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Vanessa Wright, Registrar

**STATE OF SOUTH CAROLINA
COUNTY OF JASPER
ORDINANCE # O-2023-02**

AN ORDINANCE OF JASPER COUNTY COUNCIL

To amend the Jasper County Code of Ordinances, including Article IV, *Boards and Commissions* of Chapter 2, *Administration*, so as to amend Division 7, *Jasper County Aeronautics Commission*, including provisions regarding the appointment, qualifications, duties, and responsibilities of the Aeronautics Commission; to amend certain provisions of Chapter 29 to the Jasper County Code of Ordinances, *Aviation*, so as to make clarifications and amendments to certain standards, rules and regulations; and providing for corrections and amendments to the Template Leases approved by County Council pursuant to Ordinance 19- and related matters regarding the aeronautical and other activities at the Ridgeland – Claude Dean Airport, and matters related to the foregoing.

WHEREAS, the Jasper County Aeronautics Commission (County Aeronautics Commission) was originally enabled pursuant to South Carolina Acts and Joint Resolutions Act No. 12 (1949; and

WHEREAS, subsequently, in recognition of the Home Rule Act, appointive powers to the County Aeronautics Commission were devolved to Jasper County in accordance with § 4-9-170 of the Code of Laws of South Carolina, (1976 as amended); and

WHEREAS, in 2019, Jasper County made certain additions and amendments to the Jasper County Code of Ordinances to recognize recent improvements to the Ridgeland Claude Dean Airport through the use of federal funds for the
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improvements, which required necessary and desirable provisions regarding the County Aeronautics Commission, aeronautical operations and airport standards; and

WHEREAS, in implementing these provisions and operating the Ridgeland Claude Dean Airport, County Council has become aware of the need for clarifications and modifications to the Code of Ordinances, including the confirmation of the abolishment of the old pre-Home Rule Act Aeronautics Commission and ratifying the establishment of a post-Home Rule Act County commission, confirmation of the name of the post-Home Rule Act County commission as re-constituted by this Ordinance as the Jasper County Airport Commission, the appointment of members of the Aeronautics Commission, certain corrections and clarifications to the specimen Template Leases, and other matters as set forth below;

WHEREAS, Jasper County Council desires to adopt various amendments to the Code of Ordinances to accomplish these purposes;

NOW THEREFORE, BE IT ORDAINED, by the Jasper County Council duly assembled and by the authority of same:

1. The Jasper County Aeronautics Commission, as initially constituted, and changed to a County Commission post-Home Rule Act by ordinances of Jasper County, pursuant to the authority of Title 4, Chapter 9 of the Code of Laws of South Carolina, including § 4-9-25, § 4-9-30, and § 4-9-170 is hereby abolished and in its stead and as a substitute, the County Council creates the Jasper County Airport Commission, prescribes the functions thereof, and provides for the appointment of its members by this Ordinance. In furtherance thereof, existing sections of the Jasper County Code of Ordinances are modified in the following manner to accomplish the substitution.

2. Chapter 2, *Administration*, of Article IV, *Boards, Commissions and Committees*, Division 7, *Jasper County Aeronautics Commission*, codified as Code Sections 2-216 through 2-400, is amended in the following particulars to reflect such change and provide for the composition, appointment of members, authority and other related matters regarding the Airports Commission:

- a. All references to "Aeronautics" throughout the Code and the approved Rules and Regulations for the Ridgeland – Claude Dean Airport shall be changed to "Airport"; i.e., references to the Aeronautics Commission shall become the Airport Commission.
- b. Section 2-212 (a) is amended to read "The Airport Commission shall be composed of five (5) members appointed by the Jasper County Council. For convenience, the five seats shall be identified as numerical Seat #1-AC, Seat #2-AC, and so forth. Each Councilmember shall nominate one person to serve as a commission member. In the event the nominated person is not appointed by the Council by majority vote, the councilmember making such nomination shall be entitled to nominate additional persons for consideration."
- c. Section 2-212 (b) is amended to read "The term of office for Airport Commission members shall be two (2) years, and may serve for a total of three terms. Notwithstanding the foregoing, in order to implement the Airport Commission and provide for a staggering of terms, all presently serving members of the Aeronautics Commission are terminated effective upon the appointment of the newly constituted Airports Commission, and even number Seats shall for the initial term only have a term of three (3) years, and thereafter even number seats will have two year terms. All terms shall end on December 31. Members shall serve until their successors are appointed and qualified. Appointments to fill vacancies for an

unexpired term shall expire at the scheduled time for that seat; provided that serving less than one-half of the term for that seat shall not count against the number of terms for which that appointee is eligible.”

