

CHAPTER I. ADMINISTRATION

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ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Augusta, Kansas," and may be so cited. The Code may also be cited as the "Augusta City Code." (Code 1991; Code 2010)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City - shall mean the City of Augusta, Kansas.
 - (b) Code - shall mean "The Code of the City of Augusta, Kansas."
 - (c) Computation of Time. - The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
 - (d) County - means the County of Butler in the State of Kansas.
 - (e) Delegation of Authority. - Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
 - (f) Director of Public Safety - shall include the positions of chief of public safety, fire chief and civil defense director.
 - (g) Gender - Words importing the masculine gender include the feminine and neuter.
 - (h) Governing Body - shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the city council as provided in this code.

(i) In the city - shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its public safety powers or other regulatory powers.

(j) Joint authority - All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(k) Month - shall mean a calendar month.

(l) Number - Words used in the singular include the plural and words used in the plural include the singular.

(m) Oath - includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm."

(n) Officers, departments, etc. - Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.

(o) Owner - applied to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

(p) Person - includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.

(q) Property - includes real, personal and mixed property.

(r) Real Property - includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(s) Shall, may - "Shall" is mandatory and "may" is permissive.

(t) Sidewalk - means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

(u) Signature, subscription - includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.

(v) State - shall be construed to mean the State of Kansas.

(w) Street - means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.

(x) Tenant or occupant - applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.

(y) Tenses - Words used in the past or present tense include the future as well as the past and present.

(z) Writing or written - may include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.

(aa) Year - means a calendar year, except where otherwise provided.

(Code 1991)

1-103.

EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the

effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1991)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1991)

1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 1991)

1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 1991)

1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section _____ of the code of the City of Augusta is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the code may be added as follows: "The code of the City of Augusta is hereby amended by adding a section (or article or chapter) which reads as follows: . . . (the new provisions shall be set out in full). . ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the code of the City of Augusta is hereby repealed." (Code 1991)

1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 1991)

1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 1975, 1-121; Code 1991)

1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk.

One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1991)

1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 1991)

1-112. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 1991)

1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120:121; Code 1991)

1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Augusta to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 1991)

1-115. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 1991)

1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.

- (a) A fine of not more than \$1,000; or,
- (b) Imprisonment in jail for not more than 179 days; or,
- (c) Both such fine and imprisonment not to exceed (a) and (b) above.

(Code 1991)

1-117. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such

decision shall not affect the validity of the remaining portions of this code. (Code 1991)

ARTICLE 2. GOVERNING BODY

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and eight councilmembers to be elected as set out in Charter Ordinance No. 12. (Code 1975, 1-101; Code 1991; Code 2010)
- 1-202. POWERS AND DUTIES. The governing body shall have the power to enact, ordain, alter, modify or repeal any and all regular ordinances and charter ordinances not repugnant to the constitution or the laws of the State of Kansas, and such as it shall deem expedient for the good government of the city, the preservation of the peace and good order, the suppression of the vice and immorality, the benefit of trade and commerce, and the health of the inhabitants and such other ordinances, rules and regulations as may be necessary to carry such power into effect, and the governing body shall be responsible for the city manager's efficient administration of the city's business. The governing body shall have such other powers and duties as may be now or hereafter conferred on governing bodies by law. The governing body shall further have the power to cause inquiry to be made at any time into the affairs and business of the city, but no member of the governing body shall directly interfere with the conduct of any department, except at the express direction of the governing body. (K.S.A. 12-103; Code 1975, 1-106)
- 1-203. SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the first and third Monday of each month at 7:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.
(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the city council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
(K.S.A. 14-111; Code 1975, 1-110,112:116; Ord. 1835, Sec. 1; Ord. 1991; Code 2010)
- 1-204. SAME; QUORUM. In all cases, it shall require a majority of the councilmembers-elect to constitute a quorum to do business. (K.S.A. 14-111; Code 1975, 1-110; Code 1991)
- 1-205. MAYOR; POWERS AND DUTIES. The mayor shall preside at all meetings of the city council, and shall communicate to the city council such information and recommend such measures as he or she may deem advisable. He or she shall be the official head and chief executive officer of the city on all formal occasions and the mayor shall have the power to remit fines and forfeitures and grant reprieves and pardons for offenses arising under the ordinances of the city, by and with the consent of the council, in the manner prescribed in K.S.A. 14-310. The mayor shall have further power to appoint with the consent of the majority of

