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Ordinance-2

1 message

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**ORDINANCE NO. _____**

AN ORDINANCE STRICTLY GOVERNING PURCHASING AUTHORITY,
RESERVING ALL MATERIAL EXPENDITURE DECISIONS TO THE CITY
COUNCIL, AND LIMITING MAYORAL AUTHORITY

WHEREAS,

Pursuant to Ala. Code § 11-43-56, the City Council possesses exclusive authority over the management and control of municipal finances and property; and

WHEREAS,

The City Council finds that undefined or implied purchasing authority creates risk of unauthorized expenditures, audit findings, and unlawful obligations of public funds; and

WHEREAS,

It is the express intent of the City Council to retain direct oversight of all significant expenditures and contractual obligations of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, ALABAMA, AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT AND CONSTRUCTION

This ordinance shall be strictly construed to preserve City Council authority over municipal expenditures.

Any ambiguity shall be resolved in favor of requiring City Council approval.

No officer, employee, or agent of the City shall obligate, encumber, or expend city funds except as expressly authorized herein.

SECTION 2. EXPRESS LIMITATION OF MAYORAL AUTHORITY

The Mayor is granted limited and expressly defined purchasing authority only, and no other authority shall be implied.

The Mayor may approve purchases not exceeding One Thousand Five Hundred Dollars (\$1,500.00) per transaction, and only when:

1. Funds have been appropriated by the City Council;
2. The purchase is routine, non-capital, and operational in nature;
3. The purchase does not involve vehicles, equipment, leases, contracts, or continuing obligations; and
4. All state and local laws are fully complied with.

Any authority not expressly granted is hereby denied.

SECTION 3. PRIOR COUNCIL APPROVAL REQUIRED — NO EXCEPTIONS

No purchase, contract, agreement, lease, lease-purchase, financing arrangement, or other obligation exceeding \$1,500.00 shall be made, negotiated, executed, or implied without prior City Council approval, granted by recorded vote before any commitment is made.

Budget adoption, departmental request, prior custom, urgency, or perceived necessity shall not constitute approval.

SECTION 4. VEHICLE AND EQUIPMENT ACQUISITIONS — COUNCIL AUTHORITY ABSOLUTE

All acquisitions of vehicles and major equipment shall require prior City Council approval, regardless of cost, funding source, or payment method.

This includes, without limitation:

- Motor vehicles of any type
- Police, fire, and emergency vehicles
- Public works and utility vehicles
- Heavy machinery and trailers
- Trade-ins, replacements, or upgrades
- Leases, rentals, lease-purchase, or financing agreements

No vehicle or equipment may be ordered, reserved, bid upon, or contracted for without prior City Council approval.

SECTION 5. AGGREGATION AND ANTI-EVASION

Purchases related in purpose, function, department, vendor, or budget line item shall be aggregated and treated as a single transaction.

No purchase may be delayed, phased, divided, prepaid, reimbursed, or otherwise structured to evade the requirements of this ordinance.

SECTION 6. COMPETITIVE BID LAW — NOT A SUBSTITUTE FOR APPROVAL

Compliance with the Alabama Competitive Bid Law (Ala. Code § 41-16-50 et seq.) is mandatory but shall not be construed as authorization to purchase.

Bid solicitation, bid receipt, or vendor selection does not authorize expenditure absent City Council approval.

SECTION 7. EMERGENCY AUTHORITY — EXTREMELY LIMITED

Emergency purchasing authority is narrowly limited to circumstances involving an immediate and unforeseeable threat to life, health, or essential public services.

Emergency authority:

- Shall not apply to vehicles, equipment replacement, or capital items
- Shall not apply to budgeted or anticipated needs
- Shall not exceed the minimum action necessary to stabilize the emergency

All emergency expenditures must be:

1. Documented in writing within 24 hours;
2. Submitted for City Council ratification at the next meeting; and
3. Approved or rejected in open session.

Failure to obtain ratification renders the expenditure unauthorized.

SECTION 8. REPORTING, DISCLOSURE, AND TRANSPARENCY

A detailed purchasing report shall be submitted to the City Council monthly, listing every expenditure, authorization basis, and approving authority.

Failure to report any expenditure shall constitute a violation of this ordinance.

SECTION 9. VOID AND UNAUTHORIZED ACTS

Any purchase or obligation made in violation of this ordinance is voidable at the option of the City Council, and the City shall not be bound thereby.

Nothing herein limits:

- Recovery of improperly expended funds
- Disciplinary action
- Personal liability as allowed by law

SECTION 10. NO RATIFICATION BY SILENCE

Failure of the City Council to object, question, or immediately address an unauthorized expenditure shall not constitute approval, ratification, or waiver.

SECTION 11. SUPERSEDING AUTHORITY

This ordinance supersedes all prior policies, practices, resolutions, or interpretations inconsistent herewith.

SECTION 12. SEVERABILITY

If any provision of this ordinance is held invalid, the remaining provisions shall remain in full force and effect.

SECTION 13. EFFECTIVE DATE

This ordinance shall take effect immediately upon adoption and publication as required by law.

ADOPTED this ____ day of _____, 20