AUGUSTA-RICHMOND COUNTY CONTRACTS

Sec. 1-10-33. Responsibility of bidders and proposers.

(a) *Determination of responsibility.* The level of responsibility of the bidder or proposer (offeror) shall be ascertained for each contract awarded by Augusta-Richmond County based upon full disclosure to the Procurement Director concerning the person's capacity to meet the terms of the contract and based upon the person's past record of performance on similar contracts, the bidder's quality of work, general reputation in the community, financial responsibility, and previous employment or use by Augusta-Richmond County.

If an offeror who otherwise would have been awarded a contract is found non-responsible, a

written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Procurement Director or using agency. The failure of an offeror to promptly supply information in connection with an inquiry with respect to the level of responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror or proposer. A copy of the determination shall be sent promptly to the non-responsible offeror. The final determination shall be made a part of Augusta-Richmond County's contract file and be made a public record.

(b) *Right of nondisclosure.* Information furnished by an offeror pursuant to this Section shall not be disclosed outside of the Procurement Department, or using agency, by Augusta-Richmond County staff without prior written consent by the offeror.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-34. Cost or pricing data.

(a) *Required submissions relating to the award of contract.* A prospective contractor shall submit cost or pricing data when the contract is expected to exceed five thousand dollars (\$5,000.00) and is to be awarded by competitive sealed proposals (section 1-10-45; Competitive Sealed Proposals), by sole source procurement authority (section 1-10-49; Sole Source Procurement), or by competitive selection procedures for professional and consultant services (section 1-10-46).

(b) *Exceptions.* The submission of cost or pricing data relating to the award of a contract is not required when:

- (1) The contract price is based on adequate price competition;
- (2) The contract price is based on established catalogue prices or market prices;
- (3) The contract price is set by law or regulation; or
- (4) It is determined by the Procurement Director and approved by the Augusta-Richmond County Administrator, in writing, that the requirements of this Section may be waived, and the determination states the reasons for such waiver.

(c) *Required submissions relating to change orders or contract modifications.* A contractor shall submit cost or pricing data prior to the approval of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract, whenever the change or modification involves aggregate increases or aggregate decreases of five percent (5%) or more of original bid or proposal price.

(d) *Exceptions.* The submission of cost or pricing data relating to the pricing of a change order or contract modification is not required when:

- (1) Unrelated and separately priced adjustments for which cost or pricing data would not be required are consolidated for administrative convenience; or
- (2) It is determined in a written report by the Procurement Director and approved by the Augusta-Richmond County Administrator that the requirements of subsection (c) hereof (Cost or Pricing Data; Required Submissions Relating to Change Orders or Contract Modifications) may be waived, and the determination states the reasons for such waiver.

(e) *Certification required.* Any prospective or current contractor required to submit cost or pricing data in accordance with this Section shall certify that to the best of its knowledge and belief the cost or pricing data submitted was accurate, complete, and current, as of a mutually specified date prior to the award of the contract, or the pricing of the change order for contract modification.

(f) Price adjustment provision required in contracts. Augusta-Richmond County contracts shall include a provision stating that when detailed pricing data has been requested by the County and submitted by the offeror/contractor under the terms of the contract which is later found to be in error, that the price of the products charged to Augusta-Richmond County, including profit or fee, shall be appropriately adjusted. Such prices

shall be accurate, complete, and current as of the date agreed upon between Augusta-Richmond County and the contractor.
(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-35. Cost or price analysis.

A cost analysis or a price analysis, including life cycle costing as appropriate, may be conducted prior to award of a contract. If this technique is to be used, notice shall be provided the bidder/offeror in the bid solicitation or request for proposals. A written record of such cost analysis or price analysis shall be made a part of the contract file.

Sec. 1-10-36. Bid and performance bonds when required.

Bid and performance bonds or other security shall be requested for any contract as the Procurement Director, using agency head, and/or Administrator deem advisable to protect Augusta-Richmond County's interest under circumstances specified herein. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used by the staff as a substitute for an affirmative determination of an offeror's level of responsibility (see section 1-10-33).
(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-37. Bid bonds.

(a) *Requirements.* Bid security shall be required, primarily for construction contracts, when the value is estimated to exceed forty thousand dollars (\$40,000.00).

Bid security shall be a bond provided by a surety company authorized to do business in the State of Georgia or the equivalent in cashier's or certified check (Checks shall be made payable to Augusta-Richmond County), or such other security as approved by the Augusta-Richmond County Attorney.

Nothing herein prevents the requirements of such security on construction and other purchases less than forty thousand dollars (\$40,000.00) when the circumstances warrant such requirements as determined by the Procurement Director and using agency head.

(b) *Amount.* Bid security, when required, shall be in an amount equal to at least ten (10 percent of the amount of bid or an amount certain specified in the solicitation.

The bid security of the three (3) lowest bidders shall be held until contract award. Securities posted by others will be returned shortly after receipt of bids.

Upon failure of an offeror to enter into a contract within ten (10) days after the contract is tendered by Augusta-Richmond County, the offeror's security is subject to forfeit.

(c) *Rejection of bids/noncompliance with bid bond requirement.* When the Invitation for Bids requires bid security, any bid submitted without such security shall be rejected and returned to the bidder with a written explanation of the action taken.

(d) *Withdrawal of bids.* If a bidder is permitted to withdraw a bid before award, no action shall be taken against the bidder or bid security.
(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-38. Payment and performance bonds.

(a) *Requirement and amount.* When a contract for construction services is awarded in excess of forty thousand dollars (\$40,000.00) the following bonds shall be delivered to Augusta-Richmond County, and shall become binding on the parties upon the execution of the contract:

- (1) A performance bond in the amount of 100% of the price specified in the contract executed by a surety company authorized to do business in the State of Georgia, and in a form and fashion satisfactory to Augusta-Richmond County, and
- (2) A payment bond in the amount of 100% of the price specified in the contract executed by a surety company authorized to do business in the State of Georgia, and in a form and fashion satisfactory to Augusta-Richmond County.

A performance bond insures that the contract will be completed in accordance with contract requirements.

A payment bond is for the protection of all persons supplying labor and material to the contractor or subcontractors for the performance of the work specified in the contract.

Nothing in this chapter shall prohibit Augusta-Richmond County from requiring other contractors or suppliers of professional services to comply with one or both bonding requirements if so determined by the Augusta-Richmond County Administrator, and/or using agency head, to be necessary. The same reserved authority applied to requiring other type bonds determined to be necessary and also requiring bonds on purchases for goods and services of any dollar amount less than forty thousand dollars (\$40,000.00).

Sec. 1-10-39. Insurance requirements.

