



**Administration Committee
1:00 p.m., Tuesday, May 5, 2026
City Hall Council Chambers
1207 Palm Boulevard, Isle of Palms, SC**

Public Comment:

Citizens who wish to speak during the meeting must email their first and last name, address and topic to Nicole DeNeane, City Clerk, at nicoled@iop.net no later than 3:00 p.m. the day before the meeting. Citizens may also provide written public comment here: <https://www.iop.net/public-comment-form>

Agenda

- 1. Call to order and acknowledgement that the press and the public have been duly notified of the meeting in accordance with the Freedom of Information Act.**
- 2. Citizen's Comments** – All comments have a time limit of three (3) minutes.
- 3. Approval of previous meeting's minutes** – April 6, 2026 (p2)
- 4. Old Business**
 - a. Discussion on Code of Ethics and Conduct proposed ordinance (p6)
 - b. Discussion on procurement/purchasing procedures (p23)
 - c. Discussion of recodification process for City Code
- 5. New Business**
 - a. Discussion of Director of Building Planning and Zoning position (p36)
 - b. Discussion on remote attendance of meetings (p37)
- 6. Adjournment**



**Administration Committee Meeting
1:00pm, Monday, April 6, 2026
1207 Palm Boulevard, Isle of Palms, SC and
broadcasted live on YouTube: <https://www.youtube.com/user/cityofisleofpalms>**

MINUTES

1. Call to Order

Present: Council members Miller, Pierce, and Ward

Staff Present: Administrator Kerr, Deputy Administrator Keuster, HR Officer Ladd,
Chief Cornett, Chief Oliverius,

2. Citizen's Comments – none

3. Approval of Previous meeting's minutes

MOTION: Council Member Miller made a motion to approve the minutes of the March 3, 2026 meeting. Council Member Ward seconded the motion. The motion passed unanimously.

4. Old Business

A. Discussion and consideration of recommendations from the Wage & Compensation Study and incentives

Council Member Pierce thanked staff and Evergreen for their work on the study.

MOTION: Council Member Pierce made a motion to implement a Base Pay Market Adjustment for the IOP First Responders, General and Administrative employees with the following parameters and pay ranges for each position, as reflected in the most recently reviewed Solution file "IOP 033026":

- **Adjust Fire starting pay to \$54,000 and Police starting pay to \$60,000. These increases will flow through all the respective steps of both pay structures. The base pay budget increase for this adjustment will be \$245,000.**
- **Adjust the starting pay for General employee categories to \$41,600 and adjust the starting pay for Administrative employees to \$82,700. These increases will flow through the respective grades of both pay structures. The base pay budget increase for this adjustment will be \$172,000 using the discounted range penetration adjustment.**
- **Adjust the Police Chief base pay to parity with the Fire Chief.**

- **Include four organizational job classification changes to increase Deputy Police/Fire Chiefs, the Short-Term Rental Coordinator, Business License Representative and Stormwater/Facilities Foreman positions to new grades.**

Council Member Miller seconded the motion.

Council Member Ward sought clarity in the numbers as they related to percentiles and starting pay.

Council Member Pierce said, “We are positioning these jobs and these classifications to be competitive.” He said first responder pay is now above the 80th percentile for entry level firefighter positions.

He added, “We are also providing Police and Fire with a budget amount so that if they want to do some redistribution, we are not being prescriptive as a council. We are setting policy and we are giving parameters so they can define and allocate how they see fit within those budget parameters.”

He added that there are caps on increases.

VOTE: A vote was taken as follows:

Ayes: Miller, Pierce

Nays: Ward

The motion passed 2-1.

MOTION: Council Member Pierce made a motion to implement an Incentive Program for both the Police and Fire departments, created by their leadership, and to be implemented and monitored during the coming fiscal year. These plans will be fine-tuned by the Public Safety committee and leadership. This will be an incremental pay program to the Base Pay adjustment and the budget for the base pay increases associated with these incentive plans will be \$150,000. Council Member Miller seconded the motion. The motion passed unanimously.

MOTION: Council Member Pierce made a motion to increase job pay grades/scales annually, at the beginning of each fiscal year, based on a Bureau of Labor Statistics published and recognized CPI metric – CPI-U-South – and that the metric be used also for budgeting increases in the annual budgeting process, with maximum of 4% and minimum 1% limits, starting with fiscal year 2028. Council Member Miller seconded the motion.

Administrator Kerr clarified, “Historically, we have adjusted the ranges when there has been a cost-of-living-adjustment in that year’s budget;” noting that such adjustments are not in every budget approved by Council.

Council Member Pierce added that City Council will decide on the merit pool during budget discussions.

VOTE: A vote was taken with all in favor.

MOTION: Council Member Pierce made a motion to recognize up to one half (1/2) of relevant work experience of new hires and to give discretion to place new hires accordingly up to a maximum of midpoint within a pay grade and scale. Council Member Miller seconded the motion.

Chief Oliverius expressed concern about how this proposal affects current employees. “I think we could have some compression challenges if we do not extend that to incumbents.”

Council Member Pierce said, “For the record, I think the intention is to address the existings.” Council Member Miller said it will be addressed on a case-by-case basis going forward.

Administrator Kerr said, “Once Council has made their direction clear, there will be some of this type of cleanup stuff that we would need to internalize, look at, be sure that we are dealing with any inequities.” He said if an adjustment is needed, it will be brought back to Council.

VOTE: A vote was taken with all in favor.

Council Member Pierce recommended that the City adopt an updated structured and documented policy for overtime assignment and tracking to ensure fairness, compliance and assist with personnel planning, to be created by staff working with Evergreen, and presented to the Administration Committee for review.

It was decided that this is a matter that can be addressed in the future. Council Member Pierce said he would like to have competitive market reviews done more frequently so that wage concerns can be addressed earlier. He would also like the performance appraisal process to be streamlined and shortened.

Council Member Pierce briefly addressed turnover statistics, stating that 20-25% of recent exit interviews indicated pay was the reason for leaving.

B. Review of updated organization chart

Council Member Pierce noted one change related to the Deputy City Administrator had been made. The chart now reflects the Deputy City Administrator and all department heads reporting to the City Administrator. Council Member Miller asked for clarity regarding the Building Official, the second Building Clerk, the Public Information Officer, and the Director of Building. Administrator Kerr pointed out that he also serves as the Director of Building and Planning. This position is currently not on the organizational chart. That will be addressed at a future meeting.

C. Discussion of Code of Ethics and Conduct proposed ordinance

Administrator Kerr said this draft is still with the City Attorney. He hopes to have something for the Committee to review in May.

D. Discussion on Procurement/purchasing procedures

Council Member Pierce said this matter should be forwarded to the May agenda.

5. New Business – none

6. **Executive Session**

MOTION: Council Member Pierce made a motion to enter into Executive Session pursuant to SC Code Section 30-4-70(a)(1) to discuss the City Administrator's recommendation for appointment of a new Director of Public Works. Council Member Miller seconded the motion. The motion passed unanimously.

The Administration Committee entered into Executive Session at 1:47pm.

The Administration Committee returned from Executive Session at approximately 1:48pm.

MOTION: Council Member Pierce made a motion to recommend Robert Asero for the position of Director of Public Works effective May 5, 2026. Council Member Ward seconded the motion. The motion passed unanimously.

7. **Miscellaneous Business**

The next meeting of the Administration Committee will be held on Tuesday, May 5, 2026 at 1pm.

8. **Adjournment**

Council Member Ward made a motion to adjourn, and Council Member Miller seconded the motion. The meeting was adjourned at approximately 1:48pm.

Respectfully submitted,

Nicole DeNeane
City Clerk

WHEREAS, the City Council of the City of Isle of Palms finds that public confidence in municipal government depends upon elected and appointed officials conducting themselves with integrity, civility, transparency, impartiality, and respect for the rule of law; and

WHEREAS, members of City Council and members of City boards, committees, and commissions exercise important public responsibilities and should be guided by clear standards of conduct while serving in their respective offices; and

WHEREAS, the City Council desires to adopt a uniform Code of Ethics Ordinance to promote public trust, encourage fair and equal treatment of all persons and matters coming before the City, and provide standards addressing conflicts of interest, gifts and favors, confidential information, use of public resources, representation of private interests, social media, and interactions with City staff and City boards, committees, and commissions; and

WHEREAS, the City Council recognizes that the South Carolina Ethics, Government Accountability, and Campaign Reform Act, the South Carolina Freedom of Information Act, applicable election laws, and other federal and state laws govern certain conduct of public officials and public members; and

WHEREAS, the City Council intends for this Ordinance to supplement, and not replace, limit, or conflict with, applicable federal law, state law, or the jurisdiction of the South Carolina State Ethics Commission, the Attorney General, a solicitor, a court, or any other appropriate authority; and

WHEREAS, the City Council further desires to establish a fair and orderly local process for receiving, reviewing, and addressing complaints alleging violations of the City's Code of Ethics Ordinance that do not require a determination of a state law violation; and

WHEREAS, the City Council finds that the appointment of a qualified and independent hearing officer to review complaints, make findings, and provide recommendations will promote fairness, consistency, and public confidence in the complaint process; and

WHEREAS, the City Council further finds that this Ordinance serves a valid public purpose by promoting ethical conduct, orderly governance, public accountability, and confidence in the fair operation and integrity of City government.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Isle of Palms, South Carolina, in duly assembled meeting, that the City Code is hereby amended to adopt a Code of Ethics Ordinance for members of City Council and appointed members of City boards, committees, and commissions, as set forth herein.

PURPOSE AND AUTHORITY

The City Council of the City of Isle of Palms adopts this Code of Ethic Ordinance to provide a uniform set of standards so that elected and appointed officials, while exercising their respective offices, shall conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of the City's government and provide enforceable ethical standards. The City adopts this Code of Conduct Ordinance to supplement, and not replace or limit,

applicable federal law, state law, and rules of procedure, including but not limited to, the South Carolina Ethics, Government Accountability, and Campaign Reform Act and the South Carolina Freedom of Information Act. To the extent any provisions contained in this Code of Conduct conflict with state law, state law shall control.

