Ordinances
1983

ORDINANCE

Ordinance No: 1983-3

Introduced: 5-18-83

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AN ORDINANCE AMENDING THE FLOOD INSURANCE ORDINANCE DATED NOVEMBER 14, 1973 OF THE CITY OF ISLE OF PALMS

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS of the City of Isle of Palms, in City Council assembled:

Section 1. AMEND the Flood Insurance Ordinance dated November 14, 1973 to satisfy the requirements of the revised regulations to maintain continued eligibility in the National Flood Insurance Program as required by the Department of Housing and Urban Development, Federal Insurance Administration by deleting the entire Ordinance of November 14, 1973 and inserting in lieu thereof a new revised Flood Insurance Ordinance so that the Amended Ordinance will read: (per attached)

BE IT ORDAINED IN OPEN COUNCIL THIS 7th DAY OF SEPTEMBER, 1983

Clay Cable

Clay Cable, Mayor

ATTEST:

Nellie L. McDuffie

Clerk

FLOOD DAMAGE PREVENTION

ORDINANCE

Article 1. Statutory Authorization, Findings of Fact, Purpose and objectives

Section A. Statutory Authorization

The Legislature of the State of South Carolina has in statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Isle of Palms, South Carolina does ordain as follows:

Section B. Findings of Fact

(1) The flood hazard areas of the City of Isle of Palms are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise unprotected from flood damages.

Section C. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to :

(1) Restrict or prohibit uses which are dangerous to health safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accomodation of flood waters;

(4) Regulate developments which may increase erosion or flood damage; and, regulate the construction of structures which will unnaturally divert flood waters which may increase flood hazards to other lands.

Section D. Objectives:

The objectives of this Ordinance are:

(1) To protect human life and health:

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expence of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas;

(7) To insure that potential home buyers are notified that property is in a flood area.

Article 2. Definitions:

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

"Appeal" means a request for a review of the Building Inspector's interpretation of any provision of this Ordinance or a request for a variance.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" means the water surface elevations of the base flood as determined by the Federal Insurance Administrator of the National Flood Insurance Program.

"Basement" means that portion of a building between floor and ceiling, which may be partly below and partly above grade.

"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

"Coastal High Hazard Area" means the area subject to high velocity waters caused by, but not limited to, hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone VI-30.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Expansion to an existing mobile home park or mobil home subdivision: means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets). Any expansion is considered "new construction".

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e. - top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this Ordinance the term is synonymous with National Geodetic Vertical Datum (NGVD).

"Mobile Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

"National Geodetic Verticle Datum (NGVD)" as corrected in 1929 is a verticle control used as reference for establishing varying elevations within the flood plain.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

" New Mobile Home Park or Mobile Home Subdivision" means a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this Ordinance.

"Sand Dunes" means naturally occuring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the first placement of permanent construction of a structure (other than mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure of any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivision, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads and installation of utilities) is completed.

"Structure" means a walled and roofed building that is principally above ground, a mobile home, gas or liquid storage tank.

"Substantial improvement" means, any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improment" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Article 3. General Provisions

Section A. Lands to Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Isle of Palms.

Section B. Basis For Establishing The Areas Of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in its FIRM, dated September 13, 1983, with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this ordinance.

Section C. Establishment Of Building and/or Zoning Permit A Building/Zoning Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

Section D. Compliance

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. If two or more zones transect any structure to be erected, the structure shall conform to the highest standard of any zone transecting the structure.

Section F. Interpretation

In the interpretation and application of this Ordinance all provisions shall be:

(1) considered a minimum requirement
(2) liberally construed in favor of the governing body; and,
(3) deemed neither to limit nor repeal any other powers granted under state statutes.

In the event any section, sub-section, sentence, clause or phrase contained in this Ordinance shall be declared or adjudicated to be invalid or unconstitutional by a court of competent jurisdiction, all the remaining provisions of this Ordinance shall be and remain in full force and effect.

Section G. Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Isle of Palms or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section H. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connections with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $200.00 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Isle of Palms from taking such other lawful action as is necessary to prevent or remedy any violation.

Article 4. Administration

Section A. Designation of Building Official (local Administrator)

The Building Inspector is hereby appointed to administer and implement the provisions of this Ordinance.

Section B. Permit Procedures

Application for a Building/Zoning Permit shall be made to the Building Inspector on forms furnished by him, prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required.

(1) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.

(2) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed.