Standard ranges and types of coverage shall be determined under the direction of the Augusta-Richmond County Administrator and advice of the Augusta-Richmond County Attorney, Risk Management, Finance Director, Procurement Director and other appropriate staff. General requirements shall be reviewed at least once annually. Insurance will be required within established ranges and for specific purposes on an individual contract basis.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-40. Pre-qualifications of contractors.

(a) *When required.* The Procurement Director, in consultation with the Administrator and using agency head may determine that it shall be in the best interest of Augusta-Richmond County to pre-qualify suppliers for contracts of a particular type. The imposed standards must be met by any contractor who wishes to bid on the named project. The contractor shall submit required data in order to obtain a fair and impartial determination of whether a contractor has met such pre-qualification standards. When pre-qualification is required, only those contractors who submit the required pre-qualification information and who are actually pre-qualified to submit a bid or

proposal on the contract in question, or who are parties to a joint venture formed by suppliers who are herewith pre-qualified, shall be allowed to submit bids or proposals on the contract in question.

(b) *Public notice.* Public notice of pre-qualification shall be given in the same manner as provided in section 1-10-43(c).

(c) *Pre-qualification standards.* The Procurement Director and affected using agency heads shall review all information submitted by the suppliers and, if necessary, require additional information. The standards set for pre-qualification shall include but not be limited to factors set forth in section 1-10-43-Sealed Bids; Bid Acceptance and Bid Evaluation and section 1-10-45g)-Sealed Proposals; Evaluation and Selection. If the Procurement Director and Administrator determine that the contractor meets all standards, then the contractor shall be so pre-qualified. The contractor shall be notified in writing.

(d) *Failure to pre-qualify.* Should a contractor not be pre-qualified, appropriate written notice shall be sent and the contractor is entitled to appeal rights as provided in Article 9.

(Ord. No. 6939, § 16, 1-2-07)

ARTICLE 6 PROCUREMENT SOURCE SELECTION METHODS AND CONTRACT AWARDS

Sec. 1-10-41. Generally.

The following sections provide detailed information concerning the use of the six (6) source selection methods available for use for the procurement of commodities, services and construction products for Augusta-Richmond County. The six methods are: (1) sealed bids, (2) sealed proposals, (3) special services, (4) quotations or informal bids, (5) sole source, and (6) emergency procurement. Lastly, these sections provide certain specific requirements applicable to any or all six methods of source selection.

Sec. 1-10-42. Purchase order.

No officer or employee of Augusta-Richmond County shall request a vendor to deliver goods,

merchandise, materials or supplies to the county except upon a regular purchase order issued by the procurement agent; however, the provisions of this subsection shall not apply to emergency purchases provided for in this section. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-43. Sealed bids selection method.

(a) *Conditions for use.* All contracts of Augusta-Richmond County shall be awarded by competitive sealed bidding except as otherwise provided elsewhere in this article (see section 1-10-45-Sealed Proposals; 1-10-46-Professional Services; 1-10-47-Quotations; 1-10-49-Sole Source Procurement; and 1-10-50-Emergency Procurements, of this chapter).

(b) *Invitation for bids and specifications.* An invitation for bids shall be issued by the Procurement Office and shall include specifications prepared in accordance with Article 4 (Product Specifications), and all contractual terms and conditions, applicable to the procurement. All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director. All requests to waive or modify any such material condition shall be submitted through the Procurement Director to the appropriate committee of the Augusta-Richmond County Commission for approval by the Augusta-Richmond County Commission.

(c) *Public notice and bidder's list.* Adequate public notice of the invitation for bids shall be given in reasonable time, not less than ten (10) working days prior to the date set forth therein for the receipt of bids.

- (1) Public works type contracts (defined per Georgia State Law, Code Section 36, Chapter 10, as contracts necessary to build or repair any courthouse, jail, bridge, causeway, or other public works) with values that equal or exceed twenty thousand

dollars (\$20,000.00), shall be advertised at least once weekly for at least four (4) weeks prior to opening of bids.

- (2) Public notice shall include publication for three day within a ten (10) day period in the legal gazette and in local minority owned newspapers. The public notice minimally shall state the place, date, and time of pre-bid conference and/or bid opening, where specification documents may be obtained, and a brief description of the purchase or sale.
- (3) The Procurement Director shall also directly solicit sealed bids from all responsible prospective suppliers whose names appear on the Augusta-Richmond County Bidders' List which the Procurement Director shall maintain.

(d) *Pre-bid conference and addendum.* A conference to be conducted by the Procurement Director and using agency head, if appropriate, hearing will be scheduled at least five (5) working days before receipt of bids. While the pre-bid conference is not a requirement, it is strongly recommended and widely used to further acquaint interested bidders with the bid requirements and items to be purchased and vendor input. Any substantive changes to specifications resulting from the pre-bid conference or other vendor/contractor sessions shall be documented in an addendum and communicated to all bidders registered for the procurement action.

(e) *Bid opening.* Sealed Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the public notice and invitation for bids. The amount of each bid, and such other relevant information as the Procurement Director deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with section 1-10-5 (Public Access to Procurement Information).

(f) *Bid acceptance and bid evaluation.* Provided that the bids are delivered to the Procurement Director at the time, place, and under the

conditions contained in the Invitation for Bids, the bids shall be conditionally accepted without alteration or correction pending evaluation.

Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include bidder responsiveness, capability and past performance, and criteria to determine acceptability such as inspection, testing, quality workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objective and clearly measurable, including but not limited to discounts, transportation costs, and total or life cycle costs. The main advantage of using life-cycle costing is that both initial costs and related costs for the life of the item are considered. When the criterion for awarding the contract is based on lowest responsive bidder, it may mean that the contract specifications are just minimally complied with. Selecting of the lowest bidder could result in a higher incidence of maintenance, and down-time could eat up any savings made if the procurement process considers only the initial cost.

(g) *Correction or withdrawal of bids.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening may be permitted under the circumstances described below:

- (1) Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening.
- (2) After the bid opening, corrections to bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a non-judgmental character was made, the nature of the mistake, and the bid price actually intended. Otherwise, no changes in bid prices or other provisions of bids prejudicial to the interest of Augusta-Richmond County or fair competition shall be permitted.
- (3) In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - a. the mistake is clearly evident in the bid document but the intended correct bid is not similarly evident; or

b. the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

- (4) All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported in a written report made by the Procurement Director.
- (5) Withdrawal after receipt of bids is cause to forfeit bid security unless substantial evidence was presented clearly evidencing the mistake and hardship that would occur to either the County or the bidder in the event of award.

(h) *Tie bids.* In the event two or more bidders are tied in price while otherwise meeting all of the required conditions, the bid shall be awarded to the business which is located within Augusta-Richmond County, or if not within the above, within the State of Georgia. Where no bidder is located in Augusta-Richmond County or in the State of Georgia, the Procurement Director shall call a public forum, cause each bidder or stand-in to write the name of the bidder on paper and placed in a container, the winner to be determined by drawing lots.