the councilmembers, all members to all city boards and commissions when the terms of such members expire or the office becomes vacant unless a different procedure for appointment is specified by ordinance or by the laws or constitution of the State of Kansas. (K.S.A. 14-301:302, 14-305, 14-310; Code 1975, 1-107)

1-206. **PRESIDENT OF THE COUNCIL.** The city council shall elect one of its own body as president of the council, at the first meeting after the election of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto. (K.S.A. Supp. 14-308; Code 1975, 1-108; Code 1991; Code 2010)

1-207. **VACANCIES IN GOVERNING BODY; HOW FILLED.** All vacancies occurring in the office of city councilmembers for the city, whether such vacancies occur by reason of the removal of a council member from his or her ward or by his or her death, resignation, the failure of a council member to qualify for office, or the disqualification of a council member for the holding of such office shall be filled by an election held among the remaining members of the city council of said city, and such election must be held at the next regular meeting of the governing body of the city or at a special meeting called thereto for the purpose of filling such vacancy or at an adjournment or continuance of such regular or special meeting and any successor in office elected by the governing body to fill such vacancy must be elected by a majority of the remaining councilmembers of the city, and should the remaining councilmembers of the city fail to elect a successor in office for the vacancy in office of council member after being polled three times by the mayor, or in his absence, the president of the council of said city, then and in the event, the mayor, or in his or her absence, the president of the council of the city, shall appoint a qualified person from the ward in which said vacancy exists to fill such unexpired term; and in the event any person so elected by the remaining members of the council or appointed by the mayor or president of the council in the manner aforesaid, should refuse, fail or neglect to qualify for such office by taking or subscribing to his or her oath for a period of 30 days following such election or appointment, as the case may be, then and in that event the mayor of said city shall forthwith appoint another qualified person to fill such vacancy. (C.O. No. 8, Sec. 5)

1-208. **COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 1991)

1-209. **EXPENSES.** Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

(a) Mileage at the same rate as is established by law by the State of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor, city council and/or city manager.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor, city council and/or city manager,

provided such expenses shall be documented by proper receipts and taxed according to IRS regulations.
(Code 1991; Code 2010)

1-210. INCORPORATING CODE OF PROCEDURE FOR KANSAS CITIES. There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of city council meetings of the City of Augusta, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," current edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Augusta, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Code 2010)

1-211. SAME; AMENDMENTS. The "Code of Procedure for Kansas Cities" as incorporated by reference in 1-210, shall have the following amendments: The first sentence in Section 42 is hereby changed to read as follows: "For those matters not covered by these rules, the procedure shall be as decided by Robert's Rules of Order."

1-212. SAME; DELETIONS. Section 40 of the "Code of Procedure for Kansas Cities" relating to confirmation of mayoral appointments to elected positions is hereby declared to be and is omitted and deleted.

ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. CITY CLERK. The city clerk shall:
- (a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;
 - (b) Carry on all official correspondence of the city;
 - (c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;
 - (d) Enter every appointment of office and the date thereof in the journal;
 - (e) Enter or place each ordinance of the city in the ordinance books after its passage;
 - (f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance.
- (Code 1975, 1-307:311; Code 1991)
- 1-302. SAME; FISCAL RECORDS. The city clerk shall:
- (a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;
 - (b) Assist in preparing the annual budget;
 - (c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;
 - (d) Keep an accurate account of all bonds issued by the city;
 - (e) Keep a record of all special assessments.
- (Code 1975, 1-307:311; Code 1991)
- 1-303. SAME; SEAL; OATHS. The city clerk shall:
- (a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;
 - (b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;
 - (c) Keep suitable files of all such oaths required to be deposited in his or her office.
- (Code 1975, 1-307:311; Code 1991)
- 1-304. SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 1975, 1-307:311,313:324; Code 1991)
- 1-305. DEPUTY CITY CLERK. (a) The office of deputy city clerk is hereby established. The city manager shall appoint the deputy city clerk.

(b) The deputy city clerk shall perform those duties assigned to that office by the city clerk or city manager.

(c) Whenever a vacancy occurs in the position of city clerk the city is without a person appointed, confirmed or qualified to hold that office, the deputy city clerk shall become the acting city clerk and fulfill the duties of that office. (Ord. 1285, Secs. 1:2; Code 1991; Code 2010)

1-306. CITY TREASURER. The city treasurer shall:

(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;

(b) Publish a quarterly financial statement;

(c) Deposit all public moneys and sign all checks of the city;

(d) Pay out city funds only upon orders or warrants properly signed by the city manager;

(e) Perform such other duties as may be prescribed by the city manager or the Kansas statutes.

(K.S.A. 10-803; K.S.A. 12-1608; Code 1975, 1-325:331; Code 1991)

1-307. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. The city attorney shall be appointed by the city manager. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

(a) Attend meetings of the city governing body when so directed to attend by the governing body;

(b) Advise the city governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;

(c) When requested by the city governing body, give opinions in writing upon any such questions;

(d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;

(e) Approve all ordinances of the city as to form and legality;

(f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;

(g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;

(h) Perform such other duties as may be prescribed by the governing body, the city manager and the Kansas statutes.

(Code 1991)

1-308. CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for duties assigned by the city manager as from time to time are appropriate. (Code 1991)

1-309. CITY MANAGER. The administration of the city's business shall be in the hands of a city manager. (K.S.A. 12-1024; Code 1975, 1-201)

- 1-310. APPOINTMENT; TERM; QUALIFICATION. Annually on the anniversary date of the hiring of the city manager, the governing body shall review the appointment of the city manager. He or she shall hold office at the pleasure of the governing body. The governing body may, at its discretion, delay appointment of the city manager until the third meeting of the governing body following the anniversary date. The city manager in office shall continue in office until his or her successor is appointed. Whenever a vacancy occurs by virtue of dismissal, resignation, death or disqualification, the governing body shall immediately appoint another city manager. The city manager shall be chosen solely upon the basis of administrative ability and the choice shall not be limited by any resident qualifications. (K.S.A. 12-1024, 12-1025; Code 1975, 1-202; Code 1991)
- 1-311. SALARY; BOND. The city manager shall receive a salary to be fixed by the governing body and shall give a bond for the faithful performance of his or her duties in such amount as may be required by the city. (K.S.A. 12-1024, 12-1025; Code 1975, 1-203)
- 1-312. DUTIES OF CITY MANAGER. The city manager shall appoint a municipal judge, city treasurer and city attorney, as well as the heads of the various departments of the city as hereafter designated. The city manager shall be responsible for the enforcement of the laws and ordinances and for the proper discharge of the duties of the respective city administrative officers and employees. He or she shall have the power to appoint and remove all nonelective heads of departments, officers and employees of the city and will undertake any other ministerial acts assigned to him or her by the governing body. The city manager may perform the duties of the head of any city department for which duties he or she is qualified, as deemed appropriate by the current job description. He or she may designate one person to be the head of one or more departments or offices of the city except where the duties of such offices would be incompatible. He or she shall be responsible for discipline of all appointive officers and may, without notice, cause the affairs of any department or the conduct or accounts of any officer or employee to be examined. He or she shall prepare or cause the preparation of the annual budget to be submitted to the governing body for its approval. He or she may make recommendation to the governing body on all matters concerning the welfare of the city and shall have a seat, but not a vote, in all public meetings of the governing body. (Code 1975, 1-204; Code 2010)
- 1-313. COUNTERSIGN WARRANTS. The city manager shall countersign all warrants or warrant checks issued by the city clerk. (Code 1975, 1-208)
- 1-314. PAYROLL DEDUCTIONS. The city manager is authorized and directed to make arrangements for deductions from payroll for all or part of the cost of group health, accident and/or life insurance plans and other deductions for community or united funds. (Code 1975, 1-209; Code 1991)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS

1-401

PERSONNEL RULES AND REGULATIONS. There is hereby incorporated by reference for the purpose of establishing employee personnel rules regulations the document entitled "Uniform Personnel Rules and Regulations for the City of Augusta." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Augusta" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Code 1991)

ARTICLE 5. OATHS AND BONDS

1-501. OATH; AFFIRMATION. All safety officers and governing body members of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:

Oath: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of _____ (here enter name of office or position). So help me God."

Affirmation: "I do solemnly, sincerely and truly declare and affirm that I will support the Constitution of the United States and of the State of Kansas and faithfully discharge the duties of _____ (enter name of office or position). This I do under the pains and penalties of perjury.

All other employees of the City must sign a written oath before entering upon the duties of their position.
(K.S.A. 75-4308, 54-104, 54-106; Code 2010)

1-502. OATHS FILED. All safety officers and governing body members required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed with the city clerk. (Code 1975, 1-402; Code 1991; Code 2010)

1-503. BONDS REQUIRED. (a) Before taking office or assuming the duties of an employee of the city, the officers and employees of the city hereinafter named and any other officer or employee who has access to city funds or property of a valuable nature shall furnish unto the city a bond conditioned upon the faithful performance of all duties of this office or employment and such bonds shall be in at least the following amounts for the following offices:

- (1) City Manager, minimum - \$15,000.
- (2) City Clerk, minimum - \$15,000.
- (3) City Treasurer, minimum - \$15,000.
- (4) Municipal Judge, minimum - \$2,000.
- (5) Director of Public Safety, minimum - \$2,000.
- (6) Each Utility Collection Clerk - \$5,000.
- (7) Treasurer of Firemen's Relief Association - \$25,000.
- (8) Faithful performance of Duty for Governing Body, limit \$15,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate.

Provided, that such bonds shall be executed by responsible bonding company authorized to do business in the State of Kansas, be payable to and for the use and benefit for the city, in the minimum sum herein above specified or such other amounts in excess thereof as the governing body from time to time may determine by motion or resolution as necessary.

(Code 1975, 1-403; Code 1991)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1991)

1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 1975, 1-405; Code 1991)

1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1975, 1-404; Code 1991)

ARTICLE 6. OPEN RECORDS

- 1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
- (b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.
- (Code 1991)
- 1-602. RECORD CUSTODIANS. (a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.
- (b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.
- (Code 2010)
- 1-603. LOCAL FREEDOM OF INFORMATION OFFICERS. The Local Freedom of Information Officer shall:
- (a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;
- (b) be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;
- (c) respond to inquiries relating to the Kansas Open Records Act;
- (d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act.
- (Code 2010)
- 1-604. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no

fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 1991, 1-603)

1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal recordkeeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 1991, 1-604)

1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 1991, 1-605)

1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

(a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.

(b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.

(c) Director of Public Safety- All public records not on file in the office of the city clerk and kept and maintained in the city public safety department.

(d) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.

(e) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.

(Code 2010)

1-608. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. The City Clerk is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in section 1-603. (Code 2010)

1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-607 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.
(Code 1991, 1-607)

1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS. All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the City Clerk who will forward the requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.
(Code 1991, 1-609; Code 2010)

1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 1991, 1-610)

1-612. INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.
(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged.
(Code 1991, 1-611)

1-613. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.
(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$25.00.
(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.
(Code 1991, 1-613)

1-614. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city. (Code 1991, 1-614)

ARTICLE 7. INVESTMENT OF PUBLIC FUNDS

1-701. PURPOSE AND GOALS. It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:

(a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.