(3) Provide a certificate from a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in Article 5, Section B (2).

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(5) Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to Coastal High Hazard Areas, after placement of the horizontal structural members of the lowest floor. Within twenty one calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Inspector a certification of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the lowest habitable floor, whichever is applicable, as built, in relation to the mean sea level., Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty one day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Building Inspector shall review the floor elevation survey date submitted. Deficiencies detected by such review shall be corrected by the permit

holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

Section C. Duties and Responsibilities of the Building Inspector. Duties of the Building Inspector shall include, but not be limited to:

(1) Review all Building/Zoning permits to assure that the permit requirements of this Ordinance have been satisfied.

(2) Advise permittee that additional Federal or State or City permits may be required, and if specific Federal or State or City permits are known, require that copies of such be provided and maintained on file with the Building/Zoning permit.

(3) Notify adjacent communities and the South Carolina Water Resources Agency prior to any alteration or relocation of a water-course, and submit evidence of such notification to the Federal Emergency Management Agency.

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B. (5).

(6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with Article 4, Section B. (5).

(7) In Coastal High Hazard areas certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to with-stand velocity waters and hurricane wave-wash.

(8) In Coastal High Hazard Areas, the Building Inspector shall review plans for adequacy of breakway walls in accordance with Article 5, Section B (5) (h).

(9) When flood-proofing is utilized for a particular structure, the Building Inspector shall require certification from a registered professional Engineer or Architect.

(10) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Inspector shall make the necessary interpretation.

The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(11) When Base Flood Elevation data has not been provided in accordance with Article 3, Section B, then the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer the provisions of Article 5.

(12) Before a Certificate of Occupancy is issued for the structure, the Building Inspector of the Isle of Palms shall inspect the premises to assure that the requirements of this Ordinance have been met.

(13) All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Clerk Treasurer and shall be open for public inspection.

Section D. Variance Procedures

(1) The Zoning Board of Adjustment and Appeals as established by the City of Isle Palms shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

(2) The Zoning Board of Adjustments and Appeals shall hear and decide appeals when it is alleged there is an error in any requirements, decisions, or determination made by the Building Inspector in the enforcement or administration of this Ordinance.

(3) Any person aggrieved by the decision of the Zoning Board of Adjustments and Appeals or any resident may appeal such decision to the City Council. Such person if aggrieved by the decision of the City Council may appeal such decision to the appropriate court as provided in the State of South Carolina Statutes.

(4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

(5) In passing upon such applications, the Zoning Board of Adjustments and Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance and;

(a) the danger that materials may be swept onto other lands to the injury of others;

(b) the danger to life and property due to flooding or erosion damage;

(c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) the importance of the services provided by the proposed facility to the community;

(e) the necessity to the facility of a waterfront location where applicable;

(f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) the compatability of the proposed use with existing and anticipated development;

(h) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(i) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and,

(k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(6) Upon consideration of the factors listed above and the purposes of this Ordinance, the Board of Adjustment and Appeal may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(8) Conditions for Variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(b) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and, (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(d) The Clerk- Treasurer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Article 5. Provisions For Flood Hazard Reduction

Section A. General Standards

In all areas of Special Flood Hazard the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(6) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(7) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

Section B. Specific Standards

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Article 3, Section B, or Article4, Section C (11), the following provisions are required:

(1) Residential Construction - New Construction or substantial improvements of any residential structure shall have the lowest habitable floor, excluding columns, at or above base flood elevation.

(2) Non-residential Construction

New Construction or substantial improvements of any commercial industrial or other non-residential structure shall either have the lowest floor elevation, excluding columns, at or above Base Flood Elevation, or together with attendant utility and sanitary facilities, be flood-proofed so that all areas of the structure below the required elevation is water tight and with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the officials as set forth in Article 4, Section b (3).

(3) Temporary Structure

(a) No temporary structures shall be placed in a floodway or coastal high hazard area, or in any area of special flood hazard within the Corporate limits of the City of Isle of Palms unless a proper permit is obtained from the City.

(4) Coastal High Hazard Areas (V Zones)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as Coastal High Hazard areas. These areas have special flood hazards associated with wave-wash, therefore, the following provisions shall apply;

(a) All buildings or structures shall be located landward of the reach of the mean high tide.