(i) *Letting the contract.* The contract shall be awarded or let in accordance with procedures set forth herein. Award shall occur with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

In addition to price and other material factors, the Procurement Director, in consultation with the using agency, shall consider the following in the context of award recommendations:

- (1) The ability, capacity, and skill of the bidder to perform, the contract or provide the services required,
- (2) The capability of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference,

- (3) The character, integrity, reputation, judgment, experience, and efficiency of the bidder,
- (4) The quality of performance on previous contracts,
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services,
- (6) The sufficiency of the financial resources of the bidder relating to his ability to perform the contract,
- (7) The quality, availability, and adaptability of the supplies or services to the particular use required, and
- (8) The number and scope of conditions attached to the bid by the bidder.

(j) *Award to other than low bidder.* When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the purchase order or other contract elsewhere shall be prepared and signed by the Procurement Director and/or Administrator and made part of the record file for audit proposes. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-44. Request for proposals.

Request for proposals shall be handled in the same manner as the bid process as described above for solicitation and awarding of contracts for goods or services with the following exceptions:

- (a) Only the names of the vendors making offers shall be disclosed at the proposal opening.
- (b) Content of the proposals submitted by competing persons shall not be disclosed during the process of the negotiations.
- (c) Proposals shall be open for public inspection after the award is made.
- (d) Proprietary or confidential information, marked as such in each proposal, shall not be disclosed without the written consent of the offeror.
- (e) Discussions may be conducted with responsible persons submitting a proposal

determined to have a reasonable chance of being selected for the award. These discussions will only be for the purpose of clarification to assure a full understanding of the solicitation requirement and responsiveness thereto.

- (f) Nonmonetary revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offers.
- (g) In conducting discussions with the persons submitting the proposals, there shall be no disclosure of any information derived from the other persons submitting proposals.

Sec. 1-10-45. Sealed proposals.

(a) *Conditions for use.* The competitive sealed proposals method may be utilized when the Augusta-Richmond County Administrator approves the written justification of the Procurement Director or using agency head that the sealed bid method is not in the best interest of Augusta-Richmond County. Generally, this method may be used when competitive sealed bidding (involving the preparation of detailed and specific specifications) is either not practicable or not advantageous to Augusta-Richmond County. In the case of procurement computer software, for example, it is in the best interest of Augusta-Richmond County to specify functional requirements and outputs, and allow the bidders to propose based on the closest available product(s) and software or software development services meeting our needs.

(b) *Request for proposals.* Competitive sealed proposals shall be solicited through a request for proposals (RFP).

(c) *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in section 1-10-43(c)(Public Notice and Bidder's List); provided the normal period of time between notice and receipt of proposals minimally shall be fifteen (15) calendar days.

(d) *Pre-proposal conference.* A pre-proposal conference is not required but recommended for purposes of expounding on the requirements and

soliciting vendor/contractor input. Such conferences should be scheduled at least five (5) days prior to the date set for receipt of proposals, and notice shall be handled in a manner similar to section 1-10-44(c)-Public Notice and Bidder's List.

(e) *Receipt of proposals.* Proposals will be received at the time and place designated in the request for proposals, complete with bidder qualification and technical information. Price information shall be separated from the proposal in a sealed envelope and opened only after the proposals have been reviewed and ranked.

The names of the respondents will be identified at the proposal opening; however, no proposal will be handled so as to permit disclosure of the detailed contents of the response until after award of contract. A record of all responses shall be prepared and maintained for the files and audit purposes.

(f) *Public inspection.* The responses will be open for public inspection only after contract award. Proprietary or confidential information marked as such in each proposal will not be disclosed without written consent of the offeror.

(g) *Evaluation and selection.* The request for proposals shall state the relative importance of price and other evaluation factors that will be used in the context of proposal evaluation and contract award. (Pricing proposals will not be opened until the proposals have been reviewed and ranked).

- (1) Selection committee. A selection committee, minimally consisting of representatives of the procurement office, the using agency, and the Administrator's office or their choice shall convene for the purpose of evaluating the proposals.
- (2) Preliminary negotiations. Discussions with the offerors and technical revisions to the proposals may occur. Discussions may be conducted with the responsible offerors who submit proposals for the purpose of clarification and to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions

and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of information derived from proposals submitted by competing offerors.

(h) *Final negotiations and letting the contract.* The Committee shall rank the technical proposals, open and consider the pricing proposals submitted by each offeror, and request final and best offers from the top ranked three firms if available. Award shall be made or recommended for award through the Augusta-Richmond County Administrator, to the responsible offeror whose proposal is determined to be the most advantageous to Augusta-Richmond County, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain a written report of the basis on which the award is made/recommended. The contract shall be awarded or let in accordance with the procedures set forth in this Section and Article 10, section 1-10-71 of this chapter. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-46. Authority to contract for special services.

As used in this section, special services are those professional services, such as those provided by physicians, architects, ministers, engineers, accountants and attorneys, which are normally obtained on a fee basis. In the procuring of professional services those departments which normally utilize such services may contract on their behalf for such service in accordance with this article provided that the following requirements are met:

- (a) The department must solicit the best possible contract with the person providing the professional service.
- (b) Negotiation with the person providing professional services shall include the department head and the Augusta-Richmond County Administrator.
- (c) The department shall obtain the approval of the Commission.

- (d) On those special services in Augusta-Richmond County, where another department head's expertise and recommendations can be of special use, the department procuring such service shall seek the advice of such department head.
- (e) The Commission shall have the authority to continue a contract for professional services from year to year when it is in the best interest of Augusta-Richmond County.
- (f) Depending on the type of the service that is involved, Augusta-Richmond County should look beyond price estimates or bids, to qualifications of the bidder. Cost of the work to be performed should not be given primary and dominant weighing in selecting the professional bidder. The technical factors and qualifications of the staff and firm should be also considered.

Sec. 1-10-47. Quotations or informal bids selection method (Standard and small purchases).

(a) *Conditions for use.* Any standard or small purchase contract or purchase order for supplies, services, and construction not exceeding five thousand dollars (\$5,000.00) in total value may be made in accordance with the purchase procedures authorized in this Section and other applicable provisions of this Article. Contract requirements shall not be artificially divided so as to constitute a small purchase under this Section.

(b) *Request for quotations and specifications.* Requests for quotations may be issued in writing or by telephone for purchases less than five thousand dollars (\$5,000.00). In either case, specifications shall be prepared describing the item or service in a form suitable for an appropriate vendor response.

- (1) Informal oral bid quotations. Quotes from a minimum of three (3) sources shall be obtained, at least one of which shall be from a DBE as provided in section 1-10-52 hereof. Maximum purchase under this system is to be one thousand five hundred dollars (\$1,500.00), including sales tax. Vendor quotes are to be noted on the requisition for retention. The procure-

ment requirement shall not be artificially divided so as to constitute a purchase to be made by this method.