DEFINITIONS

For purposes of this Code:

- (1) **Member** means any member of Isle of Palms City Council, including the Mayor, and any appointed member of a City board, committee, or commission.
- (2) **Economic Interest** means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a member may gain an economic benefit of fifty dollars or more. This definition does not prohibit a member from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the member is incidental to the member's position or which accrues to the member as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.
- (3) **Family Member** means spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of the member, or a member of the member's immediate family.
- (4) **Immediate Family** means a child residing in a member's household or an individual claimed by the member or the member's spouse as a dependent for income purposes.
- (5) **Substantial Monetary Value** means a monetary value of fifty dollars or more.

GENERAL STANDARDS OF CONDUCT

Members shall conduct themselves in accordance with the following standards:

(1) Act in the Public Interest.

Members shall work for the common good of the residents and visitors of the City and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims, and transactions coming before them.

(2) Compliance with Law.

Members shall comply with all applicable federal, state, and municipal laws, including but not limited to the South Carolina Ethics, Government Accountability, and Campaign Reform Act, the South Carolina Freedom of Information Act, and other applicable election laws and financial disclosure requirements.

(3) Conduct of Members.

The professional and personal conduct of Members while exercising their office must be above reproach and avoid the appearance of impropriety. Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other Members, the City Staff or public. Members shall practice civility and decorum during public debate.

(4) Respect for Process.

Members shall perform their duties in accordance with the procedures, processes, and rules set forth in the City Code, Robert's Rules of Order, and the rules of conduct contained in the South Carolina Ethics, Government Accountability, and Campaign Reform Act. Members shall honor the role of the Mayor and Chairperson in maintaining order during public meetings.

(5) Decisions Based on Merit.

Members shall base their decisions on the merits and substance of the matter at hand. When making decisions, Members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

(6) Conflict of Interest.

Members shall comply with the South Carolina Ethics, Government Accountability, and Campaign Reform Act. Should a matter before the City affect the economic interest of the Member, family member, an individual with whom the Member is associated, or a business with which the Member is associated, the Member shall prepare a written statement describing the matter and the potential conflict, provide it to the presiding officer, and be excused from votes, deliberations, and other action on the matter. The written statement and the reason for disqualification shall be entered into the minutes. A recused Member should leave the dais during discussion and vote.

(7) Gifts and Favors.

Members shall not, directly or indirectly, solicit, accept, or receive any gift, favor, loan, promise, service, lodging, transportation, entertainment, payment, or other thing of value in violation of S.C. Code Ann. §§ 8-13-705, 8-13-710, 8-13-715, 8-13-1120, or any other applicable law. A Member shall not knowingly accept a gift from a person or entity that is seeking or has recently sought official action, a contract, permit, license, zoning approval, funding, or other City action, except for lawful campaign contributions, gifts from family members, or other items permitted under state law.

(8) Confidential Information.

Members must maintain the confidentiality of all written materials and verbal information provided to Members which is confidential or privileged under South Carolina law, including information provided during executive session, legal advice provided by the City's legal counsel, and any information otherwise protected by South Carolina law. Members shall not use or disclose confidential or non-public information without proper authorization.

(9) Use of Public Resources.

Members shall not use City personnel, equipment, materials, supplies, facilities, email accounts, social-media accounts, vehicles, funds, insignia, or staff time for personal, private business, campaign, or political purposes except as expressly authorized by law and on terms equally available to similarly situated members of the public. Members shall not order goods or bind the City without proper authorization.

(10) Representation of Private Interests.

Members shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, except as permitted by S.C. Code Ann. § 8-13-740 or other applicable law.

(11) Advocacy.

Members shall represent the official policies or positions of the City to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Members shall explicitly state that said position is not endorsed by the City of Isle of Palms.

(12) Policy Role of Members.

Members shall respect and adhere to the council form of City government as provided in the City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City Staff, Boards, Committees and Commissions, and the public. Members shall not interfere with the administrative functions of the City or direct, supervise, discipline, assign work to, or interfere with City Staff, except as authorized by the City Code, adopted Council policy, or state law.

(13) Independence of Boards, Committees and Commissions.

Members shall respect the independent advisory, administrative, and quasi-judicial roles of City boards, committees, and commissions and shall not use their office to unduly influence members of City boards, committees, or commissions or lobby members regarding matters pending before them. This section does not prohibit Members from attending public meetings, responding to factual questions, making referrals through proper channels, or communicating official Council policy when authorized. In quasi-judicial matters, Members shall not have *ex parte* communications and shall comply with all applicable due-process requirements.

(14) Positive Workplace Environment.

Members should make every effort to be cooperative and show mutual respect for the contributions made by each individual for the good of the community. Members shall not retaliate against City employees for truthful participation in ethics investigations.

(15) Social Media. Members using social media (i.e., Facebook, Twitter, YouTube, blogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, etc.) in an official capacity, or in a manner reasonably likely to be understood as speaking for the City, shall do so in accordance with all applicable laws, City policies, public records requirements, confidentiality obligations, and anti-harassment rules. While using social media, members shall not disclose confidential information, knowingly make false statements of official City action, use City resources for campaign purposes, threaten or harass City employees or members of the public, or represent personal views as official City positions.

JURISDICTION OF COUNCIL FOR VIOLATIONS UNDER THIS CODE

Allegations that a Member violated the South Carolina Ethics Reform Act, campaign finance law, lobbying law, statement of economic interests requirements, or other state ethics provisions may be referred to or filed with the South Carolina State Ethics Commission or other appropriate authority. Nothing in this Code limits the jurisdiction of the State Ethics Commission, the Attorney

General, a solicitor, a court, or any other state authority. Further, nothing in this Code grants authority or jurisdiction to Council over matters within the jurisdiction of the State Ethics Commission, the Attorney General, a solicitor, a court, or any other state authority.

Allegations that a Member violated this Code of Ethics Ordinance, but that do not require determination of a state law violation, may be processed under the procedures set forth herein.

RECEIPT OF COMPLAINTS

Complaints against Members for violations of this Code of Ethics Ordinance, shall be filed with the City Clerk provided, however, to discourage the filing of ethics complaints solely for political purposes, complaints will not be accepted against a person seeking election as a Member, whether currently serving as a Member or not, during the 50-day period before an election in which the candidate is running, provided that nothing in this section limits the right to file a complaint with the State Ethics Commission, seek judicial relief, or report suspected criminal conduct to the appropriate authority. The time for filing complaints will not run during this period. Properly filed complaints will be accepted and processed after the 50-day period has expired.

- (a) No action may be taken on any complaint for violations under this Code of Ethics Ordinance that is filed later than one (1) year after a violation of this division is alleged to have occurred, and a complaint alleging a violation must be filed within six (6) months from the date the complainant knew or should have known of the action alleged to be a violation. No proceedings under this article shall be instituted or prosecuted after the earlier of: (i) the expiration of the term of office of the person complained against; or (ii) the resignation, death, vacancy, disqualification or withdrawal from office of the person against whom a complaint is filed. Nothing in this section limits the right to file a complaint with the State Ethics Commission, seek judicial relief, or report suspected criminal conduct to the appropriate authority.
- (b) A separate complaint shall be filed for each person alleged to have engaged in any activity violating this Ordinance even if the allegations arise from the same factual basis. Each complaint shall state: (i) a separate count for each alleged violation; (ii) the specific section of this Code of Ethics Ordinance alleged to be violated for each count; (iii) with specificity, the facts which are alleged to constitute the violation; and (iv) the documentary evidence which the charging party possesses. Copies of said documentary evidence shall be attached to the complaint as exhibits.
- (c) All complaints shall contain an oath that the facts set forth therein are true and correct to the best of the complainant's knowledge.
- (d) Upon receipt of a complaint, the City Clerk will deliver a copy of the complaint to the City Administrator.

APPOINTMENT OF HEARING OFFICER, SERVICE OF COMPLAINT, BURDEN OF PROOF

- (a) All complaints filed hereunder shall be heard before a Hearing Officer who: (i) shall be a competent attorney at law of good standing in his or her profession, (ii) shall have

at least five (5) years' experience in the practice of law, and (iii) shall not maintain an office within a ten (10) mile radius of the City of Isle of Palms, SC. The City Clerk shall maintain a listing of no less than five (5) qualified attorneys to serve as a Hearing Officer pursuant to this section. Upon receipt of a properly verified complaint, the City Clerk shall draw names randomly from the listing of qualified Hearing Officers and appoint the first one who is available to serve in the matter.

- (b) Original pleadings shall be filed with the City Clerk and the City Clerk shall cause the complaint to be served on the member charged as soon as practicable but in no event later than seven (7) calendar days after receipt of a verified complaint. Service may be by personal service, by certified mail, return receipt requested or by overnight delivery.
- (c) In all proceedings under this section, the Hearing Officer shall determine whether a violation of this Code of Ethics Ordinance has been established by a preponderance of the evidence. Proceedings under this Code shall have no bearing on liability under the South Carolina Ethics, Government Accountability, and Campaign Reform Act, criminal liability, criminal penalties, or any other provision under state or federal law.