(b) All buildings or structures shall be elevated so that the lowest support horizontal member (excluding pilings or columns) is located no lower than the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with Article 5, Section B (5) (h);

(c) All buildings or structures shall be securely anchored on pilings or columns;

(d) Pilings or columns used as structural support shall be designed and anchored so as to withstand all applied loads of the base flood flow;

(e) Compliance with provisions contained in Article 5, Section B (4) (b), and (d) shall be certified to by a professional Engineer or Architect;

(f) There shall be no fill used as structural support;

(g) There shall be no alteration of sand dunes, which would increase potential flood damage;

(h) Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met;

(1) No solid walls shall be allowed,and (2) Materials shall consist of wood or mesh screening only.

(i) If aesthetic lattice works or screening are utilized, such enclosed space shall not be used for human habitation;

(j) Prior to construction, plans for any structure that will have lattice work or decorative screening must be submitted to the Building Inspector for approval;

(k) Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except for lattice work or decorative screening, as provided for in Article 5, Section B (4) (h) and (i).

Section C. Standards for Subdivision Proposals

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty lots or five acres.

ORDINANCE

ORDINANCE NO. 1983-4

Introduced: 5-18-83

STATE OF SOUTH CAROLINA)
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)
COUNTY OF CHARLESTON)

An Ordinance to adopt section 11-35-50 et. seq. Code of Laws of South Carolina (1981) and incorporate it into the Isle of Palms City Code as a Purchasing or Procurement Ordinance

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF THE CITY OF ISLE OF PALMS, in City Council assembled:

WHEREAS, the State of South Carolina has made the City of Isle of Palms aware of the necessity for the passage of a Purchasing and Procurement Ordinance, and

WHEREAS, Section 11-35-50, Code of Law of South Carolina (1981) requires all local governments in South Carolina to adopt a Purchasing or Procurement Ordinance by July 1, 1983, and

WHEREAS, the City of Isle of Palms desires to have a Purchasing and Procurement Ordinance,

NOW THEREFORE, be it ordained that under the authority granted to the Mayor and City of Isle of Palms the attached Purchasing Ordinance shall be incorporated into the Code for the City of Isle of Palms, South Carolina.

BE IT RATIFIED in Open Council this _____Day of _____ in the year _____.

_____
Mayor

ATTEST:

_____
Clerk

ORDINANCE NO. 1983-4

Introduced: 5-18-83

AN ORDINANCE creating the position of Purchasing Agent and establishing Purchasing Procedures for the City of Isle of Palms, South Carolina.

BE IT ORDAINED by the Council of the City of Isle of Palms, South Carolina:

The City Administrator, or an officer of the City designated by the City Administrator, shall be the Purchasing Agent for the City. He/She shall be responsible for:

(A) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the city government.

(B) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the city government.

(C) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the city government. Such specifications shall be definite and certain and shall permit of competition.

(D) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.

(E) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders list". The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city or who have failed to meet established specifications or delivery dates.

(F) Obtaining as full and open competition as possible on all purchases, contracts and sales.

Section 2, Formal contract procedure.

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed five thousand dollars, shall be purchased by formal, wirtten contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the requirements of this section. All sales of

personal property which has become obsolete or unusable, when the estimated value shall exceed five thousand dollars, shall be sold by formal written contract or at a public auction to the highest responsible bidder, after due notice inviting proposals and bidders.

Section 2.1. Bidding--Competitive, required exception.

Before any purchases or contracts for supplies, materials, equipment or services exceeding one hundred dollars are made, the purchasing agent shall give amply opportunity for competitive bidding. For purchases or contracts not exceeding one thousand dollars, oral bids may be accepted. All other bids shall be in writing. Competitive bidding shall be encouraged for all contracts, purchases or sales. However, in the event of an emergency affecting the public welfare, health or safety, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be filled by the purchasing agent with the city council and shall be entered in the minutes of the council.

Section 2.2 Award to lowest bidder; advertising, when required

All contracts for city improvements, materials, equipment, or services costing more than five thousand dollars shall be awarded to the lowest responsible bidder after publication in a newspaper of general circulation in the city at least five days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

Section2.3. Bid Deposits

When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent upon failure on his part to enter into a contract within ten days after the award; provided, however that the city, in its uncontrolled discretion, may waive this forfeiture.

Section 2.4. Sealed Bid Procedures

Procedure for sealed bids shall be as follows:

(A) 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.

(B) Opening. Bids shall be opened in public at the time and place stated in the public notices.

(C) Tabulation. A tabulation of all bids received shall be available for public inspection.

(D) Rejection of Bids. The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.

(E) 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, license, or other moneys due the city.