- (2) Informal written bid quotations. Solicitation for written bid quotes shall be obtained from three (3) sources, if available, from the vendor list, at least one of which shall be from a DBE as provided in section 1-10-52 hereof. The maximum purchase under this system is to be ten thousand dollars (\$10,000.00), including sales tax.
- (3) Selection is to be made from the list in the following manner:
 - a. Low bidder on last quote;
 - b. Next vendor on list;
 - c. Next DBE vendor on list (see Article 7);
 - d. Repeat procedure until all vendors have been asked to quote;
 - e. Begin new rotation of vendors by using the last low bidder on quote.

(c) *Public notice.* Notice in the form of advertisements is not required. However, no less than three (3) vendors/contractors shall be directly solicited, if available, to submit quotations.

(d) *Receipt of quotations.* Quotations shall be scheduled for receipt at a date, time and place certain. The amount of each quote and such other relevant information as the Procurement Director deems appropriate, together with the name of each offeror shall be recorded. The record of each quote shall be open to public inspection in accordance with section 1-10-5 (Public Access to Procurement Information).

(e) *Evaluation.* Quotations shall be evaluated based on the requirements set forth in the request for quotations, which may include bidder responsiveness, capability and past performance, and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the quoted price and be considered in evaluation forward shall be objective and clearly measurable, including but not limited to discounts, transportation costs, and total or life cycle

costs. No criteria may be used in the evaluation process that are not set forth in the request for quotations or other notice.

(f) *Correction or withdrawal of quotes.* Correction or withdrawal of inadvertently erroneous quotes before or after the evaluation of the quotes may be permitted under the circumstances described in section 1-10-43(g)(Correction or Withdrawal of Bids).

(g) *Tie bids.* Shall be handled in the manner described in section 1-10-43(h) (Tie Bids).

(h) *Award.* Award shall be made to the most responsible and responsive bidder offering the lowest acceptable quotation. The names of the person submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record. Written quotations are advisable but not expressly required.

(i) *Agency purchases under one hundred dollars (\$100.00) / authority of using agency.* Procurement of an item or article which does not exceed one hundred dollars (\$100.00), including any sales tax, shall be exempt from the bid process except that, where applicable, contract vendors shall be used unless substitution is approved in writing and in advance by the Procurement Director. Further, the procurement requirements shall not be artificially divided so as to constitute a small purchase. A reasonable effort shall be made to negotiate price agreements that will cover much of the small purchase volume.

For purchases of one hundred dollars (\$100.00) or less in value the using agency head may issue a Purchase Order to acquire commodity and service products. The using agency shall obtain adequate and reasonable competition for the supply, service, or construction being purchased. Further, the using agency head shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the small purchase made.

Small purchases under one hundred dollars (\$100.00) may be made by the elected official or using agency head of all using agencies as follows:

- (1) Where the purchase does not exceed one hundred dollars (\$100.00) and a Using Agency Purchase Order is prepared and presented to the vendor.

- (2) A copy of the purchase order shall be forwarded to Finance and Procurement notifying the Director of Finance and Procurement of the purchase and requesting payment to be made from funds previously allocated to such using agency.

(j) *Limitations on small purchases made by using agencies.* When small purchases are made by the using agency head pursuant to Subsection (i), the following requirements shall be met:

- (1) Such purchases are limited to goods and minor services where no contract exists or goods are not stocked by the County. No equipment and furniture purchases are authorized under subsection (i);
- (2) The Using Agency Purchase Orders and original invoices shall be prepared and signed by an authorized party at the using agency level and forwarded to Finance for further processing;
- (3) Purchases shall not be divided artificially to constitute a small purchase; and
- (4) Using agencies are responsible for checking the availability of funds prior to making any small purchase.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-48. Banking services.

(a) *Vendor and payroll accounts.* Requests for Proposals shall be solicited as provided in section 1-10-44 of this chapter for each of these accounts. The Request shall specify that the award shall be for a period of twenty-four (24) months, as the Commission has determined that such period of contracting will best serve the interest of Augusta-Richmond County by encouraging effective competition and promoting economies in Augusta-Richmond County's administration of these services.

(b) *Accounts other than vendor and payroll accounts.*

- (1) Requests for Proposals shall be solicited as provided in section 1-10-44 of this chapter for each such account. The Request shall specify that the award shall be for a period of twenty-four (24) months, as

the Commission has determined that such period of contracting will best serve the interest of Augusta-Richmond County by encouraging effective competition and promoting economies in Augusta-Richmond County's administration of these services.

- (2) As provided in section 1-10-6, local banks shall be contacted first. For purposes of this section, local banks shall be defined as those banking institutions with a full service banking location in Augusta-Richmond County. Further, as provided in Article 7, a banking institution having not more than \$500,000,000.00 in total assets in the State of Georgia shall be considered a DBE.

Sec. 1-10-49. Sole source procurement.

(a) Notwithstanding other provisions in this Article, whenever it shall be made to appear that by reason of design, capacity, compatibility with other equipment or with machinery, purpose, function or other characteristics an item of procurement required by Augusta-Richmond County or one of its departments is obtainable only from one source, the item may be procured by the Procurement Department through negotiation from the source from which it is available without the necessity of bids.

(b) Before any item may be obtained under the provisions of this section, however, the requisitioning agency must accompany its requisition for the order with a statement specifying in reasonable detail the reasons why the item should be procured by negotiation. This specification of reasons shall be in writing and shall be attached to the requisition at the time it is transmitted to the procurement officer.

(c) If the Augusta-Richmond County Administrator, upon considering the requisition and the substantiation therefor, determines that the item should be purchased by sole source procurement and the cost thereof does not exceed ten thousand dollars (\$10,000.00), the Administrator may approve such procurement. If the item exceeds ten thousand dollars (\$10,000.00) in cost, and the

Administrator determines that sole source procurement is appropriate, the requisition shall be referred to the Commission for action.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-50. Emergency procurement selection method.

Notwithstanding any other provisions of this chapter, the Procurement Director, Augusta-Richmond County Administrator or constitutional officer may make or authorize others to make emergency procurement of equipment, supplies, services, general construction, or public works type construction services when there exists a threat to public health, welfare, or safety, or where daily operations are affected; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification number of the contract file. A written report explaining the determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file, and a copy of same provided the Augusta-Richmond County Commission at their next regular meeting in the case of public works contracts as defined by Georgia State Law or other Augusta-Richmond County purchases when the value of the purchase exceeds ten thousand dollars (\$10,000.00).