HEARING

- (a) The member charged in the Complaint shall have fifteen (15) calendar days to file an answer to the complaint provided, however, the member charged shall have no obligation to file an answer to any complaint.
- (b) Upon the expiration of the fifteen (15) calendar day answer period, the Hearing Officer shall review the complaint and answer, if any, to determine: (i) whether the complaint is in conformity of the requirements of Section 3 above, (ii) whether upon consideration of the complaint and answer, the complaint is unjustified, frivolous, patently unfounded, or (iii) whether upon consideration of the complaint and answer, the complaint demonstrates facts sufficient to invoke disciplinary jurisdiction as set forth in this Ordinance
- (c) If the complaint fails based upon the requirements of the foregoing subsection (b), the Complaint shall be dismissed stating the basis for said dismissal. If the dismissal is based upon the failure to comply with Sections 3(d) or 3(e), the Complaining party shall have fifteen (15) days to refile the complaint correcting the defect. If the corrected complaint is not filed within said fifteen (15) day period, the Complaint shall be dismissed.
- (d) Upon a determination that the complaint should not be dismissed pursuant to the foregoing subsection (c), the Hearing Officer shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint. In furtherance of this investigation, the Hearing Officer may:
 - (i) Seek such further information from the complainant or the member charged through inquiry or written questions, provided, however the member charged shall have no obligation to answer any inquiries, or
 - (ii) Conduct a hearing regarding the allegations set forth in the complaint. At any hearing, the member who is the subject of inquiry shall have the right: (i) to representation by counsel at all

stages of these proceedings, (ii) to written notice of the hearing at least ten (10) calendar days before the first hearing, (iii) to hear and examine the evidence and witnesses and, (iv) to submit evidence and call witnesses to oppose or mitigate the allegations. In all hearings held under this section, the procedures and rules of evidence applicable in civil cases shall apply.

(e) All investigations under this section shall be completed within forty-five (45) days of the filing of the complaint, unless otherwise agreed by the complainant or the member charged. Should the investigation not be completed in said period or in a period as otherwise agreed, the complaint will be deemed dismissed as fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Council. Within seven (7) days of the completion of the investigation, the Hearing Officer shall:

- (i) dismiss the complaint on the grounds that it is unjustified, frivolous, patently unfounded, or that it fails to state facts sufficient to invoke the disciplinary jurisdiction of the City Council; or
- (ii) prepare a report of findings and recommendations to the Mayor and City Council.
- (iii) Should the Hearing Officer determine to submit a report in the matter, the report shall consist of: (1) a written finding of facts; (2) a determination as to whether the complaint establishes by a preponderance of evidence that a violation has been committed, and if so, the specific violation and evidence supporting the same, and (3) a recommendation regarding the punishment for such violation (public or private reprimand or censure by City Council).
- (iv) The Hearing Officer's written determination of findings and recommendations shall be delivered to the City Clerk who shall provide a copy to the City Administrator, the Mayor and Council and serve a copy on the complainant and member charged by personal service, email, by certified mail, return receipt requested, or by overnight delivery.

REPORT TO MAYOR AND COUNCIL

- (a) Upon receipt of findings and recommendations from the Hearing Officer, the Mayor and Council may:
 - (i) by a majority, vote to accept the Findings and Recommendations of the Hearing Officer.
 - (ii) by a majority, vote to accept the findings of fact and reject the recommended discipline instead substituting its own discipline.
 - (iii) by a majority, vote to reject the findings and recommendations and dismiss the complaint.

IMPLEMENTATION

This Ordinance shall be included in the regular orientations for candidates elected to City Council and newly appointed members to Boards and Commissions.

CITY OF ISLE OF PALMS

WHEREAS, the City Council of the City of Isle of Palms finds that public confidence in municipal government depends upon elected and appointed officials conducting themselves with integrity, civility, transparency, impartiality, and respect for the rule of law; and

Formatted: Justified

WHEREAS, members of City Council and members of City boards, committees, and commissions exercise important public responsibilities and should be guided by clear standards of conduct while serving in their respective offices; and

Formatted: Font: 12 pt

WHEREAS, the City Council desires to adopt a uniform Code of Ethics ~~and~~ and Conduct Ordinance to promote public trust, encourage fair and equal treatment of all persons and matters coming before the City, and provide standards addressing conflicts of interest, gifts and favors, confidential information, use of public resources, representation of private interests, social media, and interactions with City staff and City boards, committees, and commissions; and

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.5"

Formatted: Justified

Formatted: Font: 12 pt

WHEREAS, the City Council recognizes that the South Carolina Ethics, Government Accountability, and Campaign Reform Act, the South Carolina Freedom of Information Act, applicable election laws, and other federal and state laws govern certain conduct of public officials and public members; and

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.5"

Formatted: Justified

WHEREAS, the City Council intends for this Ordinance to supplement, and not replace, limit, or conflict with, applicable federal law, state law, or the jurisdiction of the South Carolina State Ethics Commission, the Attorney General, a solicitor, a court, or any other appropriate authority; and

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.5"

Formatted: Justified

WHEREAS, the City Council further desires to establish a fair and orderly local process for receiving, reviewing, and addressing complaints alleging violations of the City's Code of Ethics ~~Ordinance and Conduct~~ that do not require a determination of a state law violation; and

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.5"

Formatted: Justified

WHEREAS, the City Council finds that the appointment of a qualified and independent hearing officer to review complaints, make findings, and provide recommendations will promote fairness, consistency, and public confidence in the complaint process; and

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.5"

Formatted: Justified

WHEREAS, the City Council further finds that this Ordinance serves a valid public purpose by promoting ethical conduct, orderly governance, public accountability, and confidence in the fair operation and integrity of City government.

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.5"

Formatted: Justified

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Isle of Palms, South Carolina, in duly assembled meeting, that the City Code is hereby amended to adopt a Code of Ethics ~~and Conduct Ordinance~~ for members of City Council and appointed members of City boards, committees, and commissions, as set forth herein.

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.5"

Formatted: Font: 12 pt, Bold

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Justified

CODE OF CONDUCT ETHICS

FOR ELECTED AND APPOINTED OFFICIALS

Policy PURPOSE AND AUTHORITY purpose

The City Council of the City of Isle of Palms adopts this Code of ~~Conduct~~ **Ethic Ordinances** to provide a uniform set of standards so that elected and appointed officials, while exercising their respective offices, shall conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of the City's government and provide enforceable ethical standards. The City adopts provisions in this Code of Conduct Ordinance shall not supersede state law but are intended to supplement, and not replace or limit, applicable federal law, state law, and rules of procedure, including but not limited to, the South Carolina Ethics, Government Accountability, and Campaign Reform Act and the South Carolina Freedom of Information Act the same. To the extent any provisions contained in this Code of Conduct ~~and conflict with~~ state law ~~are in conflict~~, state law shall control apply.

DEFINITIONS

For purposes of this Code:

- (1) **Member** means any City Council member of Isle of Palms City Council, (including the Mayor,) and any appointed member of a City board, committee, or commission.
- (2) **Economic Interest** means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a member may gain an economic benefit of fifty dollars or more. This definition does not prohibit a member from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the member is incidental to the member's position or which accrues to the member as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.
- (3) **Family Member** means spouse, parent, child, brother, sistersibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchildparent-in-law, child-in-law, or sibling-in-law of the member, or a member of the member's immediate family.
- ~~(4) **Immediate Family** means a child residing in a member's household or an individual claimed by the member or the member's spouse as a dependent for income purposes.~~
- ~~(4) **Substantial Monetary Value Interest** means: a monetary value of fifty dollars or more, \$5,000 or more received in the preceding 12 months in salary, fees, goods, or services; or~~
~~o A creditor/debtor relationship of \$5,000 or more.~~
- (5)

GENERAL STANDARDS OF CONDUCT GUIDELINES AND STANDARDS

~~Members of the City Council and appointed members of Boards and Commissions (hereinafter collectively referred to as "Members")~~ shall conduct themselves in accordance with the following standards:

- (1) **Act in the Public Interest.**
 Members shall work for the common good of the residents and visitors of the City and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims, and transactions coming before them.

Formatted: Font color: Custom Color(28,28,28)
 Formatted: Font color: Custom Color(28,28,28)
 Formatted: Font color: Custom Color(28,28,28)
 Formatted: Font color: Custom Color(28,28,28)
 Formatted: Font color: Custom Color(28,28,28)

Formatted: Font: Bold

Formatted: Font color: Custom Color(28,28,28)
 Formatted: Justified, Indent: Left: 0.5", No bullets or numbering, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Commented [JWI]: Substantial monetary value under S.C. Ethics Reform Act is \$500. An economic interest is the Ethics Reform Act is defined as \$50.

Formatted: List Paragraph, Justified, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Justified

(2) (2) Compliance with both the spirit and the letter of the Law.

Members shall comply with all applicable federal, state, and municipal laws, including but not limited to the of the United States, the State of South Carolina Ethics, Government Accountability, and Campaign Reform Act, the South Carolina Freedom of Information Act, and other applicable election laws; and financial disclosure requirements, and the City of Isle of Palms in the performance of their public duties.

(1)(3) Conduct of Members.

The professional and personal conduct of Members while exercising their office must be above reproach and avoid the appearance of impropriety. Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other Members, the City Staff or public. Members shall practice civility and decorum during public debate.

(2)(4) Respect for Process.

Members shall perform their duties in accordance with the procedures, processes, and rules set forth in the Rules of Order and Procedure in the the processes and rules set forth in the Rules of Order and Procedure in the City Code, Robert's Rules of Order, and the Rules of Conduct contained in the South Carolina Ethics, Government Accountability, and Campaign Reform Act. Members shall honor the role of the Mayor and Chairperson in maintaining order during public meetings.

(3)(5) Decisions Based on Merit.

Members shall base their decisions on the merits and substance of the matter at hand. When making decisions, Members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

(4)(6) Conflict of Interest.

Members shall not comply with the South Carolina Ethics, Government Accountability, and Campaign Reform Act. Should a matter before the City affect the economic interest of the Member, family member, an individual with whom the Member is associated, or a business with which the Member is associated, the Member shall prepare a written statement describing the matter and the potential conflict, provide it to the presiding officer, and be excused from votes, deliberations, and other action on the matter. The written statement and the reason for disqualification shall be entered into the minutes. A recused Member should leave the dais during discussion and vote.

- Participate in a vote or decision affecting:
 - A Family Member
 - Any person or entity in which the Member has a Substantial Interest
- Vote on matters directly affecting their private business
- Use their office for personal financial benefit

• avoid any conflicts of interest, or the appearance thereof, in compliance with the City Code and South Carolina laDisclosure shall be made prior to discussion, and the Member shall abstain where required by law.

