ORDINANCE NO. 2085

ORDINANCE AMENDING THE MUNICIPAL CODE BY ADDING CODE PROVISIONS FOR A MUNICIPAL DEBT POLICY

WHEREAS, the City should articulate its Municipal Debt Policy; and

WHEREAS, the attached addition to the Northport Municipal Code will set forth written policies to be followed by the City pertaining to Municipal debt.

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

1. The City adds Article VI Municipal Debt Policy to Chapter 34 of the Northport Municipal Code, as set forth in Exhibit "A" which is attached hereto and incorporated by reference as if fully set out verbatim.

2. This Ordinance shall become effective immediately upon passage and publication.

ORDAINED this the 2nd day of August, 2021.

CITY COUNCIL OF THE CITY OF NORTHPORT

BY: ______________________
Jeff Hogg, Its President

ATTEST:

____
Glenda D. Webb, City Administrator

APPROVED this the 2nd day of August, 2021.

Bobby Herndon, Mayor

I hereby certify that the above and foregoing Ordinance was published on August 11, 2021 ______, in the Northport Gazette, a newspaper of general circulation published in the City of Northport.

Glenda D. Webb, City Administrator

1st Reading:	July 19, 2021
Motion By:	Hogg
2nd Reading:	August 2, 2021
Motion By:	Hinton
Second By:	Dykes
Publication:	August 11, 2021

EXHIBIT "A"

CHAPTER 34

FINANCE

Article VI. Municipal Debt Policy

Sec. 34-20. Municipal debt policy.

(a) *Generally.* The city's annual revenues typically are not adequate to finance all the nonoperating expenditures for capital improvements or capital projects approved by the city council each year. The acquisition and/or construction of capital assets benefit the citizens of the city over the long term but generally have significant costs associated with them; therefore, it is prudent to spread the cost of such expenditures over more than one year. Borrowing, through statutorily authorized mechanisms for the issuance of municipal securities or the incurring of municipal debt, is the means through which the city is able to obtain sufficient funds to acquire and/or construct capital projects or capital improvements and then allocate the cost of the same in such a manner that the debt can be repaid from annual municipal revenues over a period of several years. Counterbalancing this advantage are considerations of the costs of such transactions, including debt service, interest rates, issuance fees and administrative costs.

(b) *Municipal debt policy.* The city shall strive to maintain conservative policies for issuing debt and managing the city's level of outstanding indebtedness and annual expenditures for debt repayments by adhering to the following standards:

(1) *Applicable laws.* All debt issuances will be accomplished in compliance with federal regulations, state law, city ordinances and all other applicable legal constraints. Applicable state laws include generally, but [are] not necessarily limited to, Code of Ala. 1975, §§ 11-47-2, 11-81-4, 11-81-1 et seq., 11-81-50 et seq., 11-81-110 et seq., 11-81-160 et seq., 11-81-220 et seq., 11-85-100 et seq., 11-81-30, 11-63-2 and 11-81A-1 et seq.

(2) *Outstanding debt.* The city shall endeavor to minimize the amount of its outstanding debt and to borrow money only when incurring debt is absolutely necessary. Pay-as-you go financing, utilizing cash reserves and grant revenues should be considered as a funding source or a down payment on capital amounts in order to minimize the issuance of debt.

(3) *Maximum debt limit.* Coextensive of the outstanding debt policy above, the city shall limit its debt by limiting its debt in accordance with Ala. Const. article XII, § 225.

(4) *Factors to be considered.* Each time a financing is being considered, the city will evaluate the impact on the city's credit rating, the legal debt limit (Ala. Const. article XII, § 225 alternatively cited as Ala. Const. amendment number 268) and future operating budgets. The city will also consider, with the underwriter or financial advisor, whether the debt issue should be secured by a general obligation full faith and credit pledge or a revenue pledge. Financial projections may be used to evaluate the effect of the repayment of such proposed borrowings on fund balances in future fiscal years.

(5) *Purpose of incurring debt.* City debt will be issued only to finance the acquisition or construction of capital assets, including land for public use or in accordance with the city's economic development policy. Annual operating costs, including costs of employees' personal services, will not be financed by municipal debt but rather from current revenues or fund equities.

(6) *Nontaxable/private activity.* Generally, when in the best interest of the city, any debt issued by the city will be with the intention that the interest on the same is not includable in gross income for federal income tax purposes and that fact will be determined and verified by bond counsel as correct pursuant to section 103(a) of the code. During the term of any such debt, the city will take the necessary precautions to ensure that such obligations do not become subject to a determination that the same is "private activity" pursuant to section 141(b) of the code. Provided; however, the foregoing may not apply to local financing for small borrowings associated with certain aspects of the city's economic development policy.

(7) *Payment periods.* The repayment periods for long-term debt issuances will not be extended beyond the expected useful life of the capital asset being acquired with the proceeds of the financing. Debt repayment periods will be as short as feasibly possible in order to minimize interest costs and maximize flexibility for future financial planning.

(8) *Interest rates.* The city will, when in its best interest, issue debt with fixed interest rates, especially during times when interest rates are relatively low. If variable rate debt is utilized, the staff, the mayor and the city council must have a clear understanding of the advantages of doing so and how the interest rate and fees are being determined.

