

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 3

AN ORDINANCE

Regulating the purchase and sale of personal property by the City and the distribution of unclaimed personal property; providing for competitive bidding and advertising, and the disposal of surplus property and for the acquisition of real property, and adding said provisions to the Code of Ordinances.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and it is hereby ordained:

Section 1. The following Article is herewith added to the Code of Ordinances:

ARTICLE IV

PURCHASES, CONTRACTS AND PROPERTY DISPOSITION

Sec. 2-91. Purchasing department created; supervision by agent; subordinate personnel.

There is hereby created a department of the city to be known as the purchasing department. The head of such department shall be known as the purchasing agent, who shall be the mayor or an employee appointed by him.

Sec. 2-92. Duties, powers of agent.

The purchasing agent as head of the purchasing department shall possess the following powers and perform the following duties:

(a) He shall contract for and purchase all supplies, materials and equipment necessary for the conduct and operation of all departments and agencies of the city.

(b) He may transfer from one department or agency to any other departments or agencies such supplies, materials and equipment or other personal property not needed by one but necessary to the conduct and operation of the other; or may sell any personal property belonging to the city which is declared surplus by the city council.

(c) When established by the city council, he shall have charge of and supervision over all storerooms and storage places and may distribute to the departments and agencies of the city on requisition any supplies, materials or equipment available for distribution from such storerooms.

(d) He may inspect or supervise inspection of all deliveries of supplies, materials and equipment to determine their conformity to the specifications as to quantity and quality stated in the contract therefor.

(e) He may, subject to the approval of the city council, advertise for and enter into contracts for "requirements", "annual orders" or "indefinite quantity contracts", or "term contracts". No such contract shall be let unless the same shall have been first advertised for bids as required by section 2-101 hereof; and no such requirements contract shall be let for a period in excess of one year, but may contain a one year renewal option by the city.

(f) He may, subject to the approval of the city council, establish standard specifications as to quantity and quality for all supplies, materials and equipment generally needed by the departments or agencies of the city, and may make use of laboratories or other agencies for testing samples and inspecting deliveries.

(g) The purchasing agent may establish rules and regulations for the operation, procedures and functions of the purchasing department. Before submission to the city council, such rules and regulations shall first be submitted to the city clerk and to the city attorney. The city clerk shall advise whether or not such rules and regulations are consistent with the prevailing accounting practices of the city and are fiscally feasible. The city attorney shall approve such rules and regulations as to legality and form. When and if approved by the city council, such rules and regulations shall be spread upon the minutes of the city council and filed in the office of the city clerk. The

purchasing agent shall then publish such rules and regulations in the form of a purchasing manual for the benefit of the various departments, agencies and divisions of the city, persons dealing with the city, and the general public.

Sec. 2-93. Forfeiture of unclaimed personal property.

All unclaimed personal property which comes into the possession of the police department, city court or other departments of the city shall, if it remains unclaimed for a period of sixty (60) days thereafter, be delivered to the purchasing agent, to be forfeited and disposed of by him. The purchasing agent, before selling same, shall make every reasonable effort to give actual notice to the owner thereof if such has not been done by the department that came into possession of same.

Sec. 2-94. Sale of unclaimed personal property.

At intervals during each year, the purchasing agent shall hold a public sale of unclaimed personal property delivered to him. Notice of sale, giving the time and place, shall be by advertisement at least once in the official city newspaper at least ten (10) days prior to the time set for the sale. Such sale shall be made at public auction to the highest bidder for cash, and shall be conducted by the purchasing agent or some person designated by him. The purchasing agent shall furnish the city clerk a list to be kept of all articles sold and the price for which each article was sold.

Sec. 2-95. Disposition of proceeds of sale of personal property; report of expense.

(a) The money received from the sale of unclaimed personal property, as provided in this article, shall be paid by the purchasing agent into the city treasury, and he shall certify to the city clerk the expense incurred in making the sale or otherwise disposing of such personal property, including the cost and expense of storage during the period such personal property was in possession of the city.