(F) Award of contract:

(1) Authority in agent. The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contracts in excess of one thousand dollars shall not be awarded without prior approval of city council.

(2) Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the purchasing agent shall consider:

(a) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

(c) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

(f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(i) The number and scope of conditions attached to the bid.

(G) Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.

(H) Tie Bids:

(1) Local vendors. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders the purchasing agent shall award the contract to one of the local tie 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 of the outside bidders by drawing lots in public. The purchasing agent, local bidders, and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

(I) Performance Bonds. The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonable necessary to protect the best interest of the city.

(J) Payment Bond/Labor and Material Bond. The purchasing agent may require a Payment Bond and a Labor and Material Bond, before entering into a contract, in such form and amount as he/she shall deem necessary to protect the best interest of the city.

Section 2.5. 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 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 government or any outside laboratory.

Section 3. Financial interest of city officials and employees prohibited.

No member of the 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 or rights or interests in any land, material, supplies or services; except when a majority of the city council determines such exception in the best interest of the City, provided, that no councilman whose interest is involved shall vote on the question. Any wilful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfiet his office or position.

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 city manager or the city council.

Section 4. Records of open market orders and bids.

The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to the public for inspection.

Section 5. Stock Reports.

All offices, departments or agencies of the city government shall submit to the purchasing agent, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn-out or scrapped.

Section 6. Surplus Stock.

The purchasing agent shall have authority to transfer surplus stock to other offices, departments of agencies of the city government.

Section 7. Supplies unsuitable for public use, sale or exchange

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with Section 2. All moneys received from such sales shall be paid into the appropriate Fund of the City.

Section 8. Gifts and Rebates.

The purchasing agent and every officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation 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.

Section 9. Cooperative purchasing.

The purchasing agent shall have authority to join with other units of government in cooperative purchasing plans when the best interests of the city would be served thereby; provided that the purchasing agent of the city is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids.

BILL NO: 1983 - 4
Introduced: 5/18/83

A BILL

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

A BILL TO AMEND the Flood Insurance Ordinace dated 1977-37, 10-12-77 of the City of Isle of Palms, S.C.

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF the City of Isle of Palms in City Council Assembled:

Section 1. AMEND said section as stated above, by deleting it in its entirety and inserting in lieu thereof, so that the amended section will read as attached hereto:

Section 2. This bill after having passed the required three (3) readings, be engrossed and ready for ratification in Open Council at the next following meeting of the City Council or at such time prescribed by the City Council.

Section 3. This Bill shall become effective upon ratification as an ordinance.

BE IT ORDAINED IN OPEN COUNCIL THIS _____DAY OF _____.

_____

Clay Cable, Mayor

ATTEST:

_____

Clerk of Council

BILL NO. 1983-5

Introduced: 5-18-83

A BILL

A BILL TO ADOPT SECTION 11-35-50 et. seq. CODE OF LAWS OF SOUTH CAROLINA (1981) AND INCORPORATE IT INTO THE ISLE OF PALMS CITY CODE AS A PURCHASING OR PROCUREMENT ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL of the City of Isle of Palms, South Carolina, in Council assembled:

WHEREAS, the State of South Carolina has made the Isle of Palms City Council aware of the necessity for the passage of a Purchasing and Procurement Ordinance, and

WHEREAS, Section 11-35-50, Code of Law of South Carolina (1981) requires all local governments in South Carolina to adopt a Purchasing or Procurement Ordinance by July 1, 1983, and

WHEREAS, the City of Isle of Palms desires to have a Purchasing and Procurement Ordinance,

NOW THEREFORE, be it ordained that under the authority granted to the Mayor and City Council of the City of Isle of Palms the attached Purchasing Ordinance shall be incorporated into the Code for the City of Isle of Palms, South Carolina.

This Bill shall become effective upon ratification as an Ordinance.

BE IT ORDAINED IN OPEN COUNCIL THIS ___Day of _____.