(b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services.

(Code 1991)

1-702. ACTIVE FUNDS; DESIGNATION OF DEPOSITORIES; ELIGIBLE DEPOSITORIES. (a) The governing body shall designate the banks, savings and loan associations and savings banks which shall serve as depositories of its funds. The clerk, treasurer or other city officer or employee having the custody of city funds shall deposit such funds only at the designated banks, savings and loan associations and savings banks. Only banks, savings and loan associations and savings banks that have main or branch offices in Butler County shall be designated as official depositories. No such bank, savings bank or savings and loan association shall be designated as a depository until the city is assured that it can obtain satisfactory security for its deposits.

(b) The clerk, treasurer or other city officer or employee depositing public funds shall deposit all such public funds coming into such person's possession in their name and official title as such officer. If the governing body fails to designate an official depository or depositories, the officer thereof having custody of city funds shall deposit such funds with one or more banks, savings and loan associations or savings banks which have main or branch offices in Butler County if satisfactory security can be obtained therefor and if not then elsewhere. In such event, the officer or employee shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations and savings banks where such funds are deposited, and upon so doing the officer or employee having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by the officer or employee.

(c) If eligible banks, savings and loan associations or savings banks under subsections (a) or (b) cannot or will not provide an acceptable bid, which shall include services, for the depositing of public funds under this section, then banks, savings and loan associations or savings banks which have main or branch offices in any immediately adjoining county may receive deposits of the city's active funds, if such banks, savings and loan associations or savings banks have been designated as official depositories under subsection (a) and the city can obtain satisfactory security therefor.

(Code 2010)

1-703. DEFINITIONS. As used in this article the following words and phrases shall mean:

(a) Bank - means any bank incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(b) Savings and loan association - means any savings and loan association incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(c) Savings bank - means any savings bank organized under the laws of the United States and which has a main or branch office in Kansas;

(d) Main office - means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

(e) Branch - means any office within this state, other than the main office, that is approved as a branch by a federal or state supervisory agency, at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device or a loan production office;

(f) Investment rate - means a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. The 0-90 day rate shall be computed on the average effective federal funds rate as published by the federal reserve system for the previous week.
(Code 2010)

1-704. INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereinafter described be invested:

(a) In temporary notes or no-fund warrants issued by the city;

(b) In time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years:

(1) In banks, savings and loan associations and savings banks, which have main or branch offices located in the city; or

(2) If no main or branch office of a bank, savings and loan association or savings bank is located in the city, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of the city is located;

(c) In repurchase agreements with:

(1) Banks, savings and loan associations and savings banks, which have main or branch offices located in the city, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2)(A) If no main or branch office of a bank, savings and loan association or savings bank, is located in the city; or

(B) If no such bank, savings and loan association or savings bank having a main or branch office located in the city is willing to enter into such an agreement with the city at an interest rate equal to or greater than the

investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of the city is located; or

(3) If no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within the State of Kansas;

(d) In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 2005 Supp. 17-12a401, and amendments thereto;

(e) In the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;

(f) In the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto; or

(g) In multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in county or counties where city is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which in which the City of Augusta is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto.