(b) In the event the owner of any article of personal property sold shall, within a period of sixty (60) days after the sale, present satisfactory proof to the city that he was the owner of any article sold, he shall be entitled to the proceeds of the sale thereof, less his proportionate share of the expenses of the sale.

(c) The net proceeds arising from sales of all other unclaimed personal property shall be paid by the city clerk into the general fund of the city.

Sec. 2-96. Purchase requisition required; approval of form.

All purchases made under the provisions of this article shall be made pursuant to a written requisition from the head of a department, agency or division of the city. The city clerk and city attorney shall approve the form of any requisition.

Sec. 2-97. Signing of contracts.

Contracts for the purchase of supplies, materials and equipment and for construction, services, and all other contracts shall be signed for and on behalf of the city by the purchasing agent or as otherwise provided by ordinance or resolution.

Sec. 2-98. Custody of contracts.

The original of all contracts shall be delivered to and kept by the city clerk.

Sec. 2-99. Approval not required for expenditures not exceeding five hundred dollars.

Where the amount of the requisition or voucher or contract does not exceed five hundred dollars (\$500.00), approval by the city council shall not be necessary for the issuance of a purchase order or payment of a voucher or the execution of a contract. In no event shall a requisition, voucher or contract be split or divided into two (2) or more with the intent of evading the necessity for having competitive bids and/or the necessity of obtaining the approval of the city council.

Sec. 2-100. Approval of expenditures exceeding five hundred dollars.

Whenever any requisition or voucher or contract calls for the expenditure of more than five hundred dollars (\$500.00), the issuance of a purchase order or the payment of a voucher or the award of a contract shall be subject to the approval of the city council, and shall not be binding on or create any liability against the city until approved by the council. Such approval shall be by resolution adopted by majority vote of the council; provided, however, that such approval shall not be necessary where a voucher or requisition is issued pursuant to a prior lawful contract or pursuant to an ordinance authorizing such expenditure.

Sec. 2-101. When bids required; advertisements for bids.

Whenever any requisition or voucher or contract calls for an expenditure exceeding one hundred dollars (\$100.00), there shall be public advertisement for competitive bids. Notice for bids shall be advertised at least once in the official city newspaper at least ten (10) days prior to the time set for a public opening of bids. The purchasing agent may also issue written invitations to bid to dealers in the articles to be purchased in addition to, but not in lieu of, the advertisement required hereunder; provided, however, that bids are not required for professional services or for services for which the rates or prices are regulated by public authority or for the purchase of equipment, material or supplies from any other governmental agency.

Sec. 2-102. Submission, opening, acceptance of bids.

All bids shall be sealed and submitted to the official authorized herein to request bids on or before the specified time when such bidding is to be closed. The official receiving bids shall open them publicly on the date and at the hour specified. A purchase order may be issued, and/or a contract may be awarded to the lowest responsible bidder submitting the best bid after approval by the city council. The city council may reject any and all bids submitted regardless of the amount involved. The term

"lowest responsible bidder submitting the best bid" shall mean that in addition to price, consideration may be given to the following factors:

- (a) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (d) The quality of performance of previous contracts or services;
- (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- (g) The quality, availability and adaptability of the supplies, material and equipment, or contractual services to the particular use required;
- (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract, and the proposed warranty or guaranty;
- (i) The number and scope of conditions attached to the bid.

Sec. 2-103. Rentals, leases.

The rental or lease of any equipment, material or vehicles, where the expenditure for the rental or lease does not exceed five hundred dollars (\$500.00), may be made by the purchasing agent; but where the expenditure is more than five hundred dollars (\$500.00), approval or confirmation shall be obtained from the city council.

Sec. 2-104. Exception for utility charges.

Nothing herein shall preclude the head of any department, agency or division of the city from arranging for reasonable utility services to be charged against its appropriation account.

Sec. 2-105. Contents of bid proposals.