In the event an emergency should arise after office hours or on holidays or weekends which requires immediate action on the part of the using agency involved and where it is not possible or convenient to reach the Procurement Director, constitutional officer, or Administrator, the using agency head is authorized to make purchases. Such purchases shall be well documented, packaged for payment, and forwarded to the Procurement Director within twenty-four (24) hours, if possible, after occurrence.

Emergency purchases by the Augusta-Richmond County Commission shall be made as provided in 1975 Ga. Laws p. 4334, as amended. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-51. Specific requirements/options for source selection method.

(a) *Encumbrance of funds.* The Procurement Director shall not execute any contracts or purchase orders, except in the case of certain emergency purchases, until the Finance Department staff certifies, after pre-audit, that there is to the credit of the using agency concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of the order.

(b) *Cancellation of bids or request for proposals.* A bid(s) may be canceled at any time prior to opening the bid upon determining that mistakes occurred in the preparation of the bid to warrant such action, Augusta-Richmond County's requirements changed to the extent that the goods or services are no longer needed, or due to insufficient funds. The Procurement Director shall document for the files the specific reason(s) for cancellation and promptly notify the vendor(s) in writing of Augusta-Richmond County's decision.

(c) *Multi-step proposals/sealed bids.* When it is considered impractical to initially prepare a product purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined by the Procurement Director and using agency head to be technically acceptable under the criteria set forth in the first solicitation. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-52. Rejecting bids; negotiating; re-advertisement.

(a) *Conditions for use.* An invitation for bids/quotes, a request for proposals, or other solicitation may be canceled, or any or all bids may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of Augusta-Richmond County. The reasons thereof shall be made part of the contract file. Each solicitation issued by Augusta-Richmond County shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of Augusta-Richmond

County. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.

(b) *Authority to reject/cancel.* If the value of the bid is \$10,000 or greater, the Augusta-Richmond County Commission shall have the authority to reject/cancel any and all bids. If the bid/quote is less than \$10,000, the administrator shall have the authority to reject/cancel any and all bids, quotes and proposals.

(c) *Negotiating.* If the low responsive and responsible bid for the project exceeds available funds as certified by the Finance Department staff, and such bid does not exceed such funds by more than twenty percent (20%), the Augusta-Richmond County Administrator and the Procurement Director are authorized, when time permits, or economic considerations preclude further re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsive bidder, in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.

(d) *Readvertisement.* In the event that the negotiating process set forth in subparagraph (c), above, is unsuccessful, the Procurement Director may, in the alternative, readvertise for the purpose of receiving a new set of bids. Therefore, if the lowest and best bid exceeds the budgeted amount and the Augusta-Richmond County Commission does not appropriate additional funds, the Procurement Director may readvertise for bids after making sufficient changes in the specifications to bring the project within budget. (Ord. No. 6706, § 1, 7-1-04; Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-53. Multi-term contract.

(a) *Maximum period.* A contract for services or supplies may be entered into for a period up to five (5) years, provided that the term of the contract and the conditions for renewal or extension, if any, are included in the solicitation and

funds are available for the balance of the then current fiscal year. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds. All multi-year contracts shall contain a clause which terminates the contract at the beginning of a fiscal year when funds are not appropriated by the Commission for continuation of the contract for that fiscal year.

(b) *Determination prior to use.* Prior to the utilization of a multi-term contract, it shall be determined in writing:

- (1) that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- (2) that such a contract will serve the best interest of Augusta-Richmond County by encouraging effective competition or otherwise promoting economies in procurement.

(c) *Cancellation due to unavailability of funds in succeeding fiscal periods.* All multi-term contracts shall include provisions providing that when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled with appropriate notice.

(d) *Renewal of contract.* At least ninety (90) days prior to the expiration of any term of a multi-term contract, the using agency shall submit to the Augusta-Richmond County Administrator, a report of the performance of the contract and the agency's recommendation as to the renewal of the contract. The Administrator, after consultation with the using agency and review of the report, and upon appropriate approval, shall renew the contract if renewal is in the best interest of Augusta-Richmond County. All other requirements of this Section must be met in order to consummate a renewal.

(e) *Expiration and extension.* Contracts being considered for renewal or re-bid may be extended by the Administrator for a period of time not exceeding ninety (90) days. Any extensions are subject to the availability of funds and mutual agreement of the vendor/contractor and Augusta-Richmond County.

Sec. 1-10-54. Right to inspect facilities.

Official representatives of Augusta-Richmond County shall have the right to inspect facilities of a vendor at any reasonable time which is related to the performance of any contract award, bid on or to be awarded by Augusta-Richmond County.

Sec. 1-10-55. Right to audit records.

Official representatives of Augusta-Richmond County may, at reasonable times and upon reasonable written notice to vendor, inspect the official records of the person or firm pertaining to a contract, change order, or purchase order with Augusta-Richmond County when such inspection is required by law, or is authorized by the Administrator in writing as being in the public interest.

Sec. 1-10-56. Use of state contracts.

The Procurement Director may, independent of the requirements of bid process of this article, procure supplies, services or construction items through the contract established by the procurement division of the State of Georgia. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-57. Rebidding or cancellation of existing contract.

In the event a vendor is unwilling or unable to perform a contract or the vendor gives written notice of cancellation of an existing contract, the Procurement Director may immediately pursue a replacement of said contract either by formal or informal bid procedure as is appropriate, with the approval of the Augusta-Richmond County Administrator. The Procurement Director may accept a next lowest bidder. The options selected shall be the most advantageous to Augusta-Richmond County. (Ord. No. 6939, § 16, 1-2-07)

ARTICLE 7 DISADVANTAGED BUSINESS ENTERPRISES (DBE) PROGRAM (RESERVED)

Note—Under Review-Reference Court Order 3/14/07 enjoining race-based portion of DBE Program—*Thompson Wrecking Company v Augusta Civil Rights Action.*

ARTICLE 8 SUSPENSION OR DEBARMENT OF BIDDER OR PROPOSER

Sec. 1-10-63. Authority to suspend or debar from qualified bidder/proposer list.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Augusta-Richmond County Commission is authorized to suspend or debar a person for cause from consideration for award of contracts. The suspension may be for a period of not more than three months. The debarment shall be for a period of not more than three years. The Augusta-Richmond County Administrator is authorized to suspend a person from consideration for award of contracts if there is any activity which might lead to debarment. The Administrator's suspension shall be for a period not to exceed thirty (30) days.

Sec. 1-10-64. Causes for suspension and debarment.

