

## CHAPTER 15

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#### 15.01 RULES OF CONSTRUCTION

In the construction of this code of general ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the ordinance:

- (1) **Wisconsin Statutes** The term Wisconsin Statutes wherever used in this code shall mean the Wisconsin Statutes for the year 1996.
  
- (2) **Gender: Singular and Plural** Every word in this code and in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.
  
- (3) **Person** The word "person" extends and applies to natural persons, firms, corporations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.
  
- (4) **Acts by Agents** When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requisition shall be construed to include all such acts when done by an authorized agent.

## 15.02 CONFLICT AND SEPARABILITY

(1) Conflict of Provisions If the provisions of the different chapters of this code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(2) Separability of Code Provisions If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The City Mayor and City Council of the City of Augusta hereby declare that they would have passed this code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

## 15.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE

Whenever in this code any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of this code, are adopted by reference, they shall be deemed incorporated in and required to file, deposit and keep in his/her office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

## 15.035 ISSUANCE OF CITATIONS

(1) Law Enforcement Officers may issue citations authorized under this code of ordinances.

(2) The Fire Chief is authorized to issue citations for violations of ordinances which are directly related to his official responsibilities. Additionally, the Fire Chief may delegate his authority to issue citations to one other member of the Fire Department who shall act as a Fire Inspector.

(3) Citations issued under this section shall contain the following information:

(a) The name and address of the alleged violator.

(b) The factual allegations describing the alleged violation.

(c) Time and place of the offense.

(d) The section of the ordinance violated.

(e) A designation of the offices in such manner as can be readily understood by a person making a reasonable effort to do so.

(f) The time at which the alleged violator may appear in court.

(g) A statement which in essence informs the alleged violator:

(1) That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official with a specified time.

(2) That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.

(3) That if the alleged violator makes a cash deposit and does not appear in court, either he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by  $\$165.87$  not to exceed the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

(4) That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by  $\$165.87$ .

(h) A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under sub. (7) and shall send the signed statement with the cash deposit.

(i) Such other information as may be deemed necessary.

(4) The citations issued under this section shall be in a form substantially identical to that of Exhibit "A" which is attached to this ordinance.

(5) The following schedule of cash deposits which are to be required for violations of city ordinances for which no statutory counterpart exists are as follows:

Section 3.05 Failure to Assist Officer \$100.00 plus court costs

Section 4.05 Snowmobile Ordinance \$50.00 plus Court costs

Section 4.05(A)

(1) Operating ATV in prohibited place: \$50.00 plus court costs.

(2) Operating ATV up to 10 miles per hour in excess of the ATV speed limit of 10 miles per hour within city limits: \$30.00 plus court costs.

(3) Operating ATV between 10 and 20 miles per hour, inclusive, in excess of the ATV speed limit of 10 miles per hour within city limits: \$60.00 plus court costs.

(4) Operating ATV more than 20 miles per hour, in excess of the ATV speed limit of 10 miles per hour

within city limits: \$100.00 plus court costs.

(5) Operating ATV other than on the right side of city streets: \$30.00 plus court costs.

(6) Operating an ATV abreast another ATV: \$30.00 plus court costs.

(7) Failure to stop an ATV at an intersection: \$30.00 plus court costs.

(8) Operating an ATV on private property without permission of property owner: \$30.00 plus court costs.

(9) Failure to obey any traffic laws: \$30.00 plus court costs.

(10) Use of an ATV to tow anything: \$30.00 plus court costs.

(11) Operating an ATV in the city while under 12 years of age: \$30.00 plus court costs.

(12) Operating an ATV in the city while under 16 years of age, but at least 12 years of age, without a valid ATV Certificate issued by the state of Wisconsin: \$30.00 plus court costs.

(13) Operating an ATV on City owned property, other than streets without written permission issued in advance by the Mayor, Director of Public Works, or the Chief of Police: \$30.00 plus court costs.

(14) Operating an ATV while under the influence of an intoxicant while blood alcohol concentration is 0.1% or more: \$200.00 plus court costs.