All bid proposals for contracts to furnish supplies, materials or equipment, or do construction work, shall set forth with particularity the nature of the work to be performed, how it shall be done, the type and quality of the material to be used and any other details necessary for the guidance of the contractor and the protection of the city.

Sec. 2-106. Specifications.

The purchasing agent may have the city engineer or other competent city officer or employee, or private consultant, draw specifications in detail which shall be attached to the contract and construed to be a part thereof. Such specifications shall be made in duplicate, one copy to be furnished to the contractor and the other retained by the purchasing agent and filed in the office of the city clerk as a part of the records of the city.

Sec. 2-107. Compliance prerequisite to paying warrants.

No warrant shall be approved for the payment of any contract of the city unless provisions of this article shall have been complied with and unless the original of the contract is on file with the city clerk, and the minutes of the city council show that the contract has been ratified or approved by the council where necessary.

Sec. 2-108. Force account or cost-plus contracts for public improvements.

After bids have been advertised and received for making any public improvement, the city council may negotiate with the lowest responsible bidder to have such bidder make such public

improvement by force account or on a cost-plus basis if, in the opinion of the city council, the making of such agreement is advantageous to the city. Contracts for repair of buildings or structures may be let on a cost-plus basis which shall include the cost of labor, material, insurance or other legitimate expenses of the contractor and a fixed fee or percentage for profit with a maximum cost to the city of such contract. All such agreements shall be in writing and approved by the city council.

Sec. 2-109. Contractor's bond.

No contract shall be let for any public work until the contractor shall have first executed a good and solvent performance bond to the effect that he will pay for all the labor and materials used by said contractor, or any immediate or remote subcontractor under him, in said contract, in lawful money of the United States, will dutifully perform said contract. The bond to be so given shall be for one hundred percent (100%) of the contract price. Where advertisement is made, the condition of the bond shall be stated in the advertisement; provided, that this section shall not apply to contracts under one hundred dollars (\$100.00); provided further, however, that the city council may by resolution dispense with the payment or performance bonds herein required upon similar precautions suitable to the council being made.

Sec. 2-110. Certificate that funds available required.

No contract, purchase order, order on stores, agreement or other obligation involving the expenditure of any money shall be issued or entered into or be valid unless the city clerk first certifies thereon that there is in the city treasury to the credit of the appropriation or loan authorization for which it is to be paid an unencumbered balance in excess of all other unpaid obligations. Before so certifying, the city clerk shall encumber the proper appropriation or loan authorization with the amount of such contract, purchase order, order on stores, agreement or obligation until the city is discharged therefrom.

Sec. 2-111. Obligations without funds declared void; liability.

(a) All contracts, purchase orders, orders on stores, agreements and obligations issued or entered into contrary to the provisions of the preceding section shall be void and no person shall have any claim or demand whatever against the city thereunder, nor shall any official or employee of the city waive or qualify the limitation fixed by the preceding section or fasten upon the city any liability whatever contrary to such limitation.

(b) If any official or employee of the city authorizes or incurs an obligation against the city without first securing the city clerk's certification as required by the preceding section, such official or employee and his sureties shall be individually liable for the amount of such obligation.

Sec. 2-112. Determination of available funds.

All unencumbered money actually in the treasury to the credit of a fund from which they may be drawn, all money anticipated to be received from taxes or other sources to the extent of the amounts stated in the annual budget, all money to be derived from bonds, notes and certificates of indebtedness, either then or previously authorized, and either sold or authorized to be sold, shall, for the purpose of the city clerk's certification, be deemed to be in the treasury to the credit of the appropriate fund and subject to certification.

Sec. 2-113. Disposal of surplus real property.

(a) When the head of any department, agency or office of the city shall determine that any real and personal property used in that department is no longer useful or required for the operations of said department or is obsolete, he shall certify this fact to the city council, together with a full description of the property in question; its former use or uses; and whether it has or may have any future use for any other department or agency, etc., of said city. Upon receipt of such certification, the city council

shall determine in its sound discretion whether to declare said property to be surplus, obsolete, or unusable and whether to be sold or disposed of or whether to be held or transferred to other branches of said city.