The causes for suspension or debarment may include, but are not limited to:

- (a) Conviction for the commission of a criminal offense as an incident to obtaining or attempting to obtain any public or private contract or subcontract, or in the performance of such contract or subcontract;
- (b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, indicating a lack of business integrity or business honesty;
- (c) Conviction under state or federal anti-trust statutes arising out of the submission of any bids or proposals;
- (d) Violation of prior Richmond County contract provisions, as set forth below, of a character which is regarded by Augusta-Richmond County to be so serious as to justify suspension or debarment action, such as:
 - (1) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in any prior Richmond

County contract; or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Richmond County contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be basis for debarment;

- (e) Any other cause determined to be so serious and compelling that would materially affect or has materially affected the responsibility of a contractor in the performance of his duties under any contract, including debarment by another governmental entity for any cause listed in this chapter; and
- (f) For violation of any ethical standards set forth in Article 2 (Ethics in Public Contracting) of this chapter.

Sec. 1-10-65. Decision to suspend or debar.

Any decision to suspend or debar a person may be made by the Augusta-Richmond County Administrator or to recommend suspension or debarment to the Commission shall be in writing and shall state the reasons for the action or recommended action and inform the suspended person of their rights to an administrative appeal to the Commission. Any decision by the Commission to suspend or debar any person from the procurement process shall be on the record and in writing and shall state the reasons for the action taken.

Sec. 1-10-66. Notice of decision.

A copy of the written decision required by section 1-10-65 (Decision to Suspend or Debar) shall be mailed by certified mail, return receipt requested, to the suspended or debarred person.

ARTICLE 9 APPEALS AND REMEDIES

Sec. 1-10-67. Procurement protests.

(a) *Right to protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a

contract may protest to Augusta-Richmond County. Protestors shall seek resolution of their complaints initially with the Procurement Director. All protests must be submitted in writing to the Procurement Director.

(b) *Protests concerning invitations to bid.* A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals. If not done by that time, the complaint or protest is lost.

(c) *Stay of procurement during protests.* In the event of a timely protest under subsection (b) of this Section, the Procurement Director shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or until the Augusta-Richmond County Administrator or Commission makes a determination on the record that the award of the contract without delay is necessary to protect the interests of Augusta-Richmond County. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-68. Contract claims.

(a) *Decision of the county administrator.* All claims by a contractor against Augusta-Richmond County relating to a contract shall be submitted in writing to the Augusta-Richmond County Administrator through the officially designated Augusta-Richmond County Project Manager for a decision. The contractor may request a conference on the claims. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

Sec. 1-10-69. Authority of the Augusta-Richmond county administrator to settle bid protests and contract claims.

The Augusta-Richmond County Administrator is authorized to settle any protest regarding the solicitation or award of a County contract, or any claim arising out of the performance of an Augusta-Richmond County contract, prior to an appeal to the Augusta-Richmond County Commission.

Sec. 1-10-70. County's right to amend bid solicitations or awards that are in violation of law.

(a) *Prior to bid opening or closing date for receipt of proposals.* If prior to the bid opening or the closing date for receipt of proposals, the Procurement Director, after consultation with the Augusta-Richmond County Administrator, and the Augusta-Richmond County Attorney, determines that a solicitation is in violation of federal, state, or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable laws.

(b) *Prior to award.* If after bid opening or the closing date for receipt of proposals, the Procurement Director, after consultation with the Administrator or his designee, and the Augusta-Richmond County Attorney determine that a solicitation or proposed award is in violation of federal, state or municipal law, then the solicitation or proposed award shall be canceled.

(c) *After award.* If, after an award, the Procurement Director, after consultation with the Administrator and the Augusta-Richmond County Attorney determines that a solicitation or award of a contract was in violation of applicable law, then the contract shall be revised to comply with applicable law. If Augusta-Richmond County is unable to revise the contract to comply therewith, the contract shall be terminated and declared null and void by the Augusta-Richmond County Commission. (Ord. No. 6939, § 16, 1-2-07)

ARTICLE 10 TYPES OF CONTRACTS

Sec. 1-10-71. Authority to approve, sign and execute contracts by type.

(a) *Generally.* The following section establishes five (5) types of purchases: (1) major purchases, (2) standard purchases, (3) small purchase, (4) using agency purchase, and (5) emergency purchases.

Each type of purchase has its parameters involving: (1) value of purchase, (2) level of approval required within the organization for the purchase, (3) level of budget authorization given

for the purchase, (4) level of authority required for the source selection process, and (5) person within the organization charged with the responsibility to sign the purchase contract document.

(b) *Major purchase contracts.* Capital equipment, construction and all services purchase contracts with a value of twenty thousand dollars (\$20,000.00) or more must have:

- (1) Specific project concept approval by the Commission;
- (2) Specific budget approval (listed in budget) or special funding authorization by the Commission;
- (3) Commission approval of the source selection method and award of contract; and
- (4) Contract to be signed by the Mayor.

(c) *Standard purchase contracts.* Goods and services purchase contracts with a value less than twenty thousand dollars (\$20,000.00) but more than one thousand five hundred dollars (\$1,500.00) must have:

- (1) General project concept approval by the Commission and/or Augusta-Richmond County Administrator;
- (2) General budget approval (e.g. could be unspecified within a larger account) by the Commission and specific budget approval of the Administrator, or special funding authorization by the Commission or the Administrator (if the transfer of funds is necessary and general project concept not approved previously by the Commission);
- (3) Administrator approval of source selection method and award of contract; and
- (4) Contract to be signed by the Mayor.

(d) *Small purchase contracts.* Small purchases of less than \$1,500 but more than one hundred dollars (\$100.00) must have:

- (1) General project concept approval by the Commission or Augusta-Richmond County Administrator;

- (2) General budget approval by the Commission (e.g. could be specified within a larger account) and specific budget approval of using agency head as designee of the Administrator, or special funding authorization by the Administrator (when transfer of funds is necessary and general project concept not previously approved by the Commission or Administrator);

- (3) Using agency head approval of source selection method and Administrator award of contract; and

- (4) Small purchase orders to be signed by the Procurement Director or designee.

(e) *Using agency purchase contracts.* Using agency purchases (as defined elsewhere) of less than one hundred dollars (\$100.00) must have:

- (1) Specific project concept approval by the Commission;

- (2) General budget approval by the Commission (e.g. could be specified within a larger account) and specific budget approval of using agency head as designee of the Augusta-Richmond County Administrator;

- (3) Using agency head approval of the source selection method and award of contract; and

- (4) Purchase order to be signed by the Procurement Director.

(f) *Emergency purchase contracts.* Emergency purchases (as defined elsewhere) regardless of the amount of the purchase must have:

- (1) Specific project concept approval by the Commission;

- (2) General budget approval by the Commission (e.g. could be unspecified within a larger account) and specific budget approval of the using agency head as the Administrator's designee;

- (3) Using agency head approval of the source selection method and award of contract if during non-standard working hours, or by the Administrator during normal working hours; and

- (4) Contract/small purchase order to be signed by the Administrator, using agency head, or Mayor based on the value of the purchase.

(Ord. No. 6939, §§ 14, 16, 1-2-07)

**ARTICLE 11 COOPERATIVE
PROCUREMENT**

Sec. 1-10-72. Definitions.