- d. Section 2-212(d) is amended to read “Members of the Airport Commission shall meet the qualifications for appointments as set forth in Section 2-78 of the Code of Ordinances, may be removed by County Council for the reasons as set forth in such Section, and except as specifically provided for within this Division, are subject to the other provisions of Section 2-78; provided, however, notwithstanding the residency requirement of Section 2-78 (a), non-residents owning businesses and/or properties in Jasper County may be appointed to fill no more than two commission seats; and all candidates should bring business and tourism experiences and acumen to the Commission.”
 - e. Section 2-212(e) is amended to read “In addition to the five appointed commissioners, the county administrator, the Ridgeland town manager, and the airport manager shall serve as non-voting and ex-officio members of the airport commission.”
3. Chapter 29, *Aviation*, is codified as Sections 29-1 through 29-100, is amended in the following particulars:
- a. All references to the Jasper County Aeronautics Commission or Aeronautics Commission shall be changed throughout the Code of Ordinances to “Jasper County Airport Commission or Airport Commission as the context indicates.”
 - b. Section 29-1 is amended by adding a new subsection 29-1(e) reading: “Pursuant to the Home Rule Act, control of the Jasper County Aeronautics Commission, by ordinances of Jasper County previously abolished and replaced by the Jasper County Airport Commission,

has been brought under County Council control, and ownership of the real property comprising the Ridgeland Claude Dean Airport is vested in Jasper County. In order to avoid confusion, all property previously titled in the name of the Jasper County Aeronautics Commission shall be quit-claimed to Jasper County by deed executed by the County Administrator, *ex-officio* member of the Aeronautics Commission and the Airports Commission, on behalf of the Jasper County Aeronautics Commission (as succeeded by the Airports Commission) within a reasonable time after enactment of Ordinance 2023-02 to be filed in the public records, and all properties, leases structures, improvements and appurtenances of the Ridgeland Claude Dean Airport are confirmed to be owned by Jasper County, not the Aeronautics Commission, except for any personal property of hangar and their improvements yet to be reverted to County ownership by virtue of any hangar lease agreement.”

- c. Subsection 29-3(f) is amended to read: “Lease terms shall not exceed fifty (50) years for a full service fixed base operator, and thirty (30) years for other limited service fixed base operators. The standard ground lease term for other leases shall be twenty (20) years plus possible option(s) totaling ten (10) years for hangars constructed after 2020. Lease renewal terms for ground leases for properties previously leased and improved by a tenant for more than twenty (20) years, shall not exceed five (5) years, or ten (10) years if substantial structural improvements were made to a hangar after 2015 totaling more than \$50,000, with amortization of those improvements to be determined in accordance with the adopted Aviation Lease Policy adopted contemporaneously herewith. Extensions on existing leases shall be made by replacement leases in accordance with the Aviation Leasing Policy (“Exhibit B”) adopted

contemporaneously herewith, which also provides for additional time in the event the Tenant requests permission to make capital improvements or requests a Reversionary Deferred Lease Agreement as defined therein. Improvements, structures or facilities built, to be built, constructed, or placed upon the airport shall revert to the county upon termination of the lease or contract with the county if not removed in accordance with the provisions of the Aviation Leasing Policy, if such removal is allowed under the terms of the ground lease in effect.

4. The Template Leases approved for use at the Ridgeland Claude Dean Airport pursuant to Jasper County Ordinance 2019 - 14, as identified in Section 1 (a) through (n) of the Ordinance, are amended to reflect that Section 8, entitled "Ground Lease Term, Rate and Options," and specifically subsection 8(a) of each of the Template Leases, shall have a Term consistent with the provisions of Section 29-3(f) as set forth within this Ordinance and the Aviation Leasing Policy, with a copy of the replacement paragraph for each of the Template Leases being attached hereto as Exhibit "A", such Term reflecting the prior length of previous leases and improvements as identified herein. Additionally, additional Template Leases, copies of which are attached as Exhibit "C", are hereby adopted and approved which provide specific terms for renewal/replacement of existing hangar leases in accordance with the terms and conditions of the Aviation Leasing Policy. All leases, including those identified in Ordinance 2019-14 Section 1(a) through 1(n) therein shall contain waiver of subrogation and hurricane warning clauses consistent with Paragraphs 14 and 21 of the attached Exhibit "C" Template Leases

5. Subsection 8(c) of each of the Template Leases previously approved by Council shall be deleted.
6. In all cases of existing leases seeking renewal, there shall be no option exercisable solely in the discretion of the Lessee included in any extension or renewal lease.
7. Subsection 18 of each of the Leases, entitled "Sale of Leased Premises," shall be modified include a statement clarifying that the sale or assignment of the Leased Premises only includes the right of possession under the ground lease, and the improvements, fixtures and other property installed, erected or placed by the Lessee are subject to the provisions of Section 15 of the Lease, and are the property of the County if not removed as may be allowed at the termination or expiration of the Lease as set forth in the Aviation Leasing Policy. Further, any renewal of a lease executed prior to 2019 shall be conditioned upon the express acknowledgment of the rights of the County to the improvements placed upon the ground lease at the expiration or termination of the renewal, if such are not removed as may have been allowed in the lease being renewed.
8. Section 1.5(A) of the approved Rules and Regulations for the Ridgeland – Claude Dean Airport is amended to read "When a violation of the Rules and Regulations may cause revocation of an Operating Agreement, a permit, lease agreement, and/or privileges exercised by a person or entity on the Airport, such person or entity shall receive written notification from the Airport Manager of such alleged violations giving the time and place and such other details as shall adequately apprise such person of the alleged violation and the proposed action by the Airport Manager.