Ray Cable
Mayor

ATTEST:

Nellie S. McDuffie
Clerk

ORDINANCE

Ordinance No. 1983-5

Introduced: October 21, 1983

STATE OF SOUTH CAROLINA	)	An Ordinance to amend Chapter 21, Taxation, Section 21-1, Property Tax Levied, of the 1970 Code of the City of Isle of Palms, South Carolina, as Amended.
	)	
	)	
COUNTY OF CHARLESTON	)	

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS of the City of Isle of Palms in City Council Assembled:

Section 1. AMEND said section as stated above, by deleting it in its entirety and inserting in lieu thereof, so that the amended section will read:

"Section 21-1. Property Tax Levied"

For the purpose of meeting appropriations, expenses, salaries and obligations for the fiscal year commencing July 1, 1983 and ending June 30, 1984, a tax of 30.0 mills is hereby levied upon every dollar of all real and personal property in the City as assessed by the County Auditor from time to time. (Sec. 1, 3-16-68; Sec.1, Code 1970, 5-6-68, 1977-38, 10-26-77; 1978-45,7-12-78 1979-13, 7-25-79, 1980-6, 7-9-80, 1981-5, 6-10-81; 1982-5,6-9-82; amended by No. 1983-5, , 1984.

Section 2. This bill after having passed the required three (3) readings, be engrossed and ready for ratification in Open Council at the next following meeting of the City Council or at such time prescribed by the City Council.

Section 3. This Ordinance shall become effective on the approval of Council.

BE IT RATIFIED IN OPEN COUNCIL this _____ day of _____

ATTEST:

Mayor

Clerk

BILL NO. 1983-5

Introduced: 5-18-83

A BILL

A BILL TO ADOPT SECTION 11-35-50 et. seq. CODE OF LAWS OF SOUTH CAROLINA (1981) AND INCORPORATE IT INTO THE ISLE OF PALMS CITY CODE AS A PURCHASING OR PROCUREMENT ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL of the City of Isle of Palms, South Carolina, in Council assembled:

WHEREAS, the State of South Carolina has made the Isle of Palms City Council aware of the necessity for the passage of a Purchasing and Procurement Ordinance, and

WHEREAS, Section 11-35-50, Code of Law of South Carolina (1981) requires all local governments in South Carolina to adopt a Purchasing or Procurement Ordinance by July 1, 1983, and

WHEREAS, the City of Isle of Palms desires to have a Purchasing and Procurement Ordinance,

NOW THEREFORE, be it ordained that under the authority granted to the Mayor and City Council of the City of Isle of Palms the attached Purchasing Ordinance shall be incorporated into the Code for the City of Isle of Palms, South Carolina.

This Bill shall become effective upon ratification as an Ordinance.

BE IT ORDAINED IN OPEN COUNCIL THIS ___Day of _____.

Ray Cahill
Mayor

ATTEST:

Nellie S. McDuffie
Clerk

A BILL

Bill No. 1983-7
Introduced: Oct. 21, 1983

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF CHARLESTON)

A Bill to amend Chapter 21, Taxation, Section 21-1 Property Tax Levied, of the 1970 Code of the City of Isle of Palms, South Carolina, as Amended.

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS of the City of Isle of Palms in City Council Assembled:

Section 1. AMEND said section as stated above, by deleting it in its entirety and inserting in lieu thereof, so that the amended section will read:

" Section 21-1. Property Tax Levied.

For the purpose of meeting appropriations, expenses, salaries and obligations for the fiscal year commencing July 1, 1983 and ending June 30, 1984, a tax of 30.0 mills is hereby levied upon every dollar of all real and personal property in the City as assessed by the County Auditor from time to time.
(Sec.1, 3-16-68; Sec. 1, Code 1970, 5-6-68; 1977-38, 10-26-77; 1978-45, 7-1278; 1979-13, 725-79; 1980-6, 7-9-80; 1981-5, 6-10-81; 1982-5,6-9-82; amended by No. 1983-7 December 7, 1983.

Section 2. This bill after having passed the required three (3) readings, be engrossed and ready for ratification in Open Council at the next following meeting of the City Council or at such time prescribed by the City Council.

Section 3. This Bill shall become effective upon ratification as an Ordinance.

BE IT ORDAINED IN OPEN COUNCIL THIS 7th DAY OF DECEMBER 1983.

Clay Cable

Clay Cable, Mayor

ATTEST:

Clerk

744.0000*

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00
0.00*

217.70+
112.50-
350.00+
8.15-
141.58+
27.00-
10.00-
15.00-

deferred
until
after confirmation

Bill No. 1983-7

Introduced:

A BILL

A BILL TO AMEND CHAPTER 6, BEACH REGULATIONS, 1970 Code of Laws of the City of Isle of Palms, South Carolina.