(15) Refusal to provide one or more samples of breath, blood or urine upon request or refusal to submit to one or more chemical tests as authorized by law: \$200.00 plus court costs.

(16) Operating an ATV or being a passenger on an ATV without the chin strap properly fastened: \$30.00 plus court costs.

(17) All others: \$30.00 plus court costs.

Section 4.06(5) Winter parking \$5.00 plus court costs

Section 4.07 Prohibited parking \$5.00 plus court costs

Section 4.08 Exhibition driving \$50.00 plus court costs

Section 4.11 (5) 48 Hour Parking Ordinance \$50.00 plus court costs.

Section 4.12 Jake Brake \$50.00 plus court costs

Section 11.01 Juvenile drinking \$50.00 plus court costs

Section 11.02 Transient Merchant Regulation \$50.00 plus court costs

Section 11.05 Animal regulations First Offense: \$75.00 plus court costs, Second Offense: \$150.00 plus court costs (Adopted May 14, 2002)

Section 11.06 Junked vehicle \$25.00 plus court costs

Section 12.01 Offenses endangering public safety \$100.00 plus court costs

Section 12.02 Disorderly conduct \$75.00 plus court costs

Section 12.03 Public Morals & Decency \$75.00 plus court costs

Section 12.04(1) Property destruction \$100.00 plus court costs

Section 12.04(2) Littering \$25.00 plus court costs

Section 12.04(3) Violation of public park rules \$25.00 plus court costs

Section 12.06 Public consumption of alcoholic beverages \$50.00 plus court costs

Section 13.02 Public Nuisance \$50.00 plus court costs

(6) For second and subsequent offenses of any of the above offenses within a period of one year the bond shall be doubled.

#### 15.04 PENALTY PROVISIONS

(1) General penalty Whenever so provided in this code, any person who shall violate any of the provisions of this code shall upon conviction of such violation, be subject to a penalty which shall be as follows:

(a) First Offense - Penalty Any person who shall violate any provision of this code subject to a penalty shall, upon conviction thereof, forfeit not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00), together with the costs of prosecution, or shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed ninety (90) days. However, if said person establishes that he or she is indigent, no jail sentence may be imposed.

(b) Second Offense - Penalty Any person found guilty of violating any ordinance or part of any ordinance of this code who shall previously have been convicted of a violation of the same ordinance within one year of the date of violation shall upon conviction thereof, forfeit not less than twenty dollars (\$20.00) nor more than three hundred dollars (\$300.00), together with the costs of prosecution, or shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed six (6) months. However, if said person establishes that he or she is indigent, no jail sentence may be imposed.

#### 15.05 REPEAL OF GENERAL ORDINANCES

All ordinances heretofore adopted by the City Council of the City of Augusta are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this code.:

The issuance of corporate bonds and notes of the City of Augusta of whatever name or description.

The establishment of grades, curb line and widths of sidewalks in the public streets and alleys.

The fixing of salaries of public officials and employees.

Rights, licenses or franchises or the creation of any contract with the City of Augusta.

The lighting of streets and alleys.

The annexation of territory to the City of Augusta.

The naming and changing of names of streets, alleys, public grounds and parks.

The letting of contracts without bids.

Tax and special assessment levies.

Release of persons, firms or corporations from liability.

Construction of any public works.

Water, sewer and electric rates, rules and regulations and sewer and water main construction.

Budget ordinances, resolutions and actions.

#### 15.06 EFFECT OF REPEALS

The repeal or amendment of any section or provision of this code or of any other ordinance or resolution of the City Council shall not:

(1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect:

(2) Affect and vested right, privilege, obligation or liability acquired, accrued under any enactment so repealed or amended unless the privilege of repealing such obligation or privilege has been reserved by the City.

(3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been

mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.