9. Section 1.5(B) of the approved Rules and Regulations for the Ridgeland – Claude Dean Airport is amended to read “A copy of this notification shall be sent to the County Administrator.”

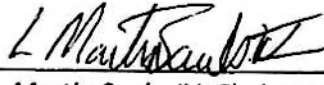
10. Section 1.5(C) of the approved Rules and Regulations for the Ridgeland – Claude Dean Airport is amended to read “Any person or entity aggrieved by a determination, denial, or suspension and/or proposed revocation of an Operating Agreement, a permit, lease agreement, and/or privileges exercised by a person or entity on the Airport by the Airport Manager may appeal the decision to the County Council or its designee by written request stating the reasons for appeal, filed with the Airport Manager and County Administrator within ten (10) days after service of the notice referenced in Section 1.5(B) by certified mail or personal service of the notice.

11. Section 1.5(D) of the approved Rules and Regulations for the Ridgeland – Claude Dean Airport is amended to read “A hearing on an appeal from determination of the Airport Manager as provided above and a hearing on a proposed determination, denial, or suspension or revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. The hearing may be beyond ten days if there is no regularly scheduled Council meeting available within such ten day period. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. Following the


hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the Rules and Regulations and applicable Ordinances standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the County.

12. A new Section 1.5(E) is added to the approved Rules and Regulations for the Ridgeland – Claude Dean Airport to read “Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.”
13. Provisions of ordinances previously adopted by County Council which are not consistent with the restrictions and requirements of this Ordinance O-2023-02 are deemed superseded.
14. If any section, clause, paragraph, sentence or phrase of this ordinance, or the application thereof to any person or circumstances shall, for any reason, be held to be invalid or unconstitutional, such invalid section, clause, paragraph, sentence, phrase or application is hereby declared to be severable; and any such invalid or unconstitutional section, clause, paragraph, sentence, phrase or application shall in no way affect the remainder of this ordinance; and it is hereby declared to be the intention of the County Council that the remainder of this ordinance would have been passed notwithstanding the invalidity or unconstitutionality of any section, clause, paragraph, sentence or phrase thereof.

15. This ordinance shall take effect upon approval by Council.



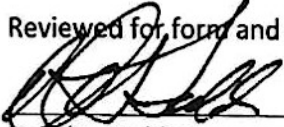
L. Martin Sauls, IV, Chairman

ATTEST:


Wanda Simmons, Clerk to Council

ORDINANCE O-2023- 02
First Reading: January 17, 2023
Public hearing: February 6, 2023
Second Reading: June 5, 2023
Adopted: June 20, 2023

Reviewed for form and draftsmanship by the Jasper County Attorney.



David L. Tedder
Date: June 20, 2023

EXHIBIT "A"

ATTACHMENT TO ORDINANCE O-2023-02

**REPLACEMENT PARAGRAPH 8 FOR LEASES APPROVED IN ORDINANCE 2019-14,
SECTION 1(a) THROUGH 1(n)**

8. GROUND LEASE

TERM, RATE AND OPTIONS. The Initial Term of this Lease is _____
(___) Years, in accordance with Section 29-3(f) of the Jasper County Code
of Ordinances and the Aviation Leasing Policy adopted by Jasper County.

- a. Based upon the Aviation Leasing Policy adopted by Jasper County, the Initial Lease Rate shall be _____ cents (\$0.____) per square foot of the leased premises including the building(s) footprint, ramp, parking area, access road and other required area set forth in Exhibit "A" to be constructed commencing on the ____ day of _____, _____, and ending on the day of _____, _____, unless terminated at an earlier date for any reason set forth in this lease. The lease shall be paid yearly in advance or monthly with the first increment due immediately upon lease execution.
- b. Lessor has the right to adjust the lease rate at the end of the first five (5) year anniversary of this Lease, and during the intervening years, rent shall be annually adjusted based on the percentage change in the consumer price index (CPI) as adopted by the County Council in its Budget Ordinance. Lessor will provide notice of the new lease rate a minimum of ninety (90) calendar days prior to implementation.
- c. Intentionally deleted

EXHIBIT "B"

**ATTACHMENT TO ORDINANCE O-2023-02
AVIATION LEASING POLICY WITH REVERSIONARY POLICY**

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