(h) The investments authorized in subsections (d), (e), (f) or (g) of this section shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in subsection (b), cannot or will not make the investments authorized in subsection (b) available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(i) In selecting a depository pursuant to subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the city and such financial institution will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such

deposit, the governing body shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the city shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of the city is located which will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.
(Code 2010)

1-705. PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 1991, 1-703)

1-706. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and city manager and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers.
(Code 2010)

1-707. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in 1-706 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2010)

1-708. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest on invested idle funds as required or authorized by law. (Code 2010)

ARTICLE 8. LIBRARY BOARD

1-801. LIBRARY BOARD. The mayor shall appoint, with the approval of the city council, a library board for the city. The library board shall consist of seven members in the manner and for terms as provided by law. The mayor shall be ex officio a member of such board with the same powers as appointed members, but no person holding any city office shall be appointed a member of such board while holding such office. All members appointed to the library board shall be residents of the city. Vacancies occasioned by removal from the city, resignation or otherwise shall be filled by appointment for the unexpired term. No person who has been appointed to the library board for two consecutive four year terms shall be eligible for further appointment to such board until two years after expiration of the second term. Members of the library board shall receive no compensation for their services as such but shall be allowed their actual and necessary expenses in attending meetings and in carrying out their duties as members. (Code 1975, 1-901)

1-802. LIBRARY EMPLOYEE BENEFITS CONTRIBUTION FUND. (a) The City of Augusta, in accordance with the provisions in K.S.A. 12-16, 102, as amended, does hereby establish a Library Employee Benefits Contribution Fund for the purpose of paying the Augusta Public Library's share of employee benefits prescribed herein after.

(b) The cost of employee benefits authorized for payment from the fund created by part (1) of this section shall include the following: Employer contributions for Social Security, Medicare, Worker's Compensation, Unemployment Insurance, health care costs, employee benefit plans and employee retirement and pension programs. (Ord. 1752; Code 2010)

ARTICLE 9. OLD CITY RECORDS

1-901.

DESTRUCTION OF CERTAIN RECORDS. (a) The officers and employees of the city charged with the custody or having in their custody the following records, documents or other papers may destroy the same after they have been on file for the period stated:

- (1) Claims and any purchase orders attached thereto, five years.
- (2) Warrants or warrant checks, whether originals or duplicates, that have been paid, five years.
- (3) Duplicates of receipts or stubs of receipts issued, three years.
- (4) Duplicates of utility bills sent to customers, three years.
- (5) Bookkeeping or accounting records of utility customer's accounts, three years, except that the period for the records of deposits to guarantee the payment of bills or the return of meters shall begin when the account is closed or the customer ceases to receive service.
- (6) Duplicates or stubs of licenses issued for license fees or taxes, three years.
- (7) Bonds of officers or employees, 10 years, the period to begin at the termination of the term of the bond.
- (8) Insurance policies, five years, the period beginning at expiration of the policy unless a claim is pending.
- (9) Canceled checks, five years.
- (10) Requisition and duplicate purchase orders, three years.
- (11) Bonds and coupons, if any, stamped paid or canceled and returned by the fiscal agent, five years, the period beginning at the date of maturity of the bond or coupon. One bond of each issue shall be retained permanently or shall be offered to the state historical society.

(b) The original of records, documents or other papers listed in subsection (a) may be destroyed at any time if reproduced on film, as provided in K.S.A. 12-122, and amendments thereto, and such film shall be retained for a period not less than required for the original records.

(K.S.A. Supp. 12-120; Code 1975, 1-1001; Code 1991)

1-902.

RECORDS TO BE PRESERVED. Nothing in section 1-1001 of this article shall be deemed to apply to records, documents or papers not specifically mentioned nor to authorize the destruction of records, documents or papers which in their nature should be preserved permanently, nor to prohibit destruction of records, documents or papers obviously of only temporary value after a reasonable time. (K.S.A. 12-121; Code 1975, 1-1002)

ARTICLE 10. ADMINISTRATIVE DEPARTMENTS

1-1001. ADMINISTRATIVE DEPARTMENTS. The affairs and administrative functions of the city shall be divided into departments, the city manager having full power and authority to appoint or employ any department head or employee within each and every department, except that when the business of the city, in the discretion of the city manager, does not require the employment of persons in any department, he or she may dispense with such department or employees therein, until such time, as, in his or her discretion, a need exists for such department or employees.

