

ORDINANCE 03-06-18-A

**AN ORDINANCE OF THE CITY OF ENTERPRISE, ALABAMA, TO DESIGNATE THE DEPARTMENTS OF PUBLIC WORKS, PARKS AND RECREATION, HUMAN RESOURCES, TOURISM-MAIN STREET, COMMUNICATIONS, AND ENGINEERING SERVICES AS OFFICES OF THE CITY OF ENTERPRISE, ALABAMA, AND TO REQUIRE THE CITY COUNCIL OF THE CITY OF ENTERPRISE, ALABAMA TO ELECT AND APPOINT OFFICERS FOR EACH SUCH OFFICE.**

**WHEREAS**, traditionally, the City Council of the City of Enterprise, Alabama, has appointed the directors and department heads for the City and evaluated their performance;<sup>1</sup> and,

**WHEREAS**, the Alabama Legislature has granted City Councils the ability to designate offices by ordinance and assign to the City Council appointing authority with regard to those officers of the City;<sup>2</sup> and,

**WHEREAS**, the City of Enterprise's directors of public works, parks and recreation, human resources, tourism-main street, communications, and engineering services historically have exercised levels of authority of employees and have performed some discretionary policy-making functions; and,

**WHEREAS**, the Alabama Attorney General, in Opinion 2012-039, has affirmed that Alabama law allows City Councils to create offices by ordinance and elect and appoint officers to fill those positions;<sup>3</sup> and,

**WHEREAS**, the offices of public works, parks and recreation, human resources, tourism-main street, communications, and engineering services for the City of Enterprise, Alabama shall be assigned specific duties and delegated a portion of the sovereign power of the City of Enterprise, Alabama; and,

**WHEREAS**, the officers elected and appointed by the City Council of the City of Enterprise, Alabama to lead the offices of public works, parks and recreation, human resources, tourism-main street, communications, and engineering services shall have responsibilities superior to that of an employee, and shall exercise some level of authority over employees, and shall perform some discretionary, policy-making functions,

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

**Section 1.** The City of Enterprise, Alabama designates the directors of the departments of public works, parks and recreation, human resources, tourism-main street, communications, and engineering services as offices of the City of Enterprise, Alabama.

**Section 2.** The City Council of the City of Enterprise, Alabama shall elect, at its first meeting or as soon thereafter as practicable, officers for the offices of public works, parks and recreation, human resources, tourism-main street, communications, and engineering services, who shall hold office until the next general election and until their successors are elected.

**Section 3.** All existing ordinances, resolutions, rules, and/or relations or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

**Section 4.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

**Section 5.** This ordinance shall become effective on November 2, 2020.

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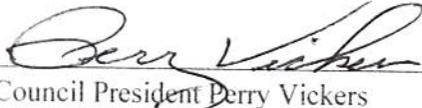
<sup>1</sup>See, Minutes from the Organizational City Council Meetings through 2012 and various other meetings and work sessions through 2015.

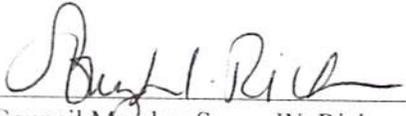
<sup>2</sup>See, Alabama Code § 11-43-3 (1975) (If cities which have a population of more than 6,000, there shall be elected by the council at its first regular meeting or as soon thereafter as practicable, a city treasurer and a city clerk, who shall hold office until the next general election and until their successors are elected and qualified, and such council may elect an auditor, *and any officers whose election is required by ordinance*) (emphasis added).

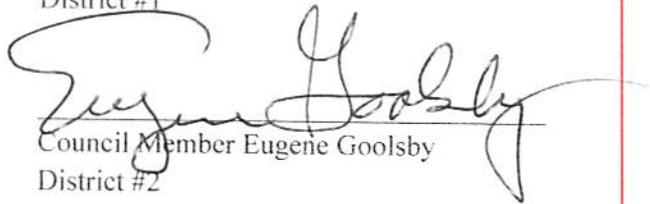
<sup>3</sup>See also Ala. Op. Att'y Gen., 2009-103 (Sept. 8, 2009) and Ala. Op. Att'y Gen., 2009-054 (March 13, 2009) (recognizing that city councils are permitted to enact ordinances that designate offices and assign the city council as the appointing authority for such offices).

Duly Passed, Adopted and Approved this 3rd Day of APRIL, 2018

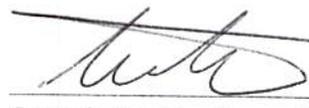
COUNCIL:

  
Council President Perry Vickers  
District #3

  
Council Member Sonya W. Rich  
District #1

  
Council Member Eugene Goolsby  
District #2

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Council Member Wallace "Al" Miller, Jr.  
District #4

  
Council Member Turner Townsend  
District #5

ATTEST:

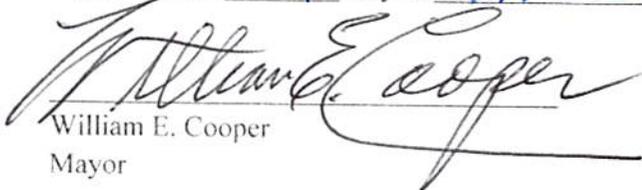
  
Robert J. Dean, Jr.  
City Clerk/Treasurer

Transmitted to the Mayor this 3rd Day of APRIL, 2018

  
Robert J. Dean, Jr.  
City Clerk/Treasurer

ACTION OF THE MAYOR:

Approved this 3rd Day of APRIL, 2018

  
William E. Cooper  
Mayor

ATTEST:

  
Robert J. Dean, Jr.  
City Clerk/Treasurer