(a) *Cooperative procurement.* Procurement conducted by, or on behalf of, more than one public procurement unit.

(b) *Public procurement unit.* The United States Government, any department, agency or division thereof, any county, city, town, and any subdivision of the State of Georgia or public agency of any such subdivision, public authority, educational, health, or other institution, any other non-profit entity which expends public funds for procurement or supplies, services, or construction.

Sec. 1-10-73. Cooperative procurement agreement.

Cooperative procurement may be agreed to between Augusta-Richmond County and other public procurement units. Written agreements are encouraged so as to clearly document the requirements and any special conditions of purchase should a public solicitation be utilized.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-74. Sale, acquisition, or use of supplies.

Augusta-Richmond County may sell to, acquire from, or use any supplies belonging to another public procurement unit independent of the requirements of Article 6 (Procurement Source Selection Methods and Contract Awards) and Article 13 (Supplies and Fixed Assets Management Programs).

Sec. 1-10-75. Cooperative use of supplies or services.

Augusta-Richmond County may enter into an agreement with any public procurement unit for the cooperative use of supplies or services under the terms agreed upon between the parties.

Sec. 1-10-76. Joint use of facilities.

Augusta-Richmond County may enter into agreements for the common or joint use or lease of warehousing facilities, capital equipment, and other facilities with any public procurement unit under the terms agreed upon between the parties.

Sec. 1-10-77. Use of state contracts.

Augusta-Richmond County may procure supplies, services or construction items through contracts established by the Procurement Division of the State of Georgia where such contracts and contractors substantially meet the requirements of the Augusta-Richmond County Code and this chapter governing procurement procedures.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-78. Purchase of surplus and excess property.

Augusta-Richmond County may purchase surplus and excess personal and real property from the United States Government or any other public procurement unit upon verification of need, fund availability, and approval by the appropriate level of authority within Augusta-Richmond County as detailed in Article 10, section 1-10-1001 of this chapter.

Sec. 1-10-79. Waiver.

Any use of cooperative procurement as described above is independent of the requirements for source selection and contract award as described in Article 6 of this chapter.

**ARTICLE 12 CONTRACT
ADMINISTRATION AND MANAGEMENT**

Sec. 1-10-80. Purpose.

A contract administration system, designed to insure that a contractor is performing in accordance with the solicitation under which the contract was awarded, shall be maintained by the Procurement Director with assistance from the using agency. Effective administration therefore includes the development of concise and competitive specifications, well developed terms and conditions of contract, and prompt, efficient day-to-

day administration. Contract administration generally shall be the responsibility of the using agency requesting the commodity, general or construction service, except that certain specialized contracts may be administered by selected trade professionals, e.g., architects, engineers, construction managers, etc.
(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-81. Augusta-Richmond County contracts and contract clauses.

(a) *Use of model (standard) contracts and clauses.* The Procurement Director, after consultation with the Augusta-Richmond County Administrator, using agency head, and Augusta-Richmond County Attorney, may establish standard contract clauses for use in County contracts for various commodities, services and construction products. Such contracts shall include provisions necessary to clearly define the responsibilities and rights of the parties to the contract.

(b) *Provisions of Augusta-Richmond County contracts.* Whether designed as a model or standard contract provision or specifically tailored for a particular contract, all Augusta-Richmond County contracts should include provisions for:

- (1) The unilateral right of Augusta-Richmond County to order in writing a temporary stopping of work, or scope, of the contract;
- (2) The unilateral right of Augusta-Richmond County to order in writing a temporary stopping of the work, or delaying performance that does not alter the scope, of the contract;
- (3) Variations, occurring between estimated quantities of work in contract and actual quantities;
- (4) Defective pricing;
- (5) Liquidated damages;
- (6) Specified excuses for delay or non-performance;
- (7) Termination of the contract for default;
- (8) Termination of the contract in whole or in part for the convenience of Augusta-Richmond County;

- (9) Payment procedures;
- (10) Hold harmless provisions;
- (11) Prohibition against contingent fees;
- (12) Suspension of work on a construction project ordered by Augusta-Richmond County;
- (13) Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
 - a. When the contract is negotiated,
 - b. When the contractor provides the site or design, or
 - c. When the parties have otherwise agreed with respect to the risk of differing site conditions, and
- (14) Insurance requirements.
- (15) Contractor's consent to venue in the Superior Court of Richmond County, Georgia; and
- (16) Provision that contract supersedes any and all provisions of the Georgia Prompt Pay Act.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-82. Contract modification.

Every modification to a contract with Augusta-Richmond County, which has not been previously approved by the Augusta-Richmond County Commission, shall be subject to prior approval by the Commission. A contract modification does not require Commission action if a contingency amount has been approved and the contract modification is within that amount and provided the Augusta-Richmond County Administrator has been contractually or otherwise specifically designated by the Commission for such purpose.

In instances where the procurement Director, architect/engineer, or project manager, with the approval of the using agency head, and Administrator, determine that the contract modification or change order cannot be delayed without substantial delay and cost to Augusta-Richmond

County and funds are available and the appropriate budget transfer is made, the Administrator may authorize the appropriate action. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-83. Bid security and performance bonds.

(a) *Requirement for bid security.* Bid security shall be required for all competitive sealed bids for construction contracts when the price is estimated by the Procurement Director to exceed forty thousand dollars (\$40,000.00). Bid security shall be a bid bond provided by a surety company authorized to do business in the State of Georgia, or the equivalent in a cashier's or certified check made payable to Augusta-Richmond County. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$40,000 when the circumstances warrant.

(b) *Amount of bid security.* Bid security shall be in an amount equal to at least ten (10) percent of the amount of the bid. Except for the three (3) lowest bidders, unsuccessful bidders shall be entitled to the return of the bid security. Upon failure of a successful bidder to enter into a contract within an established time frame after Augusta-Richmond County tenders the proposed contract, the bidder shall forfeit the bid security. Upon approval of the contract by the Commission, the remaining bid securities shall be returned.

(c) *Rejection of sealed bids for noncompliance with bid security and authority.* If required, and the bid security is not included with the bid, the Procurement Director shall recommend to the Commission that the bid be rejected.

(d) *Withdrawal of bids.* If a bidder is permitted to withdraw its bid before award as provided in section 1-10-42(g) (Sealed Bidding; Correction or Withdrawal of Bids) no action shall be taken against the bidder or the bid security. (Bidder entitled to return of bid security). (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-84. Contract performance and payment bonds.