ARTICLE 11. EMERGENCY MANAGEMENT

1-1101. EMERGENCY MANAGEMENT. The director of public safety of the public safety department shall be the emergency management director of the city and shall act in this capacity pursuant to all applicable state statutes and city ordinances. (Code 1991)

ARTICLE 12. PUBLIC BUILDING COMMISSION

1-1201. **FORMATION.** (a) The City, by appropriate ordinance, may create a public building commission for the purposes of acquiring a site or sites for and constructing, reconstructing, equipping and furnishing, or purchasing or otherwise acquiring, a building or buildings or other facilities of a revenue producing character. Such building or buildings or facilities shall be maintained and operated for (i) a county courthouse, (ii) the housing and accommodation of county offices or county business, (iii) city offices, (iv) independent living facilities for senior citizens, or (v) such other purposes as are commonly carried on in connection with such facilities or in county courthouses and general city buildings, including administrative offices for school districts and housing, accommodations and parking facilities for offices of state and federal agencies.

(b) A public building commission created by the City may acquire land and facilities adjacent to or near any educational institution under the supervision and control of the state board of regents or may acquire by lease, land and facilities constituting a part of the campus of any such institution. Any public building commission may construct, reconstruct, equip and furnish such facilities on such land and lease such land and facilities to the official governing body of such institution. Any such lease entered into shall pledge the net revenue from such land and facilities. The City also may pledge such funds as may be necessary from those which are provided to be paid over to the board of trustees from the annual tax levy as provided by K.S.A. 76-3a07, and amendments thereto. The governing body of the City is hereby authorized to designate any surplus from such tax levy as may be necessary to guarantee the rentals under any such lease, and the City is hereby exempted from the provisions of K.S.A. 101101 to 10-1122, inclusive, and 79-2925, and amendments thereto, to the extent necessary to enable the City to make a covenant to effect such guarantee.

(c) A public building commission authorized under this *Charter Ordinance* and K.S.A.12-1757 et seq. shall have the power to do all things necessary or incidental to the purpose of constructing or acquiring or enlarging, furnishing and operating and maintaining buildings or facilities to be made available for use by governmental agencies. and non-profit corporations organized under the laws of this state.

1-1202. **BONDING.** (a) Any revenue bonds proposed to be issued by a public building commission created by the City shall be issued as provided in K.S.A. 104201 et seq. and amendments thereto, except to the extent that such statutes are in conflict with this article or K.S.A. 12-1757 et seq. Before any revenue bonds are authorized or issued under the provisions of this article and K.S.A. 12-1757 et seq., the public building commission shall adopt a resolution specifying the amount of such bonds and the purpose of the issuance thereof.

(b)(1) Except as otherwise provided in subsection (b) (2) of this section the resolution shall provide that if within 30 days after the last date of publication of the resolution a petition in opposition to the resolution, signed by not less than 5% of the electors of the City or by not less than 5% of the electors of the county or school district if the lease is with such entity, is filed with the county election officer, the board of county commissioners shall submit the question to the voters at an election called for that purpose or at the next general election. Except as

otherwise provided in subsection (b) (2) of this section, such resolution shall be published once a week for two consecutive weeks in the official city newspaper or in a newspaper having general circulation in the county if the lease is with a county or school district.

(2) Notwithstanding the provisions of subsection (b) (1) of this Section, a resolution of a public building commission adopted within one year from the date of this Charter Ordinance authorizing the issuance of revenue bonds to finance the acquisition of an independent living facility for senior citizens, shall be published once in the official City newspaper and shall not be subject to petition in opposition of the resolution.

(c) No construction contract shall be let or approved by a public building commission until after the expiration of the protest period provided under this section, provided that, with respect to revenue bonds authorized by a resolution described in subsection (b)(2) of this Section, the public building commission may let or approve a construction contract upon publication of such resolution once in the official City newspaper. (Code 2010)