(4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid shall be repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances, and such prosecution shall proceed, in all respects, as if such ordinance or ordinances had not been repealed, except that all such proceedings had after the time this code shall take effect, shall be conducted according to the provisions of this code, and shall be, in all respects, subject to the provisions of this code.

#### 15.07 TITLE: EFFECTIVE DATE: CITATION

These ordinances shall be known as the "Municipal Code of the City of Augusta" and shall take effect from and after passage and publication. All references thereto shall be cited by section number.

#### 15.08 STYLE OF ORDINANCES: ADDITIONS, AMENDMENTS & REPEALS

All general ordinances hereafter enacted by the City Council of the City of Augusta shall be numbered in chronological order, prefixed by the letter "A" and shall indicate by appropriate decimal number the section, subsection or paragraph of this code created, amended, repealed or revised.

#### 15.09 CLERK TO FILE ORDINANCES: SUPPLEMENTAL SHEETS

The City Clerk shall certify one copy of this code as the original Municipal Code of the City of Augusta and shall file the same as part of the City Ordinance Book. Such copy shall be retained in its original form. In addition, the Clerk shall retain in his/her office at least one copy of the Municipal Code of the City of Augusta in current form in which shall be inserted all supplemental sheets as hereinafter provided.

Whenever any ordinance amending, repealing, revising or creating any section of this code is adopted by the City Council, the City Clerk, after recording such ordinance in the ordinance book, shall cause copies of such ordinance to be reproduced on supplemental sheets in proper form for insertion in the municipal code and shall insert such ordinances in all copies of this code in his possession except the aforementioned original copy. The Clerk shall make supplemental sheets available at a fee specified by the City Council to all persons requesting the same.

#### 15.10 PUBLIC RECORDS

(1) Definitions: In this chapter, unless the context clearly requires otherwise:

(a) **Authority** means any of the following entities having custody of a city record: an office, elected official, agency, board, commission, committee, council, department of public body corporate and politic created by construction, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

(b) **Custodian** means that officer, department head, division head, or employee of the city designated under Section 3 or otherwise responsible by law to keep and preserve any city records or

file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this chapter to respond to requests for access to such records.

(c) **Record** means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics which has been created or is being kept by an authority. **Record** includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. **Records** does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

## (2) Duty to Maintain Records

(a) Except as provided under Section 1, each officer and employee of the city shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefore to the officer or employee, who shall file said receipt with the city clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

## (3) Legal Custodians

(a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.

(b) Unless otherwise prohibited by law, the city clerk or the clerk's designee shall act as legal custodian for the city council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the city council.

(c) For every authority not specified in subsections 3 and 3(a), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of



an authority under subchapter II of Chapter 19, Wisconsin Statutes, and this section. The designation of a legal custodian shall not affect the powers and duties of an authority under this section.

(4) Public Access to Records

(a) Except as provided in section 6, any person has a right to inspect a record and to make or receive a copy of any record as provided in [§19.35\(1\)](#).

(b) Records shall be available for inspection and copying during all regular office hours.

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours [§](#) advance notice of intent to inspect or copy.

(d) A requester shall be permitted to use facilities comparable to those available to city employees to inspect, copy or abstract a record.

(e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner or access to an original record if the record is irreplaceable or easily damaged.

(f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:

(1) The cost of photocopying shall be \$.25 per page. Other costs may be imposed not to exceed the actual, necessary and direct cost of reproduction and transcription of the record.

(2) If the form of a written record does not permit copying the actual and necessary cost of photographing and photographic processing shall be charged.

(3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio or video tapes, shall be charged.

(4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(5) There shall be no charge for locating a record unless the actual cost therefore exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester. Such actual cost shall be derived by multiplying the actual hourly wage of the employee or employees conducting the search, including fringe benefits, by the amount of time spent in the search.

(6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.

(7) Elected and appointed officials of the city of Augusta shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to §19.34, and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This subsection does not apply to members of the city council.

#### (5) Access Procedures

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under §19.37. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 4. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(b) Each custodian, upon request, shall as soon as possible and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefore. If the legal custodian, after conferring with the city attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in Section 6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under §19.37(1), or upon application to the attorney general or a district attorney.