(b) Upon a determination by the city council by motion to be spread upon the minutes of said council, that said real and/or personal property is surplus, obsolete, or unusable, said city council shall direct the purchasing agent to sell such property as hereinbelow provided.

(c) If the proceeds of the sale of such property are not in excess of five hundred dollars (\$500.00) the purchasing agent may sell same without the necessity of taking bids; but if the proceeds exceed five hundred dollars (\$500.00) then bids shall be taken and the purchasing agent shall prepare an advertisement to be published in the official city newspaper at least ten (10) days before the date set for the submission of bids. Said advertisement shall clearly state that said property is to be sold to the highest and best bidder with the right retained by said city to reject any or all bids or to waive any informalities or immaterial defects contained in said bids. The full and complete description of said property shall be included in the advertisement; together with a full and complete disclosure of any liens, encumbrances, easements, restrictions or known defects in title and the zoning classification of said property, if applicable. Any sale of such estate, and any sale of personalty in excess of one thousand dollars (\$1,000.00) shall be subject to approval by the council.

Sec. 2-114. Non-applicability to real estate.

Notwithstanding any provision heretofore to the contrary, the purchase of real property shall not require competitive bidding or advertisement. The Council shall by resolution appoint two disinterested appraisers to value the real property desired to be purchased by the City if the value of the property

exceeds twenty-five thousand dollars (\$25,000.00) and if not only one disinterested appraiser shall be appointed. Upon submission by such appraisers of their appraisals the Council may by resolution authorize the City Attorney to take such legal steps as may be necessary to acquire said property on behalf of the City, at a price no greater than the higher of the two appraisals plus incidental expenses of closing, or in the event the City Attorney is unable to arrange a purchase by consent of the property owner, said attorney may be directed to acquire said property pursuant to the provisions of Section 36-2 of the Code of Georgia or under other applicable public acts.

Section 2. Severability:

If any section, subsection, sentence, or clause in this Ordinance be adjudged invalid, such adjudication shall not affect the validity of the Ordinance or Code as a whole or of any section, subsection, sentence, or clause hereof or thereof not adjudged invalid.

Section 3. Part of Code of Ordinances:

It is the intention of the governing body and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lookout Mountain, Georgia, and the sections of this Ordinance may be re-numbered to accomplish such intention.

Section 4. Effective Date:

BE IT FURTHER ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and it is hereby ordained that due to the impending lack of facilities for housing the Fire and Police Departments of the City and the immediate need to construct suitable improvements for said departments, an emergency exists and the public safety and welfare require that this ordinance be effective upon its adoption and approval by at least four members of this Council on two readings less than a week apart, and this

ordinance shall therefore be effective immediately upon such approval after two such readings and its adoption following the second of such readings.

Approved on first reading on January 14, 1969.

Lease B Sims
Member of City Council of Lookout Mountain, Ga.
Wilbur Wetherington
Member of City Council of Lookout Mountain, Ga.
John E. Shaver
Member of City Council of Lookout Mountain, Ga.
Joe D. [unclear]
Member of City Council of Lookout Mountain, Ga.
[unclear]
Member of City Council of Lookout Mountain, Ga.

Shenwood D. Dudley
Mayor of Lookout Mountain, Ga.

Approved and adopted on second reading on January 16th, 1969.

Lease B Sims
Member of City Council of Lookout Mountain, Ga.
Wilbur Wetherington
Member of City Council of Lookout Mountain, Ga.
John E. Shaver
Member of City Council of Lookout Mountain, Ga.
Joe D. [unclear]
Member of City Council of Lookout Mountain, Ga.
[unclear]
Member of City Council of Lookout Mountain, Ga.

Shenwood D. Dudley
Mayor of Lookout Mountain, Ga.

ATTEST:
Stanley Warner
City Clerk of Lookout Mountain, Ga.

(SEAL)