(a) *When required—Amounts.* When a construction contract is awarded in excess of forty thousand dollars (\$40,000.00), the following bonds or

security shall be delivered to Augusta-Richmond County and shall become binding on the parties upon the execution of the contract:

- (1) A performance bond satisfactory to Augusta-Richmond County, executed by a surety company authorized to do business in the State of Georgia or otherwise secured in a manner satisfactory to Augusta-Richmond County, in an amount equal to 100% of the price specified in the contract; and
- (2) A payment bond satisfactory to Augusta-Richmond County, executed by a surety company authorized to do business in the State of Georgia or otherwise secured in a manner satisfactory to Augusta-Richmond County, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred (100) percent of the price specified in the contract.

(b) *Reduction of bond amounts.* Prior to the taking of bids, the Procurement Director and architect/engineer or project manager, upon approval of the Administrator, may reduce the amount of performance and payment bonds when a written determination is made that it is in the best interest of Augusta-Richmond County to do so, provided Georgia law does not mandate the amount of such bond.

(c) *Authority to require additional bonds.* Nothing in this Section shall be construed to limit the authority of Augusta-Richmond County to require other security in addition to those bonds if warranted by the circumstances and other than specified in Subsection (1) of this Section. (Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-85. Bond forms and copies.

The form of payment and performance bonds and other required bonds shall be prescribed by the Augusta-Richmond County Attorney.

Any person may request and obtain from Augusta-Richmond County a certified copy of a bond upon payment of the cost of reproduction of the

bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

Sec. 1-10-86. Retainage.

(a) *Maximum amount to be withheld.* In any contract or subcontract for construction which provides for progress payments in installments based upon an estimated percentage of completion with a percentage of the contract's proceeds to be retained by Augusta-Richmond County pending completion of the contract or subcontract, the retained amount of each progress payment or installment shall be no more than ten (10) percent). The retainage may be reduced to five (5) percent after fifty (50) percent of the work is complete if Augusta-Richmond County desires.

(b) *When used.* Retainage may be applied to any construction contract, regardless of the dollar amount. Its use shall be so decided prior to release of the project for bid. Its use is recommended on projects of less than twenty thousand dollars (\$20,000.00) value when the bonds have been waived.

(c) *Release of retainage.* Funds held by Augusta-Richmond County as retainage under the contract shall be released upon completion and acceptance of work except as described herein.

(d) *No interest on retainage.* No interest shall be due to any contractor on any sum held as retainage pursuant to any construction contract.

Sec. 1-10-87. Wage and requirements for federally funded projects.

When a project has federal funds, the prevailing wages paid shall correspond as nearly as practicable to those prescribed in the Federal Davis Bacon Act when required. The wage scale shall be posted by the contractor in a prominent and easily accessible place at the site of work in accordance with Federal Government requirements.

Sec. 1-10-88. Approval of accounting system.

Except with respect to firm fixed-price contracts, no contract type shall be used unless it has been determined in writing by Augusta-Richmond County that:

- (a) The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type completed; and
- (b) The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

Sec. 1-10-89. Contractual provisions for worksite inspections.

All contracts shall provide that Augusta-Richmond County may, at reasonable times, inspect the part of the plant, place of business, or work site of a contractor or subcontractor or subunit thereof which is pertinent to the performance of any contract awarded or to be awarded by Augusta-Richmond County.

Sec. 1-10-90. Contractual provisions for auditing records.

(a) *Audit of costs or pricing data.* All contracts shall provide that Augusta-Richmond County may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to section 1-10-502 (Cost or Pricing Data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who received a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.

(b) *Contract audit.* All contracts shall provide that Augusta-Richmond County shall be entitled to audit the books and records of a contractor or subcontractor at any time under any negotiated contract or subcontract other than a firm fixed-

price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract.

Sec. 1-10-91. Reporting of anti-competitive practices to state.

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State Attorney General by the Augusta-Richmond County Attorney.

ARTICLE 13 SUPPLIES AND FIXED ASSETS MANAGEMENT PROGRAMS

Sec. 1-10-92. Surplus supplies.

(a) Supplies. Goods, equipment, material and other personal property owned by Augusta-Richmond County.

(b) Surplus supplies. Any goods, equipment, materials and personal property no longer having any use to Augusta-Richmond County as determined by official action of the Commission.

(c) Generally, salvageable surplus supplies are divided into categories as described below:

- (1) *Scrap.* Any ferrous supplies that can be used for remelting to produce iron, steel, or its alloys.
- (2) *Waste.* All non-metallic refuse which has market value, e.g. paper.
- (3) *Worn or damaged.* Either scrap or waste supplies that may be sold or used as trade-in.
- (4) *Obsolete and surplus.* Any supplies that are of no use by Augusta-Richmond County.
- (5) *Excess.* Any supply that does not have a useful purpose for a particular department or agency. The supply may have

value, within other departments or Augusta-Richmond County agencies and may be transferred.

(Nothing herein refers to the sale, lease or disposal of real property.)

Sec. 1-10-93. Fixed asset management.

The Fixed Assets Management function in Augusta-Richmond County was implemented for the purpose of surveying and documenting all County owned personal assets, performing regular audits of County assets, centralizing the administration and control of excess supplies and determining whether excess supplies are suitable for other uses prior to disposition and prior to procuring new items of similar quality and functionality. Also, the Procurement Director shall regularly check with agencies regarding the use and availability of excess or potentially surplus items.

With respect to surplus supplies, all using agencies shall submit to the Procurement Director, at such times and in such forms as prescribed, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped. The Fixed Assets Manager shall determine whether the item (s) can be relocated for further use by other departments or agencies prior to disposition. If the item (s) has no further use to Augusta-Richmond County, the Procurement Director shall prepare a report to the Augusta-Richmond County Administrator advising that office of the item (s) available for disposition.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-94. Supplies management.

(a) *Responsibility.* The Procurement Director has responsibility for the sale, lease, or disposal of surplus supplies. No employee or official of Augusta-Richmond County nor their agent shall be entitled to purchase such supplies.

- (1) The Procurement Director is responsible for the sale, or disposal of supplies via means described below; except that it shall first be determined that the item (s) has no further use by Augusta-Richmond County.

(2) The Procurement Director shall handle the procurement of auction facilities and professional auction services, and the advertisement process, or coordinate the sealed bidding process.

(3) The Augusta-Richmond County Commission shall authorize the sale, lease, or disposal of surplus supply items when necessary and appropriate.

(b) *Surplus supplies—How disposed.*

(1) Auction or sealed bids.

(2) Transfer to other using agency or public entity.

(3) Trade-in on new supplies or equipment.

(c) *Award.* Award shall be made in accordance with the invitation for bids or public outcry to the highest bidder if the price is reasonable and acceptable to Augusta-Richmond County.

(d) *Payment.* U.S. currency, U.S. Postal Money Orders, local personal checks, certified checks, or cashier's checks are acceptable methods of payment.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-95. Severability.

Should any section, paragraph, subdivision, clause, phrase, or provision of this chapter be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole or any part or provisions thereof, other than the part so decided to be invalid or unconstitutional.