BE IT ORDAINED BY THE MAYOR AND COUNCIL of the City of Isle of Palms, South Carolina, in Council assembled:

WHEREAS, the City of Isle of Palms is desirous of protecting the Dunes and Beaches of the City, and

WHEREAS, there exists an Ordinance entitled The Isle of Palms Beach and Sand Dune Protection Ordinance, and

WHEREAS, that Ordinance does not define the Protective District and does not address hard structures on the Beach,

NOW, THEREFORE, let it be enacted that the Ordinance be amended to read:

1. The entire Protective District will be treated as a Limited Activity Area and construction therein will normally be disapproved. For Buildings approved, the permit will bear the statement that no future protective structures will be approved.

2. No hard structures such as Bulkheads, Sea Walls, Groins or Revetments shall be constucted within the Protective District.

This Bill shall become effective upon ratification as an Ordinance.

BE IT RATIFIED IN open Council this the _____Day of _____ 1983.

ATTEST:

_____
Mayor

_____
Clerk

/BEACH CONTROL AND PATROL BOARD/

Meeting - July 27, 1983

Present:
Bruce Howe
Mary Ann Tobin
Dave Matthews
Bill Hutchinson
W. H. Sandeford

The O'Mara request for construction permit at 54th Avenue was considered. An initial vote was taken for approval. One voted for, one against and 3 abstained. Since 2 of those abstaining did so because they were unfamiliar with the site, the Board agreed to reconvene after the meeting at City Hall and visit the site so that definite decision could be rendered. The Boards members and others met at the site and the subsequent vote was 3 for approval, 1 against and 1 abstaining (M. Tobin, Councilmember)

The Board, in reaching the above decision, advises the City Council that it is placed in the following position in regards to decisions on permits for construction within the Protective District when the structure is within the General Permit Area (250 feet landward of mean high water mark) but not the Limited Activity Area (50 feet landward of the primary dune crest) In some prior applications the Board has approved construction when the building is in the General Permit Area but landward of the Limited Activity Area. In doing so, this approval has provided some type of implied guarantee to the builder, that in case of erosion of the presently existing protective dune, the City now has the responsibility to permit the erection of any type of protective barrier such as bulkheads, seawalls or rip-rap. To prevent this type of abstruse reasoning in the future, it is recommended that the City Council amend the present Ordinance immediately to include the following provisions:

1. The entire Protective District will be treated as a Limited Activity Area and construction therein will normally be disapproved. For buildings approved, the permit will bear the statement that no future protective structures will be approved.
Reason - Due to the erosion throughout the length of the island during the last several years, there is no location with in the Protective District that can be identified by the Board as not meeting the criteria for denial of construction as defined for the Limited Activity Area. ("Not likely to weaken or alter significantly the protective function or sand-sharing system of beaches and sand dunes; not likely to prevent formation of new dunes") Therefore the entire Protection District should be treated as a Limited Activity Area.

2. No hard structures such as bulkheads, sea walls, groins or revetments shall be constructed within the Protective District.
Reason - Considering the overwhelming evidence and experience of other communities it is inconsistent and counterproductive in applying restriction to maintain the protective dunes and retain the beach and then permit structures to be placed which will destroy both the dunes and beach.

The Board, in making the two recommendations above, considers that those additions or changes to the Ordinance will ensure that the Community is firm in its desire and intent to protect its beaches. Laws should be written from a logical foundation to solve specific and defined problems for the entire community. They should be executed in a steadfast and consistant manner. Consequently, the inclusion of these two provisions will provide the City and the Board with a firm, well-defined criteria for dune and beach protection. It will also deter future problems that develop when action is taken in a capricious manner because the laws are not specific and the rules established for enforcement are inconsistant with the intent.

The point has usually been made that to obtain this type of dune and beach protection, de facto siezure or condemnation of personal property by the City will occur and result in lawsuits against the City. The same can be said for the present Limited Activity Area into which property lines can extend depending upon the mean High Water Line. No construction has been allowed in Limited Activity Areas yet no lawsuits have arisen. What the new Ordinance does is to recognize the overwhelming evidence that the Limited Activity Area is insufficient to provide reasonable protection and to do so, the entire Protection District Area is required. It should be noted that in the recent setback studies made for vacant beach front lots, the set back line generally more closely follows the Protection District line than the Limited Activity line.

The Council is also advised that it is the general feeling of the Board members that for future permits requested for construction within the Protective District, it will probably be difficult to obtain Board approval.

Mayor Cable requested that the Board consider the repair and rebuilding of break-through on the dunes at 5 locations. A report will be made by the Board at the next regular meeting stating what action should be taken and what Coastal Council assistance can be obtained.