(5)(7) Gifts and Favors.

Members shall not, directly or indirectly, solicit, or accept, or receive any gift, favor, loan, promise, service, lodging, transportation, entertainment, payment, or other thing of value in violation of S.C. Code Ann. §§ 8-13-705, 8-13-710, 8-13-715, 8-13-1120, or any other applicable law. anything of value from any person or entity: A Member shall not knowingly accept a gift from a person or entity that is seeking or has recently sought official action, a contract, permit, license, zoning approval, funding, or other City action, except for ~~items excluded from "anything of value" under state law,~~ lawful campaign contributions, gifts from family members, or other items permitted under state law.

~~take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general and shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action, or give the appearance of being compromised, in compliance with South Carolina law.~~Seeking business or contractual relations with the City

- Seeking to influence official action

Exceptions:

- Occasional items received in the normal course of business with a value of less than one hundred dollars (\$100.00) and admission to and or consumption of food and beverages at an event
- Award publicly presented in recognition of public service
- Campaign contributions lawfully reported
- Any gift, loan, or thing of value from a Family member

Formatted: List Paragraph, Justified, Bulleted + Level: 1 + Aligned at: 0.75" + Indent at: 1"

Formatted: Justified

(6)(8) Confidential Information.

Members must maintain the confidentiality of all written materials and verbal information provided to Members which is confidential or privileged under South Carolina law, including information provided during executive session, legal advice provided by the City's legal counsel, and any information otherwise protected by South Carolina law. Members shall not use or disclose confidential or non-public information without proper authorization~~without proper legal authorization, or use such information to advance their personal, financial or other private interests~~for private benefit.

(7)(9) Use of Public Resources.

Members shall not

- Use public resources which are not available to the public in general (e.g., City personnel, equipment, materials, supplies, facilities, email accounts, social-media accounts, vehicles, funds, insignia, or staff time for personal, private business, campaign, or political purposes except as expressly authorized by law and on terms equally available to similarly situated members of the public. Staff time, equipment, supplies or for personal, political, or business purposes
Direct staff to perform personal tasks
- Members shall not order goods or bind the City without proper authorization.
facilities) for private gain or for personal purposes not otherwise authorized by law.

Formatted: Font color: Custom Color(28,28,28)

Formatted: Normal, Justified, Indent: Left: 0.5", No bullets or numbering

Formatted: Justified

(8)(10) Representation of Private Interests.

Members shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, except as permitted by S.C. Code Ann. § 8-13-740 or other applicable law.~~in compliance with South Carolina law.~~

(9)(11) Advocacy.

Members shall represent the official policies or positions of the City to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Members shall explicitly state that said position is not endorsed by the City of Isle of Palms.

Formatted: Justified, Indent: Left: 0.5", First line: 0"

(10)(12) Policy Role of Members.

Members shall respect and adhere to the council form of City government as provided in the City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City Staff, Boards, Committees and Commissions, and the public.

Formatted: Justified

Members shall not interfere with the administrative functions of the City or ~~the professional duties of City Staff; nor shall they impair the ability of~~ direct, supervise, discipline, assign work to, or interfere with City Staff, ~~to implement Council policy decisions except as authorized by the City Code, adopted Council policy, or the City Administrator or state law. through proper channels.~~

Formatted: Justified, Indent: Left: 0.5", First line: 0"

Formatted: Justified

Formatted: Justified, Indent: Left: 0"

Formatted: Justified

(11) Independence of Boards, Committees and Commissions. ~~Because of the value~~

~~of independent advice of Boards, Committees and Commissions to the public~~

(12) decision-making process,

Members shall respect the independent advisory, administrative, and quasi-judicial roles of City boards, committees, and commissions~~refrain from using their position to and shall not use their office to~~ unduly influence members of City ~~the deliberations or outcomes of~~ boards, committees, ~~or and~~

commissions or lobby members regarding matters pending before them. This section does not prohibit Members from attending public meetings, responding to factual questions, making referrals through proper channels, or communicating official Council policy when authorized. In quasi-judicial matters, Members shall avoid not have ex parte communications and shall comply with all applicable due-process requirements. proceedings. Councilmembers shall refrain from attending meetings of

Formatted: Font: Italic

(14) Positive Workplace Environment.

Members should make every effort to be cooperative and show mutual respect for the contributions made by each individual for the good of the community. Members shall ~~support the maintenance of a~~

Formatted: Justified, Indent: First line: 0"

Formatted: Justified

positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City Staff and make every attempt to avoid creating the perception of inappropriate direction to City Staff. not retaliate against City employees for truthful participation in ethics investigations.

(15) Social Media. Members ~~who engage in personal~~ using social media ~~activity~~ (i.e., Facebook, Twitter, YouTube, blogs, message boards, chat rooms, electronic

Formatted: Font color: Black

Formatted: List Paragraph, Justified, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

newsletters, online forums, social networking sites, etc.) in an official capacity, or in a manner reasonably likely to be understood as speaking for the City,~~that makes reference to the City, a Member's own official capacity with the City, any other elected or appointed City official, City Staff, City property, or any other City related business,~~ shall do so in accordance ~~conduct themselves in accordance~~ with all applicable laws, ~~and~~ City policies, public records requirements, confidentiality obligations, and anti-harassment rules. ~~While using social media, m~~Members ~~shall not disclose confidential information, knowingly make false statements of official City action, use City resources for campaign purposes, threaten or harass City employees or members of the public, or represent personal views as official City positions unless authorized.~~ When speaking in a personal capacity, Members shall make clear that they speak only for themselves. ~~Members engaging in such activity should make it clear that they are speaking for themselves and not on behalf of the City. Members shall not disclose confidential information, make knowingly false statements of official City action, use City resources for campaign purposes, threaten or harass City employees or members of the public, or represent personal views as official City positions unless authorized.~~ ~~engage in any form of unlawful harassment, discrimination, or intimidation or use slurs, profanity, personal insults or negative comments regarding City officials or City~~ (15) Staff that convey personal opinions and grievances, entice unproductive attitudes and behavior, or disrupt the harmony of the City's workplace.

Formatted: List Paragraph, Justified, Indent: First line: 0", Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Formatted: List Paragraph, Justified, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font color: Black

Formatted: Font color: Black

Formatted: Font color: Black

Formatted: Font color: Black

Formatted: Font color: Black

Formatted: Justified

JURISDICTION OF COUNCIL FOR VIOLATIONS UNDER THIS CODE

Allegations that a Member violated the South Carolina Ethics Reform Act, campaign finance law, lobbying law, statement of economic interests requirements, or other state ethics provisions may be referred to or filed with the South Carolina State Ethics Commission or other appropriate authority. Nothing in this Code limits the jurisdiction of the State Ethics Commission, the Attorney General, a solicitor, a court, or any other state authority. Further, nothing in this Code grants authority or jurisdiction to Council over matters within the jurisdiction of the State Ethics Commission, the Attorney General, a solicitor, a court, or any other state authority.

Allegations that a Member violated this Code of Ethics Ordinance, but that do not require determination of a state law violation, may be processed under the procedures set forth herein.

RECEIPT OF COMPLAINTS

All complaints against Members for violations of this Code of Ethics Ordinance, shall be filed with the City Clerk, provided, however, to discourage the filing of ethics complaints solely for political purposes, complaints will not be accepted against a person seeking election as a Member, whether currently serving as a Member or not, from the date qualifying opens for the elected office at issue through the date the election results for that office are certified during the 50-day period before an election in which the candidate is running, provided that nothing in this section limits the right to file a complaint with the State Ethics Commission, seek judicial relief, or report suspected criminal conduct to the appropriate authority. The time for filing complaints will not run during this period. Properly filed complaints will be accepted and processed after the election results have been certified 50-day period has expired.

(a) No action may be taken on any complaint for violations under this Code of Ethics Ordinance which that is filed later than one (1) year after a violation of this division is alleged to have occurred, and a complaint alleging a violation must be filed within six (6) months from the date the complainant knew or should have known of the action alleged to be a violation. No proceedings under this article shall be instituted or prosecuted after the earlier of: (i) the expiration of the term of office of the person complained against; or (ii) the resignation, death, vacancy, disqualification or withdrawal from office of the person against whom a complaint is filed. Nothing in this section limits the right to file a complaint with the State Ethics Commission, seek judicial relief, or report suspected criminal conduct to the appropriate authority.

~~No action may be taken on any complaint which arises out of substantially the same facts or circumstance which have previously served as the basis for a complaint pursuant to this Ordinance.~~

Formatted: Justified, Indent: Left: 0.25", Tab stops: Not at 1"

Commented [WJ2]: Inconsistent with state law.

Formatted: Justified

(b) A separate complaint shall be filed for each person alleged to have engaged in any activity violating this Ordinance even if the allegations arise from the same factual basis. Each complaint shall state: (i) a separate count for each alleged violation; (ii) the specific section of state law, the City Charter, or this Code of Ethics Ordinance Ordinance alleged to be violated for each count; (iii) with specificity, the facts which are alleged to constitute the violation; and (iv) the documentary evidence which the charging party possesses. Copies of said documentary evidence shall be attached to the complaint as exhibits.

~~All complaints shall contain an oath that the facts set forth therein are true and correct to the best of the complainant's knowledge in substantially the following form:~~

Formatted: Justified

(c) AFFIDAVIT.

Formatted: Normal, Justified, Indent: Left: 0.25", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 2 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1", Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

(d) Upon receipt of a complaint, the City Clerk will deliver a copy of the complaint to the City Administrator.

Formatted: Justified

Formatted: Justified

APPOINTMENT OF HEARING OFFICER, SERVICE OF COMPLAINT, BURDEN OF PROOF

Formatted: Justified

(a) All complaints filed hereunder shall be heard before a Hearing Officer who: (i) shall be a competent attorney at law of good standing in his or her profession, (ii) shall have at least five (5) years' experience in the practice of law, and (iii) shall not maintain an office within a ten (10) mile radius of the City of Isle of Palms, SC. The City Clerk shall maintain a listing of no less than five (5) qualified attorneys to serve as a Hearing Officer pursuant to this section. Upon receipt of a properly verified complaint, the City Clerk shall draw names randomly from the listing of qualified Hearing Officers and appoint the first one who is available to serve in the matter.