(9) *Bond ratings.* In order to minimize the interest rates on city debt, one of the city's primary goals is to obtain and maintain the best bond ratings possible at both Moody's Investor's Service and Standard & Poor's.

(10) *Ratings presentations.* When the city elects to incur debt, a group of elected officials, city staff members and municipal bond professionals will, if necessary, make a formal presentation to the rating agencies. Such presentation may take the form of a conference call and/or host a site visit. The underwriter or the financial advisor to the city will coordinate the bond rating process and outline any rating agency presentation. Any rating agency presentation trip will consist of only persons who are required by the city in making the presentation and all travel expenses will be reasonable.

(11) *Insuring the issue.* During the times that it is practical to consider municipal bond insurance to enhance the city's credit rating and minimize interest costs, proposals will be solicited from qualified insurance companies. The city's underwriter or financial advisor will perform a cost benefit analysis of the advantages of purchasing insurance and make a recommendation to the city staff.

(12) *Sale of debt.* Most complicated financings, including water and sewer debt, will be sold by means of a negotiated sale, in which the underwriter is chosen in the beginning and is involved in the entire process; although, the city reserves the right to utilize a competitive process if it determines that is in its best interest. On a relatively simple, straight forward transaction, the city may consider a competitive sale where the

underwriter is chosen through a competitive bid at the end of the process. On a competitive sale, the city will normally chose a financial advisor upfront, who is paid a flat fee and not allowed to bid on the competitive sale of the warrants. A financial advisor may also be employed on a negotiated sale or hired by retainer to advise the city on all debt and financial matters.

(13) *Bond counsel.* The city will engage a competent and reputable attorney who is knowledgeable in municipal financing in the state to act as bond counsel on the issue.

(14) *Underwriters.* On each financing that is sold through a negotiated sale, the city will engage a competent and reputable bond underwriter specializing in municipal financing in the state. The city may elect to engage an underwriter as a financial advisor; provided, however, that such advisor shall be financially disinterested in any recommended financial strategy that is the subject of the advisor's contract for a period of a year.

The underwriter's fee will be negotiated at a fixed amount per one thousand dollars ($1,000.00) bond. It will be paid at closing along with other issuance costs such as the bond attorney fee, the rating agency fees, printing costs and travel expenses.

(15) *Leasing options.* Capital leasing may be considered to finance the acquisition of equipment items with an expected useful life of three (3) years or longer and when determined to be in the best interest of the city. The city will consider alternate financing methods including the use of cash reserves, local bank financings and traditional warrant issues. Debt service expenditures (including principal, interest and any related administrative costs) for capital leases will be budgeted in a line item determined by the accounting and finance department.

(16) *Local financing.* On relatively small borrowings, the city may determine that a local bank financing is more advantageous than issuing debt in the securities market. All invitations to bid on city borrowings that are issued to financial institutions will be reviewed by and must receive the approval of the city's bond attorney prior to their issuance. Requests for proposals to lend monies to the city through general obligation warrants or notes shall be sent to all financial institutions within the city limits that are approved by the council to transact business with the city. The acceptance of any such proposals shall be made by the city council.

(17) *Refunding debt.* The city may refund debt in accordance with applicable legal requirements. This may be done to take advantage of interest rate savings and/or to make changes in bond covenants. On a refunding intended to take advantage of reduced interest rates, the general rule is that net present value savings of at least three (3) per cent (of the present value of the refunded debt) should be realized.

(18) *State revolving loan program.* The city may also elect to finance capital assets through participation in a state revolving loan program (Code of Ala. 1975, § 11-85-100 et seq.) In the event of a refunding by the state of such debt the city will agree to participate if it will receive at least fifty (50) per cent of the savings after the state has paid the issuance costs. The mayor and staff must be satisfied that significant savings are not being forgone by refunding of the city's portion independent from the state.

(19) *Arbitrage and continuing disclosure.* The city will comply with arbitrage rebate requirements and the SEC continuing disclosure requirements. Arbitrage rebate calculations will be done on the mandated anniversary dates and they will at least be estimated at the end of each fiscal year on all issues having active construction funds. The department of accounting and finance will maintain accounting records for warrant proceeds so as to expedite the rebate calculation.

(20) *Swap transactions.* the city will not engage in "swap transactions", neither will the city participate in any other alternative or unconventional types of financing unless specifically authorized by the city council. Under such circumstances the mayor and the staff must clearly understand the transaction and recommend the same to the city council.

(21) *Paying agent.* A paying agent will be selected for each financing to accept the city's debt service payments and disburse payments to warrant holders. In cases where there is an active construction fund, the paying agent will process payments to vendors based on requisitions and documentation supplied by the city, including invoices and council resolutions. The city's Finance Director, or his authorized representative, will direct all investment decisions, in accordance with the city's investment policy, although the paying agent will actually maintain the securities. All local banks authorized to do business with the city will be given an opportunity to bid on warrant proceed investments.

(22) *Enforcement of the policy.* The Finance Director shall be responsible for the enforcement of this debt policy. The City Administrator and the City Attorney shall assist in the implementation of the policy. This policy is meant to be a guide to the council in evaluating various options for debt issuance to finance capital improvements and provisions. Deviations from this policy must be by amendment to this section.