Mrs. Tobin stated that Mr. Blakely of the Audobon Society had agreed to lend or show the Board members a slide show prepared by the Society, concerning beach erosion. A meeting will be arranged and announced later.

Members were advised that Coastal Council hearing on rip-rap at Mariners Walk and Sea Grove Villas will be held on Monday, August 8, 1983 at the Exchange Club.

W.H. Sandeford

CHAIRMAN

Mary Ann
Torin

Whereas the City of
DoSP is desirous
of Protecting the Dunes
& Beach of the city;

Whereas there exists an
ord entitled the Int
P B C & Control ord
&

Whereas that ord does
not define the
Protection Dist. &
does not address
~~the~~ hard structures on
the beach now therefore
be it be resolved

that he will be
asked to read

#1

#2

CITY OF ISLE OF PALMS, S.C.

MEMORANDUM

FROM: City Administrator, Cone

SUBJECT: Purchasing Ordinance

TO: Mayor Cable and Councilmembers

DATE: May 13, 1983

Attached is a model Purchasing Ordinance, recommended by the Municipal Association. State law mandates implementation of a Purchasing Ordinance by July 1983.

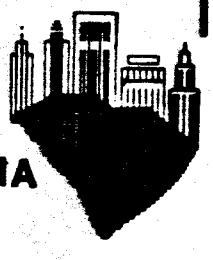
Please read and made comments so that this Ordinance may be presented at next Council Meeting.

Copy all Council

MODEL

PURCHASING ORDINANCE

APRIL 1983



MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

Municipal Association of South Carolina

MODEL PURCHASING ORDINANCE

Background

Under the State Procurement Code, effective July 30, 1981, all local governments in South Carolina are required to adopt a purchasing or procurement ordinance by July 1, 1983.

S.11-35-50. **Political subdivisions required to develop and adopt procurement laws.** All political subdivisions of the State shall adopt ordinances or procedures embodying sound principles of appropriately competitive procurement no later than July 1, 1983. The Budget and Control Board, in cooperation with the Procurement Policy Committee and subdivisions concerned, shall create a task force to draft model ordinances, regulations and manuals for consideration by the political subdivisons. The expenses of the task force shall be funded by the General Assembly. The task force shall complete its word no later than January 1, 1982. **HISTORY: 1981 Act No. 148, S.1, eff July 30, 1981.**

The model ordinance developed by the State Task Force was published by the Division of General Services in early 1982. this document is very comprehensive, 28 pages in length, and most suitable to large jurisdictions having a full-time purchasing organization. It is a complete and well constructed document. A copy of the Task Forces Model Ordinance may be obtained from:

Ms. Barbara McMillan
General Services - Contracting & Compliance
800 Dutch Plaza
Columbia, SC 29210.

Several municipal officials requested that MASC develop a Model Ordinance that would meet the state requirements but in a less complex and comprehensive format.

Acknowledgment

Assistance in the development of MASC Model Purchasing Ordinance was provided by several municipal officials. MASC would like to acknowledge their assistance and express appreciation for their time and efforts.

Roland Windham, City Manager
City of Aiken

Jim Budds, Administrator
City of Bennettsville

Allan Blum, Administrator
City of Bishopville

Russell Allen, City Manager
City of Clinton

Cecil Ward, Administrator
City of Darlington

Bill Snow, Finance Director
City of Florence

Quinton Martin, Administrator
City of Hanahan

David Bates, Administrator
City of Mauldin

John Potter, Finance Director
City of North Myrtle Beach

Chris Bickley, City Manager
City of Walterboro

Jim Varner, City Manager
City of York

Comments on the Model Ordinance

The following suggestions and comments were mady those officials who assisted in the finalization of the "Model Ordinance".

- Dollar amounts are suggested only and should be set at levels that are workable for each municipality.

- The purchasing ordinance should be supplemented with a more detailed purchasing procedures manual and purchase order system. Such a system may describe an encumbrance procedure to tie the purchase orders to the accounting system and the use of "open" purchase orders for purchasing supplies on a monthly basis.

- Approving Authority may vary with the form of government. The "model" is written with the city council as the final authority. This is suggested form only and should be tailcred to meet the existing procedures of the municipality.

Conclusion

The basic concept behind the development of this model purchasing ordinance was to cover the basic items that should be considered in a purchasing ordinance. As indicated in the comments section above, this ordinance should be tailored to meet local operating requirements.