#### (6) Limitations on Right to Access

(a) As provided by §19.36 the following records are exempt from inspection under this section:

(1) Records specifically exempted from disclosure by state or federal law.

(2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations requires exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.

(3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.

(4) A record or any portion of a record containing information qualifying as a common law trade secret.

(b) As provided by [§43.30](#) public library circulation records are exempt from inspection under this section.

(c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the city attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

(1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.

(2) Records of current deliberations after a quasi-judicial hearing.

(3) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any city officer or employee, or the investigation of charges against a city officer or employee, unless such officer or employee consents to such disclosure.

(4) Records containing current strategy for crime detection or prevention.

(5) Records of current deliberations or negotiations on the purchase of city property, investing of city funds, or other city business whenever competitive or bargaining reasons require nondisclosure.

(6) Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

(7) Communications between legal counsel for the city and any officer, agent, or employee of the city, when advice is being rendered concerning strategy with respect to current litigation in which the city or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under [§905.03](#).

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall

confer with the city attorney prior to releasing any such record and shall follow the guidance of the city attorney when separating out the exempt material. If in the judgment of the custodian and the city attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

(7) Destruction of Records

(a) City officers may destroy the following non- utility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, but not less than 7 years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the state public records board pursuant to [§16.61\(3\)\(e\)](#) and then after such shorter period.

(1) Bank statements, deposit books, slips and stubs.

(2) Bonds and coupons after maturity.

(3) Canceled checks, duplicates and check stubs.

(4) License and permit applications, stubs and duplicates.

(5) Official bonds.

(6) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement System (subject to approval of the city manager).

(7) Receipt forms.

(8) Special assessment records (subject to approval of city manager).

(9) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(b) City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to state public service commission regulations, but not less than 7 years after the record was effective unless a shorter period has been fixed by the state public records board pursuant to [§16.61\(3\)\(e\)](#), and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after 2 years.

(1) Contracts.

(2) Excavation permits.

(3) Inspection records.

(4) Vouchers and supporting documents pertaining to charges not included in plant accounts.

(5) Other utility records with the prior written approval of the Public Service Commission.

(c) City officers may destroy the following records of the city but not less than 3 years after the incurring of the liability which is the subject of the record.

(1) Parking tickets.

(2) Miscellaneous accounts receivable.

(d) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than 7 years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the state public records board pursuant to [§16.61\(3\)\(e\)](#), and then after such a shorter period.

(1) Assessment rolls and related records, including board of review minutes.

(2) Contracts and papers relating thereto.

(2) Correspondence and communications.

(4) Election notices.

(5) Financial reports other than annual financial reports.

(6) Insurance policies.

(7) Justice dockets.

(8) Oaths of office.

(9) Reports of boards, commissions, committees and officials duplicated in the official council minutes.

(10) Resolutions and petitions.

(11) Voter registration cards.

(12) Uniform traffic citations.

(13) Police department firearms scores.

(14) City ordinance citations.

(15) Library patron and circulation records.

(16) Other records of the city not enumerated above.

(e) Unless notice is waived by the state historical society, at least 60 days notice shall be given the state historical society prior to the destruction of any record as provided by 19.21(4)(a).

(f) Any tape recordings of a governmental meeting of the city, made by the city, may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

(g) Any tape recordings of telephone calls, radio transmissions or other methods of communication recorded in the city's communications center may be erased, destroyed or reused after 125 days.

(h) Closed call records associated with the computer aided dispatch (CAD) system in the city's communication center may be deleted and destroyed after 120 days.

(8) Lesser Time When Authorized This chapter shall not be construed to authorize the destruction of any public record after a period less than prescribed by statute or state administrative regulations.

(9) Preservation Through Microfilm Any city officer or the director of any department or division of city government may, subject to the approval of the city manager, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in 16.61(7)(a) and (b), and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Section 4 through 6.