(b) Original pleadings shall be filed with the City Clerk and the Ceity Celerk shall cause the complaint to be served on the member charged as soon as practicable but in no event later than seven (7) calendar days after receipt of a verified complaint. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery.

(c) In all proceedings under this section, the Hearing Officer shall determine whether a violation of this Code of Ethics Ordinance local Code has been established by a preponderance of the evidence. Proceedings under this Code shall have no bearing on liability under the South Carolina Ethics, Government Accountability, and Campaign Reform Act, criminal liability, criminal penalties, or any other provision under state or federal law. burden of proof shall be on the complaining party. Further, the quantum of proof required to establish a violation under this Ordinance shall be beyond a reasonable doubt.

HEARING

- (a) The member charged in the Complaint shall have fifteen (15) calendar days to file an answer to the complaint provided, however, the member charged shall have no obligation to file an answer to any complaint.
- (b) Upon the expiration of the fifteen (15) calendar day answer period, the Hearing Officer shall review the complaint and answer, if any, to determine: (i) whether the complaint is in conformity of the requirements of Section 3 above, (ii) whether upon consideration of the complaint and answer, the complaint is unjustified, frivolous, patently unfounded, or (iii) whether upon consideration of the complaint and answer, the complaint demonstrates facts sufficient to invoke disciplinary jurisdiction as set forth in this Ordinance, ~~(iv) whether the complaint is based upon~~
- (c) If the complaint fails based upon the requirements of the foregoing subsection (b), the Complaint shall be dismissed stating the basis for said dismissal. If the dismissal is based upon the failure to comply with Sections 3(d) or 3(e), the Complaining party shall have fifteen (15) days to refile the complaint correcting the defect. If the corrected complaint is not filed within said fifteen (15) day period, ~~the provisions of section 3(c) shall apply to the complaint~~ Complaint shall be dismissed. If fail the complaint otherwise fails, the provisions of section 3(c) shall apply to the complaint.
- (d) Upon a determination that the complaint should not be dismissed pursuant to the foregoing subsection (c), the Hearing Officer shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint. In furtherance of this investigation, the Hearing Officer may:
- (i) Seek such further information from the ~~to~~ complainant or the member charged through inquiry or written questions, provided, however the member charged shall have no obligation to answer any inquiries, or
 - (ii) Conduct a hearing regarding the allegations set forth in the complaint. At any hearing, the member who is the subject of inquiry shall have the right: (i) to representation by counsel at all stages of these proceedings, (ii) to written notice of the hearing at least ten (10) calendar days before the first hearing, (iii) to hear and examine the evidence and witnesses and, (iv) to submit evidence and call witnesses to oppose or mitigate the allegations. In all hearings held under this section, the procedures and rules of evidence applicable in civil cases shall apply.
- (e) All investigations under this section shall be completed within forty-five (45) days of the filing of the complaint, unless otherwise agreed by the complainant or the

member charged. Should the investigation not be completed in said period or in a period as otherwise agreed, the complaint will be deemed dismissed as fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Council. Within seven (7) days ~~for of~~ the completion of the investigation, the Hearing Officer shall:

- (i) dismiss the complaint on the grounds that it is unjustified, frivolous, patently unfounded, or that it fails to state facts sufficient to invoke the disciplinary jurisdiction of the City Council; ~~or, or~~
- (ii) prepare a report of findings and recommendations to the Mayor and City Council.
- (iii) Should the Hearing Officer determine to submit a report in the matter, the report shall consist of: (1) a written finding of facts; (2) a determination as to whether the complaint establishes ~~beyond a reasonable doubt~~ by a preponderance of evidence that a violation has been committed, and if so, the specific violation and evidence supporting the same, and (3) a recommendation regarding the punishment for such violation (public or private reprimand or censure by City Council).
- ~~Any person violating any provision of this article is subject to:~~
 - ~~Public or private reprimand or censure by the city council.~~
 - ~~Request for resignation by the city council~~
 - ~~Removal from office in accordance with all applicable state and local laws.~~
- (iv) The Hearing Officer's written determination of findings and recommendations shall be delivered to the City Clerk who shall provide a copy to the City Administrator ~~and~~, the Mayor and Council and serve a copy on the complainant and member charged by personal service, email, by certified mail, return receipt requested, or by statutory overnight delivery.

Formatted: Justified, Indent: Left: 1.75", No bullets or numbering

Formatted: Justified

REPORT TO MAYOR AND COUNCIL

- (a) Upon receipt of findings and recommendations from the Hearing Officer, the Mayor and Council may:
 - (i) by a ~~simple~~ majority, ~~vote to accept the Findings and Recommendations of the Hearing Officer.~~
 - (i) by ~~simple~~ a majority, ~~vote to accept the findings of fact and reject the recommended discipline instead substituting its own discipline.~~
 - (ii) by a ~~a~~ supermajority, ~~vote to consisting of a majority of those present forming a quorum, plus one,~~ reject the findings and recommendations and ~~either: (1) dismiss the complaint, or (2) conduct its own hearing in accordance with Section 5 hereof. Upon the completion of such hearing, the Findings and Recommendations of the Mayor and Council shall be binding.~~
 - (iii) by a ~~simple~~ majority, ~~vote to accept the findings of fact and reject the recommended discipline instead substituting its own discipline.~~
- (b) If the subject of the complaint is the Mayor or any City Councilmember, he or she will not be allowed to vote pursuant to this section or participate in any

Formatted: List Paragraph, Justified, Numbered + Level: 2 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.75"

Formatted: Justified

~~hearing held pursuant to this section other than as set forth and allowable by the member charged.~~

~~(c) Upon a final judgment and certification of the minutes of the meeting disposing of the matter, the City Clerk shall serve the respondent with a copy of the certified minutes and Findings and Recommendations by personal service, certified mail (return receipt requested) or by Federal Express or other overnight delivery service.~~

APPEAL

~~Any party may seek judicial review in Charleston County Circuit Court within thirty (30) calendar days of final action.~~

IMPLEMENTATION

~~This Code of Conduct is intended to be self-enforcing and is an expression of the standards of conduct expected by the City for all elected and appointed officials.~~

~~This Ordinance document shall be included in the regular orientations for candidates elected to City Council and newly appointed members to Boards and Commissions. Members should sign are required to sign a statement (example below) acknowledging they have read and understand the Code of EthicsConduct. In addition, the Code of Conduct Ethics shall be periodically reviewed by the City Council and may be amended or updated by City Council as necessary.~~

~~I affirm that I have read and acknowledge and accept the City of Isle of Palms Code of Conduct Ethics for Elected and Appointed Officials.~~

Signature _____ Date _____

Commented [JW3]: Council cannot convey jurisdiction to the Circuit Court. Jurisdiction must be conveyed by state law.

Commented [JW4]: Cannot require members to sign; however, if this is part of the ordinance then no signature is needed.

Formatted: Justified

CHAPTER 10. PURCHASING PROCEDURES¹

Sec. 1-10-1. Purchasing agent; specified duties.

The City Administrator or City Administrator's designee shall serve as the Purchasing Agent for the City. The Purchasing Agent shall be responsible for and supervise:

- (a) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the City.
- (b) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the City.
- (c) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the City. Such specifications shall be definite and certain.
- (d) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.
- (e) Obtaining as full and open competition as practical on all purchases, contracts and sales.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-2. Formal contract procedure.

Except as otherwise provided herein, all expenditures exceeding \$25,000.00 shall be made by formal written contract. Any expenditure not exceeding the amount of \$25,000.00 may be made in accordance with small purchase procedures promulgated by the Purchasing Agent; provided, however, that no contract or purchase shall be subdivided to avoid the requirements of this section.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-3. Approval of expenditures, sales and contract assignments.

- (a) Council approval shall be required for the following expenditures, sales and contract assignments:
 - (1) Unbudgeted expenditures in excess of \$10,000.00;
 - (2) All expenditures in excess of \$25,000.00;
 - (3) All sales of personal property when the estimated value exceeds \$10,000.00; and
 - (4) Assignments of contracts in excess of \$10,000.00.

¹Editor's note(s)—Ord. No. 2017-01, § 1, adopted Feb. 28, 2017, repealed the former Ch. 10, §§ 1-10-1—1-10-15, and enacted a new Ch. 10 as set out herein. The former Ch. 10 pertained to similar subject matter and derived from Ord. No. 2004-2, § 1(1-10-1—1-10-15), adopted April 27, 2004; Ord. No. 2005-1, § 1, adopted March 22, 2005; and Ord. No. 2013-11, § 1, adopted Oct. 22, 2013.

-
- (b) The Purchasing Agent may authorize the following expenditures, sales and contract assignments without Council approval:
- (1) All expenditures of \$10,000.00 or less;
 - (2) Purchases of gasoline, which otherwise comply with the terms of this chapter, in amounts not to exceed \$25,000.00;
 - (3) All sales of personal property when the estimated value is \$10,000.00 or less; and
 - (4) Assignments of contracts that are \$10,000.00 or less.
- (c) The Purchasing Agent may also authorize any budgeted expenditure approved in the current fiscal year's budget, where the price does not exceed the budget estimate by more than ten percent (10%), if the total expenditure does not exceed \$25,000.00. The Purchasing Agent shall submit a report of the expenditure to City Council which shall be entered in the minutes of Council.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-4. Competitive procurement requirements; exceptions.

- (a) *When required.*
- (1) Expenditures of \$5,000.00 or less: Competitive procurement is not required for expenditures of \$5,000.00 or less if prices are considered by the Purchasing Agent or Department Head to be fair and reasonable.
 - (2) Expenditures exceeding \$5,000.00: Before any purchases or contracts for supplies, materials, equipment or services exceeding \$5,000.00 are made, the Purchasing Agent or Department Head shall give reasonable opportunity for competitive procurement.
 - (i) For purchases or contracts in excess of \$5,000.00 but not more than \$10,000.00, the Purchasing Agent or Department Head shall obtain either verbal or written competitive price quotes from at least two (2) vendors, unless only one (1) vendor is available. Informal quotes may be accepted verbally or via email, provided that the Purchasing Agent or Department Head retains appropriate documentation consisting of the name of the vendor, price quote, name of vendor's representative providing the quote, and the date of quote.
 - (ii) For purchases or contracts in excess of \$10,000.00 but not more than \$25,000.00, the Purchasing Agent or Department Head shall obtain at least three (3) informal written bids, unless three (3) vendors are not available. Informal written bids may be accepted via email.
 - (iii) Purchases or contracts in excess of \$25,000.00 shall be awarded pursuant to the formal competitive sealed bidding or competitive sealed proposals methods as provided in section 1-10-5, unless otherwise provided in this chapter.
 - (3) No contract or purchase shall be subdivided to avoid the competitive procurement requirements of this section.
 - (4) The Purchasing Agent or City Council has the authority to cancel a request for bids or proposals or other solicitation, and to reject any or all bids or proposals in whole or in part, and to waive informalities or irregularities in bids or proposals received when it is determined to be in the best interest of the City.
- (b) *Exceptions.*

-
- (1) In the event of any emergency affecting the public welfare, health or safety, the competitive procurement requirements of this section shall not apply. A full report of any emergency purchase shall be filed by the Purchasing Agent with City Council and shall be entered in the minutes of Council.
 - (2) The competitive procurement requirements of this section shall not apply to the procurement of professional services where the person employed is customarily employed on a fee basis rather than by competitive bidding such as legal, medical, consulting, appraiser, auditor or accounting services. The Purchasing Agent may secure professional services by direct negotiation and selection, taking into account the type of services required, the proximity (location) of the professional providing the services, the capability of the professional to produce the required service within a reasonable time, past performance, and the ability to meet budget requirements. Nothing herein shall be deemed to prohibit the City from using competitive procurement procedures for professional services if City Council determines it is in the best interests of the City.
 - (3) The following types of expenditures are exempt from the competitive procurement requirements of this section:
 - (i) Utilities including gas, electric, water and sewer;
 - (ii) Information technology;
 - (iii) Maintenance and repairs to vehicles, machinery or equipment necessary in providing an essential City service;
 - (iv) Maintenance or service contracts which are made with the manufacturer or authorized service agent;
 - (v) Replacement parts of existing equipment supplied by the original equipment manufacturer or authorized dealer;
 - (vi) Routine, recurring purchases (e.g., office supplies);
 - (vii) Works of art and holiday decorations for public display;
 - (viii) Competitive online bidding, including, but not limited to, reverse auctions.
 - (ix) Corrective work necessary for repairing or replacing faulty or defective workmanship, design or materials, as determined by the Purchasing Agent.
 - (4) An expenditure may be made without competitive procurement when the Purchasing Agent reasonably determines that there is only one (1) qualified source for the required goods or services, or that a particular source has a unique ability or knowledge with respect to the required goods or services, or when there is only one (1) source which is compatible with existing equipment, software, systems, or services and the Purchasing Agent sets forth such determination and the basis therefor in a written statement submitted to City Council and entered in the minutes of Council.
 - (5) An expenditure may be made without competitive procurement when an item is required for trial use or testing. The Purchasing Agent shall set forth such determination and the basis therefor in a written statement submitted to City Council and entered in the minutes of Council.
 - (6) The Purchasing Agent may obtain goods and services from an awarded bidder in a competitive bidding process utilized within the preceding twelve (12) months by another political subdivision of the state for substantially the same goods or services when the Purchasing Agent has good reason to believe that the awarded bidder is the lowest qualified bidder at the time the City obtains such goods and services.
 - (7) Competitive procurement shall not be required for goods and services purchased through a state contract awarded by the purchasing division of the State of South Carolina, or when an item that is

equivalent or superior to a state contract item is purchased at a price equal to or less than the state contract price.

- (8) An expenditure may be made without competitive procurement when it is determined by the Purchasing Agent that the expenditure is critical to the City and time does not permit for solicitation or resolicitation in accordance with the procedures set forth in this chapter. The Purchasing Agent shall set forth such determination and the basis therefor in a written statement submitted to City Council and entered in the minutes of Council.
- (9) The approval requirements set forth in section 1-10-3 shall apply to the expenditures listed in each exception hereinabove; provided, however, that City Council approval shall not be required for emergency purchases pursuant to paragraph (b)(1) of this section.

(Ord. No. 2017-01, § 1, 2-28-2017; Ord. No. 2018-12, §§ 1—3, 7-24-2018)

Sec. 1-10-5. Methods of source selection.

(a) *Definitions.*

- (1) *Request for information (RFI)* shall mean an informal request for information on potential vendors or service providers to determine what products and services are available and the capabilities of the vendors/providers in terms of offerings and strengths for the purpose of developing a future procurement process, developing strategy, and/or building a database. The RFI is not a procurement method and does not result directly in the award of a contract. In the event that sufficient information is received, the City may, but is not obligated to, initiate a competitive bidding opportunity. No contractual obligation whatsoever on behalf of the City shall arise from the RFI process.
 - (2) *Request for bids (RFB)* shall mean a formal request to prospective vendors soliciting price quotations or bids.
 - (3) *Request for proposals (RFP)* shall mean a formal solicitation for proposals based on a generalized scope of work with contract award to the responsible person(s) submitting the most advantageous and responsive proposal.
 - (4) *Request for qualifications (RFQ)* shall mean a formal solicitation for professional/technical capabilities.
- (b) *Request for information (RFI).* A request for information may be used prior to the issuance of a request for bids (RFB), request for proposals (RFP), or request for qualifications (RFQ) for any contract for City improvements, materials, equipment, or services costing more than \$25,000.00, if requested by City Council.
- (c) *Competitive sealed bidding.*
- (1) *Conditions for use.* Except as otherwise provided in this chapter, all contracts for City improvements, materials, equipment, or services costing more than \$25,000.00 shall be awarded by competitive sealed bidding.
 - (2) *Request for bids (RFB).* A request for bids shall be issued and shall include a purchase description, and all contractual terms and conditions applicable to the procurement.
 - (3) *Public notice.* Public notice of the invitation for bids shall be published in a newspaper of general circulation in the City and on the City's website at least five (5) days before the last day set for receipt of bids. The newspaper notice required herein shall include a general description of the articles or services to be purchased, state where bid forms and specifications may be secured, and the time and place for opening of sealed bids. In the event that, after advertising as aforesaid, no bids are received, the Purchasing Agent shall, with approval of the City Council, solicit bids by mail, telephone,

-
- newspaper, posting on the City's website, or by any other reasonable manner to secure responsible bidders.
- (4) *Sealing.* Bids shall be submitted to the Purchasing Agent securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.
 - (5) *Opening.* Bids shall be opened in public in the presence of one (1) or more witnesses at the time and place stated in the public notices.
 - (6) *Tabulation.* A tabulation of all bids received shall be available for public inspection.
 - (7) *Rejection of bids.* The Purchasing Agent or City Council has the authority to reject all bids, parts of all bids, or all bids for any one (1) or more supplies or contractual services included in the proposed contract.
 - (8) *Bidders in default to City.* The Purchasing Agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, licenses, or other monies due to the City.
 - (9) *Right to waiver.* The City has the right, but not the obligation, to waive informalities or irregularities in a bid received and allow the bid to be considered.
 - (10) *Bid instructions.* Bid instructions shall be prepared or approved by the Purchasing Agent. In the event of a conflict between the bid instructions and this chapter, the provisions of this chapter shall control.
 - (11) *Pre-qualification.* When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for proposals may be issued requesting the submission of unpriced offers to be followed by an invitation for bids complete with cost and pricing information limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
 - (12) *Award.* Contracts shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, the Purchasing Agent and City Council shall consider:
 - (i) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 - (ii) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - (iii) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - (iv) The quality of performance of previous contracts or services;
 - (v) The previous and existing compliance by the bidder with laws and ordinances relating to the contracts or services;
 - (vi) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 - (vii) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
 - (viii) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (ix) The number and scope of conditions attached to the bid;
 - (x) The ability of the bidder to meet the specifications or to offer an acceptable alternative equivalent.

-
- (13) *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 same shall be prepared or approved by the Purchasing Agent, filed with the documents relating to the transaction, and held for a period of not less than three (3) years.
- (14) *Tie bids.* If two (2) or more bidders submit the low bid, quality and service being equal, the contract shall be awarded to the local bidder. If two (2) or more of such bids are submitted by local bidders, the contract shall be awarded to one (1) of the local bidders by drawing lots in public. If local bidders are not involved in the tie bids, the Purchasing Agent shall award the contract to one (1) of the outside tie bidders by drawing lots in public.
- (15) *Bid deposits.* The Purchasing Agent or City Council shall have the authority to require a bid deposit, which shall be prescribed in the public notices inviting sealed bids. Upon entering into a contract, bidders shall be entitled to return of a required bid deposit. The City shall retain a successful bidder's bid deposit upon failure of bidder to enter into a contract within thirty (30) days after the award; provided, however, that the City Council, in its sole discretion, may waive this forfeiture.
- (16) *Performance bonds.* The Purchasing Agent or City Council shall have the authority to require a performance bond before entering into a contract, in such form and amount as the Purchasing Agent or City Council deems reasonably necessary to protect the best interest of the City. The requirement of a performance bond shall be stated in any bid instructions.
- (17) *Payment bond/labor and material bond.* The Purchasing Agent or City Council may require a payment bond and labor and material bond, before entering into a contract, in such form and amount as the Purchasing Agent deems reasonably necessary to protect the best interest of the City. The requirements of such bonds shall be stated in any bid instructions.
- (18) *Negotiations authorized.*
- (i) Generally, sealed bids are not negotiated, but in the event that all bids are rejected because of the amount of the bid, the Purchasing Agent is authorized in situations where the City's best interest precludes resolicitation of bids of a reduced scope, to negotiate an adjustment in the bid price of the lowest responsible bidder, including changing the bid specifications, in order to bring the bid within the amount of funds deemed by the Purchasing Agent or City Council to be available for the contract. If such negotiations are unsuccessful, the Purchasing Agent is authorized to enter into new negotiations with the next lowest responsible bidder, and likewise the third and sequential bidders until a bid price acceptable to the City is obtained. If the Purchasing Agent is unsuccessful in the first round of negotiations, negotiations may be reopened with any bidder with whom negotiations have occurred. If a contract is still not able to be negotiated, the scope of the request for bids may be changed in an effort to reduce the cost to a fair, reasonable and acceptable amount and all responsive bidders must be allowed to submit their best and final offers/bids.
- (ii) When all bids received are rejected and are not successfully negotiated as provided by subsection (ii) of this section and it is determined by the Purchasing Agent or City Council that time or other circumstances will not permit the delay required to resolicit competitive sealed bids, a contract may be negotiated provided that:
1. Each responsible bidder who submitted a bid under the original solicitation is notified of the determination and is given reasonable opportunity to negotiate;
 2. The negotiated price is lower than the lowest rejected bid by any responsible and responsive bidder under the original solicitation; and
 3. The negotiated price is the lowest negotiated price offered by any responsible and responsive bidder.

(d) *Competitive sealed proposals.*

- (1) *Conditions for use.* When the Purchasing Agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract for City improvements, materials, equipment, or services costing more than \$25,000.00 may be awarded by competitive sealed proposals.
- (2) *Request for proposals (RFP).* Proposals shall be solicited through a formal request for proposals.
- (3) *Public notice.* Public notice of the request for proposals shall be given in the same manner as provided for competitive sealed bidding.
- (4) *Sealing.* Proposals shall be submitted to the Purchasing Agent securely sealed in an envelope, and shall be identified on the envelope in accordance with the instructions in the request for proposals.
- (5) *Proposal opening.* Proposals shall be publicly opened in the presence of one (1) or more witnesses at the time and place stated in the public notices. Only the names of the offerors shall be disclosed at the proposal opening. Contents of competing offerors shall not be disclosed during the process of review and discussions. Proposals shall be for public inspection after contract award. Proprietary or confidential information marked as such in each proposal shall not be disclosed without written consent of the offeror. Late proposals shall neither be opened nor considered for award; however, the name and address of the late offeror and the time of attempted delivery shall be recorded wherever practicable.
- (6) *Rejection of bids.* The Purchasing Agent or City Council has the authority to reject all proposals, parts of all proposals, or all proposals for any one (1) or more supplies or contractual services included in the proposed contract.
- (7) *Bidders in default to City.* The Purchasing Agent shall not accept the proposal of a vendor or contractor who is delinquent in the payment of taxes, licenses, or other monies due to the City.
- (8) *Right to waiver.* The City has the right, but not the obligation, to waive informalities or irregularities in a proposal received and allow the proposal to be considered.
- (9) *Discussion with responsible offerors and revisions to proposals.* As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- (10) *Evaluation factors.* The request for proposals shall state the evaluation factors and, if necessary, the relative importance of price and of each other evaluation factor.
- (11) *Negotiations with preferred offeror.* After proposals have been evaluated, negotiations may be held with the preferred offeror in an effort to reach terms advantageous to the City. Notwithstanding this provision, requests for proposals may incorporate contract terms to which all offerors shall be expected to adhere.
- (12) *Award.* Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the City taking into consideration the evaluation factors set forth in the request for proposals and any addenda thereto. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

-
- (13) *Performance bonds.* The Purchasing Agent or City Council shall have the authority to require a performance bond before entering into a contract, in such form and amount as the Purchasing Agent or City Council deems reasonably necessary to protect the best interest of the City. The requirement of a performance bond shall be stated in the request for proposal.
 - (14) *Payment bond/labor and material bond.* The Purchasing Agent or City Council may require a payment bond and labor and material bond, before entering into a contract, in such form and amount as the Purchasing Agent deems reasonably necessary to protect the best interest of the City. The requirements of such bonds shall be stated in the request for proposal.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-6. Construction contracting.

- (a) The Purchasing Agent may recommend the appropriate method of construction contracting for a particular project. In determining which method to recommend, the Purchasing Agent shall consider the City's requirements, the scope of the project, its resources, and the potential contractor's capabilities.
- (b) City Council finds that certain non-traditional means of public construction project management, such as construction management services, design-build services, or turnkey management services, can be in the best interests of the City in certain circumstances. Such services allow for the selection of a single business to perform and manage the complete design and construction of a project. Therefore, the following methods may be employed under the following circumstances:
 - (1) The Purchasing Agent shall have the discretion to use construction management services, design-build services, or turnkey management services as alternatives for construction contracting administration. In exercising such discretion, the Purchasing Agent shall consider the method which, in the Purchasing Agent's discretion, is the most advantageous to the City and will result in the most timely, economical, and successful completion of the construction project.
 - (2) If the Purchasing Agent determines that the use of construction management services, design-build services or turnkey management services is the most advantageous means of securing the construction contracting administration as set forth in paragraph (b)(1) of this section, and the amount of services to be secured thereby is anticipated to exceed \$500,000.00, the selection of the method of construction contracting administration shall be submitted for review to the Ways and Means Committee of City Council. Within fifteen (15) days after notice of such review, an interested party shall submit to the Ways and Means Committee written comments which set forth the position of the party with respect to the decision as to which construction contracting method to use. At the next meeting of the Committee, which shall not occur until after at least fifteen (15) days following notice of such review, those who submitted comments may address the Committee. Following the meeting of the Committee, if City Council does not reject the selection of this method, the construction contracting administration shall be secured in the manner set forth in paragraph (b)(3) of this section.
 - (3) The City shall use the competitive sealed proposal method set forth in this chapter for the purposes of procuring construction management services, design build services, or turnkey management services or any other similar type of construction management contract. The Purchasing Agent may retain outside consulting services to prepare such requests for proposals. The request for proposals for any of these services shall set forth the criteria which the City will be using to select the successful proposal.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-7. Architect-engineering services.

- (a) *Definition.* As used in this section "architect-engineering services" shall mean those professional services associated with the practice of architecture, professional engineering, landscape architecture, and interior design pertaining to construction, as defined by the laws of this State, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals, and other related services.
- (b) *Request for qualifications (RFQ).* Contracts shall be awarded by request for qualifications for architect-engineering services.
- (c) *Public announcement.* It is the policy of the City to publicly announce all requirements for architect-engineering services through a request for qualifications and to negotiate such contracts on the basis of demonstrated competence and qualification at fair and reasonable prices. In the procurement of such services, the Purchasing Agent shall request firms to submit a statement of qualifications and performance data.
- (d) *Selection process.* When practicable, the Purchasing Agent shall conduct discussions with no less than three (3) firms regarding the contract and shall select from among them no less than three (3) of the firms deemed most qualified to provide the required services. The selection shall be made in order of preference, based on criteria established by the Purchasing Agent.
- (e) *Negotiation.* The Purchasing Agent shall negotiate a contract with the highest qualified firm for architect-engineering services at a compensation which is considered to be fair and reasonable to the City. In making this decision, the Purchasing Agent shall take into account the established value, the scope, the complexity, and the professional nature of the services to be rendered. If a satisfactory contract cannot be negotiated with the firm considered to be most qualified, negotiations with that firm shall be formally terminated. The Purchasing Agent shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Purchasing Agent shall formally terminate negotiations. The Purchasing Agent shall then undertake negotiations with the third most qualified firm. Should the Purchasing Agent be unable to negotiate a contract with any of the selected firms, the Purchasing Agent shall select additional firms in order of their competence and qualifications, and the Purchasing Agent shall continue negotiations in accordance with this section until an agreement is reached unless it is determined by the Purchasing Agent that in the best interests of the City, the process should be terminated or modified.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-8. Multi-term contracts.

Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the original solicitation and funds are available for the first fiscal period at the time of contracting. 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 no penalty to the City and such condition shall be included as a provision of the multi-term contract.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-9. Additional projects completed under existing contract terms.

Contracts may be awarded on projects without additional open competition and formal solicitation when:

- (a) The Purchasing Agent determines that it is a like and similar project to a project under a current contract which was the subject of open competition and formal solicitation by competitive sealed bidding or request for proposals, or was entered into by sole source in accordance with this chapter; and
- (b) The Purchasing Agent determines that it is the method most practicable and advantageous to the City; and
- (c) The Purchasing Agent determines that the project and scope of the project were identified with reasonable certainty in previous open competition or formal solicitation to ensure fair notice of potential additional work being the subject of the competition or solicitation and that there was fair competition to potential contractors; and
- (d) The Purchasing Agent sets forth such determination and the basis therefor in a written statement submitted to City Council and entered in the minutes of Council.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-10. Appeals.

Any actual or prospective bidder, offeror, contractor or subcontractor who is aggrieved in connection with the solicitation or award of a contract may appeal the award to the City Council. The appeal, setting forth the grievance, shall be submitted in writing to the Purchasing Agent within fifteen (15) days after such aggrieved person knew or should have known of the facts giving rise thereto.

- (a) *Hearing.* City Council shall convene and shall review and hear comments from the appellant and any other party intervening. The City Council's authority shall be rendered in a manner consistent with this chapter.
- (b) *Decision.* The Purchasing Agent shall give written notice of City Council's decision to the appellant within twenty (20) days of the rendering of the decision. City Council's decision shall state the reasons for the action taken.
- (c) *Finality of decision.* A decision rendered herein is considered final and conclusive. Such a decision is the final administrative review and the decision of the City which can be appealed to the County Court of Common Pleas.
- (d) *Limitation of damages; reimbursement for reasonable costs.* If an aggrieved bidder demonstrates to City Council, by a preponderance of the evidence, that such bidder should have been awarded a contract pursuant to this chapter, but was not, then such bidder may petition City Council for reimbursement of its actual costs, not to exceed \$5,000.00, incurred in connection with the solicitation, including bid preparation, which shall be such bidder's sole remedy at law or in equity for City's failure to award the contract to the bidder. Upon receipt of such petition, City Council may order the computation of a reasonable reimbursement amount and make such reimbursement as it deems equitable, including reimbursement of bid preparation costs, not to exceed the sum of \$5,000.00.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-11. Materials testing.

The Purchasing Agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are reasonably necessary to determine their quality and conformance with the specifications. In the performance of such tests, the Purchasing Agent shall have the authority to make use of laboratory facilities of any agency of the City or any outside laboratory.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-12. Financial interest of city officials and employees prohibited.

No member of City Council or any officer or employee of the City shall have a financial interest in any contract or in the sale to the City or to a contractor supplying the City of any land, material, supplies or services. Strict compliance with S.C. Code 1976, §§ 5-7-130 and 5-21-30 is required of all City officials and employees. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the City shall render the contract voidable by the Purchasing Agent or City Council. All Councilmembers and City officials shall also comply with all applicable state ethics laws regarding such contracts. This section is not intended to prohibit the award of contracts to City employees at public auction for the sale of City personal property or surplus supplies which have become obsolete, unusable or unsuitable for public use, provided that such sales are conducted in accordance with the conditions and requirements set forth in the City personnel manual and in conformance with the provisions of this chapter.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-13. Surplus property, materials and supplies.

- (a) All departments of the City shall submit to the Purchasing Agent, at such times and in such form as the Purchasing Agent deems appropriate, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.
- (b) Upon the approval of the Purchasing Agent, surplus stock may be transferred to other offices, departments or agencies of the City.
- (c) Upon the approval of the Purchasing Agent, all surplus property, materials, or supplies which have become obsolete, unusable, or unsuitable for public use may be sold, exchanged, or traded in on new supplies.
- (d) When the estimated value is \$10,000.00 or less, sales may be accomplished by any method that serves the best interest of the City as determined by the Purchasing Agent.
- (e) When the estimated value exceeds \$10,000.00, sales shall be made to the highest responsible bidder after a properly noticed solicitation of bids/proposals or public auction; provided, however, that property may be sold directly to another governmental agency without bids or public auction upon the approval of the Purchasing Agent.
- (f) All proceeds received from such sales shall be paid to the appropriate fund of the City.
- (g) Surplus property, materials, or supplies may be donated to another governmental agency or nonprofit entity upon the approval of the Purchasing Agent if the estimated value is \$10,000.00 or less or upon the approval of City Council if the estimated value exceeds \$10,000.00.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-14. Seized assets and unclaimed properties.

All seized assets and unclaimed properties, including, but not limited to, cars, bicycles, jewelry and other miscellaneous items, shall be disposed of in one (1) of the following procedures, subject to the approval of the Chief of Police or the Chief's designee, and in accordance with state law and the general orders and protocols established by the Police Department:

- (a) The City may place the property within the regular operating inventory of the City for use by the City.
- (b) When the estimated value is \$10,000.00 or less, sales may be accomplished by any method that serves the best interest of the City as determined by the Purchasing Agent.
- (c) When the estimated value exceeds \$10,000.00, sales shall be made to the highest responsible bidder after a properly noticed solicitation of bids/proposals or public auction; provided, however, that property may be sold directly to another governmental agency without bids or public auction upon the approval of the Purchasing Agent.
- (d) All proceeds from such sales shall be paid to the appropriate fund of the City.
- (e) The property may be donated to another governmental agency or nonprofit entity upon the approval of the Purchasing Agent if the estimated value is \$10,000.00 or less or upon the approval of City Council if the estimated value exceeds \$10,000.00.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-15. Gifts and rebates.

The Purchasing Agent and every other officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person to which any purchase order or contract is, or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the City.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-16. Cooperative and intergovernmental purchasing.

The Purchasing Agent shall have the authority to join with other governmental units in cooperative purchasing plans and to enter into purchase contracts with other governmental units without the formality of publication and receiving competitive bids as otherwise required in this chapter when the best interest of the City would be served thereby.

(Ord. No. 2017-01, § 1, 2-28-2017; Ord. No. 2018-12, § 4, 7-24-2018)

Sec. 1-10-17. Compliance with federal requirements; compliance with disbursement and management requirements of financing documents.

Where a procurement involves the expenditure of federal assistance or contract funds, the Purchasing Agent shall comply with such federal law and authorized regulations which are mandatorily applicable, and which are not presently reflected in this chapter. Notwithstanding where requirements within this chapter are more restrictive, such federal requirements shall be followed.

Where a procurement involves the expenditure of funds, which are the proceeds of bonds or certificates of participation, or other financing instruments or documents, the Purchasing Agent shall comply with the terms of

such financing as they relate to the disbursement of funds and/or management of projects, insofar as such terms are mandatorily applicable and which are not presently reflected in this article. Notwithstanding where requirements within this chapter are more restrictive, such financing requirements shall be followed.

(Ord. No. 2017-01, § 1, 2-28-2017)

Sec. 1-10-18. Real property transactions.

(a) The following rules shall apply to the purchase and sale of City-owned real property:

- (1) The City shall sell, contract to sell, acquire by purchase, exchange or gift, real property only upon approval of City Council. At least one (1) appraisal by a certified appraiser shall be received.
- (2) A public hearing may be held at the discretion of City Council, after reasonable public notice, prior to final Council action being taken to sell or contract to sell real property owned by the City. Sale of real property may not occur until approval of an ordinance upon second reading.
- (3) Subject to paragraph (5) below, the sale or other disposal of real property owned by the City shall be made pursuant to the request for proposals method.
- (4) Notwithstanding paragraph (1) above, the exchange of real property is to be permitted only after appraisal of both properties by two (2) certified appraisers, unless both the parties agree in writing to accept the appraisal results of one (1) certified appraiser.
- (5) City Council shall retain the authority to determine an appropriate alternative method for offering any City-owned real property for sale.

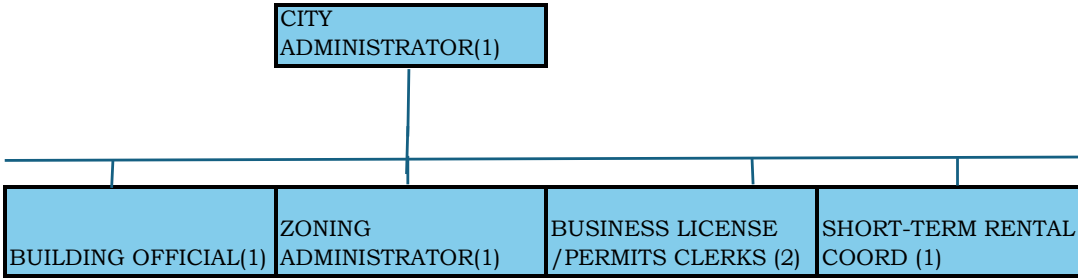
(b) The following rules shall apply to the lease of real property by the City:

- (1) Subject to paragraph (3) below, the City shall contract to lease or sublease real property, or contract to lease real property owned by the City, only upon approval of City Council.
- (2) The request for proposals method may be used for the lease of real property owned by the City if City Council determines it is in the best interests of the City; provided, however, that renewals or amendments of existing leases shall not be subject to the request for proposals method.
- (3) A public hearing may be held at the discretion of City Council, after reasonable public notice, prior to final Council action being taken to contract to lease real property owned by the City. Lease of City-owned real property may not occur until approval of an ordinance upon second reading.

(Ord. No. 2017-01, § 1, 2-28-2017)

BUILDING

2026



Sec. 1-3-20. Remote attendance at meetings.

Councilmembers may attend Council or committee meetings by using remote communication technology, including virtual meetings utilizing computer programs and telephonic technology, only in cases of personal emergencies, illness, or due to other exigent circumstances, and when the remote attendance is approved by the Mayor or the committee chair. Remote attendance shall be limited to situations that prevent physical attendance at meetings and not used as the primary method of meeting attendance. When remote attendance is permitted in accordance with this section, the following rules and procedures shall apply:

- a) Notice of remote attendance shall be provided to the City Clerk's office and when possible, not less than twenty-four (24) hours before the scheduled start time for the meeting. The City Clerk shall advise the Mayor and committee chair of the request. The reason for attending the meeting remotely shall be recorded in the minutes of the meeting.
- b) A quorum of the Councilmembers is physically present at the meeting place, and remain physically present throughout the meeting.
- c) The individual presiding over the meeting is physically present during the meeting.
- d) Councilmembers attending both in person and remotely, and persons in attendance at the meeting can hear all discussion and participate in the meeting as appropriate.
- e) A Councilmember attending remotely shall be considered present at the meeting, shall possess the same authority as Councilmembers who are physically present at the meeting, and their votes shall be considered valid.
- f) Other than establishing electronic or telephonic connections necessary for remote attendance, there shall be no communications between the Councilmember(s) attending remotely and other members of Council, unless such communication is part of the meeting, and can be heard by the members of the public in attendance.
- g) All of the comments, motions, and votes of the Councilmember(s) attending remotely must be capable of being recorded in the minutes of the meeting.
- h) Any meeting where a Councilmember is attending remotely shall be conducted in accordance with the requirements of the South Carolina Freedom of Information Act.
- i) Any Councilmember attending a meeting remotely where an executive session is held shall, after the vote to go into executive session is approved, but prior to the convening of the executive session, declare that no other person is on the phone or is within a range that would allow matters to be discussed or considered to be heard. The City Clerk shall enter such declaration into the minutes of the meeting.

(Ord. No. 2021-12, § 3, 9-28-2021)