If you have any questions on this ordinance please contact: Jim Robey at MASC.

MODEL PURCHASING ORDINANCE

An Ordinance creating the position of Purchasing Agent and establishing Purchasing Procedures for the City of _____.

Be it ordained by the Council of the City of_____:

Section 1. Purchasing Agent, specified duties.

The ~~(City Manager)~~(Administrator), or an officer of the city designated by the ~~(City Manager)~~ (Administrator), shall be the Purchasing Agent for the City. He/She shall be responsible for:

(A) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the city government.

(B) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the city government.

(C) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the city government. Such specifications shall be definite and certain and shall permit of competition.

(D) Maintaining, wheneever practicable, a perpetual inventory record of all materials, supplies or equipment stored in store-rooms or warehouses.

(E) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders list". The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city or who have failed to meet established specifications or delivery dates.

(F) Obtaining as full and open competition as possible on all purchases, contracts and sales.

Section 2. Formal contract procedure.

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed five thousand dollars, shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the requirements of this section. All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed five thousand dollars, shall be sold by formal written contract or at a public auction to the highest responsible bidder, after due notice inviting proposals and bidders.

Section 2.1. Bidding--Competitive, required exception.

Before any purchases or contracts for supplies, materials, equipment or services exceeding one hundred dollars are made, the purchasing agent shall give ample opportunity for competitive bidding. For purchases or contracts not exceeding one thousand dollars, oral bids may be accepted. All other bids shall be in writing. Competitive bidding shall be encouraged for all contracts, purchases or sales. However, in the event of an emergency affecting the public welfare, health or safety, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be filled by the purchasing agent with the city council and shall be entered in the minutes of the council.

Section 2.2 Award to lowest bidder; advertising, when required

All contracts for city improvements, materials, equipment, or services costing more than five thousand dollars shall be awarded to the lowest

responsible bidder after publication in a newspaper of general circulation in the city at least five days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

Section 2.3. Bid Deposits

When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent upon failure on his part to enter into a contract within ten days after the award; provided, however, that the city, in its uncontrolled discretion, may waive this forfeiture.

Section 2.4. Sealed Bid Procedures

Procedure for sealed bids shall be as follows:

(A) **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.

(B) **Opening.** Bids shall be opened in public at the time and place stated in the public notices.

(C) **Tabulation.** A tabulation of all bids received shall be available for public inspection.

(D) **Rejection of bids.** The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or

more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.

(E) **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, license, or other moneys due the city.

(F) **Award of contract:**

(1) Authority in agent. The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contracts in excess of one thousand dollars shall not be awarded without prior approval of city council.

(2) Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the purchasing agent shall consider:

(a) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

(c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

(f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(i) The number and scope of conditions attached to the bid.

(G) **Award to other than low bidder.** When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.

(H) **Tie bids:**

(1) Local vendors. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bidsare submitted by local bidders, the purchasing agent shall award the contract to one of the local tie 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 of the outside tie bidders by drawing lots in public. The purchasing agent, local bidders, and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are

not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

(I) **Performance bonds.** The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interest of the city.

(J) **Payment Bond/Labor and Material Bond** The Purchasing agent may require a Payment Bond and a Labor and Material Bond, before entering into a contract, in such form and amount as he/she shall deem necessary to protect the best interest of the city.

Section 2.5. 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 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 government or any outside laboratory.

Section 3. Financial interest of city officials and employees prohibited

No member of the 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 or rights or interests in any land, material, supplies or services; except when a majority of the city council determines such exception in the best interest of the city, provided, that no councilman whose interest is involved shall vote on the question. Any wilful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty

thereof shall thereby forfeit his office or position. 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 city manager or the city council.

Section 4. Records of open market orders and bids

The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

Section 5. Stock reports

All offices, departments or agencies of the city government shall submit to the purchasing agent, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn-out or scrapped.

Section 6. Surplus stock

The purchasing agent shall have authority to transfer surplus stock to other offices, departments or agencies of the city government.

Section 7. Supplies unsuitable for public use, sale or exchange

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with Section 2. All moneys received from such sales shall be paid into the appropriate Fund of the city.

Section 8. Gifts and Rebates

The purchasing agent and every officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation 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.

Section 9. Cooperative purchasing

The purchasing agent shall have authority to join with other units of government in cooperative purchasing plans when the best interests of the city would be served thereby; provided that the purchasing agent of the city is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids.