



**Business of the Ruston City Council
Ruston, WA**

**Subject: ORD #1493 – New Chapter
1.21 RMC – Contract
Approval Authority**

Dept. Origin: Mayor's Office
Prepared by: Jennifer Robertson, City Attorney
For Agenda of: February 21, 2017
Exhibits: Ordinance No. 1493

Proposed Council Action:

This Ordinance is on for Second Reading and Action.

Initial & Date
Concurred by Mayor: _____
Approved/form by City Atty: 2-16-17/JSR
Approved by _____ Director: _____
Approved by Department Head: _____

INFORMATION / BACKGROUND

RCW 35A.11.010 provides the City of Ruston the authority by its legislative body to enter into contracts. As of today, there is no exception to allow the Mayor or any department head to enter into small, routine contracts. All contracts, no matter the value or nature, go to the City Council. This includes routine renewals of contracts that have previously been approved by the Council and which are contained in the City's adopted budget. There is a cost of bringing every contract to the Council in terms of legal preparation of legislation, staff time to upload documents to the Council packet and Council time to review and approve these agreements.

Many City Councils have delegated contracting authority to either the Mayor, City Manager, and/or Department Heads with criteria for when contracts do not need to come to Council. A survey conducted in 2014 of area cities on this topic is summarized in the attached table.

The attached Ordinance No. 1493 allows the Mayor, with legal review, to enter into certain contracts without Council pre-approval. Any contracts that exceed these limits, are Interlocal Agreements, or which require funds which are not already budgeted would need to be brought to Council for pre-approval.

Contract Type	Maximum Annual Contract Amount	Mayor with Review of City Attorney
Settlement (claims/suits)	\$ 5,000	Yes

Contract Type	Maximum Annual Contract Amount	Mayor with Review of City Attorney
Goods, services, supplies, materials or equipment, including capital equipment	\$15,000	Yes
Maintenance Contracts	\$15,000	Yes
Public Works Contracts	\$35,000 (multiple trades) or \$20,000 (single trade)	Yes Yes
Professional service or consultant agreements	\$15,000	Yes
Lease agreements for materials, supplies or equipment	\$15,000	Yes
Routine contract extensions for contracts that have been approved by the City Council when such extensions are under substantially similar terms and are within the adopted budget	\$75,000	Yes
Contracts which carry out or implement a provision of this code or established city policy, e.g., maintenance or performance bonds for plat improvements	-	Yes

The Mayor would also have the authority to enter into contracts to address an emergency, however, the Council would need to be notified at the next Council meeting and, if a contract is awarded without bidding due to the emergency. In addition, the City Council would be the body that would need to declare an emergency.

FISCAL CONSIDERATION

This Ordinance will save the City the costs to prepare legislation and bring routine contracts to the Council for pre-approval.

RECOMMENDATION / MOTION

Adopt Ordinance No. 1493.

MOTION: I move to adopt Ordinance #1493 establishing a new Chapter 1.21 in the Ruston Municipal Code entitled "Contract Approval Authorization", establishing the types of contracts that may be entered into by the Mayor without Council authorization, adopting new sections in the Ruston Municipal Code: Section 1.21.010 "Contract Approval Authorization"; 1.21.020 "Emergency Contracts"; 1.21.030 "Purchasing Policy"; and establishing an effective date.

ORDINANCE NO. 1493

AN ORDINANCE OF THE CITY OF RUSTON, RELATING TO CONTRACTING AUTHORITY, ESTABLISHING A NEW CHAPTER 1.21 IN THE RUSTON MUNICIPAL CODE ENTITLED “CONTRACT APPROVAL AUTHORIZATION”, ESTABLISHING THE TYPES OF CONTRACTS THAT MAY BE ENTERED INTO BY THE MAYOR WITHOUT COUNCIL AUTHORIZATION, ADOPTING NEW SECTIONS IN THE RUSTON MUNICIPAL CODE: SECTION 1.21.010 “CONTRACT APPROVAL AUTHORIZATION”; 1.21.020 “EMERGENCY CONTRACTS”; 1.21.030 “PURCHASING POLICY”; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 35A.11.010 provides the City of Ruston the authority by its legislative body to enter into contracts; and

WHEREAS, the City Council determines that the practical needs of the City require that the Mayor be allowed to enter into certain contracts without prior approval of each individual contract by the City Council; and

WHEREAS, the City Council has determined that this type of streamlining will allow the City to function in an orderly manner and be more efficient with the use of resources; and

WHEREAS, the City Council deems it in the public interest to establish a process and criteria for when contracts may be entered into by the Mayor without Council approval; and

WHEREAS, on February 7, 2017, the City Council held the first reading of this Ordinance; and

WHEREAS, on February 21, 2017, the City Council adopted this Ordinance during its regular meeting at the second reading; **NOW, THEREFORE**

THE CITY COUNCIL OF THE CITY OF RUSTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. A new chapter 1.21 entitled “Contract Approval Authorization” is hereby added to the Ruston Municipal Code to read as follows:

Chapter 1.21

CONTRACT APPROVAL AUTHORIZATION

Sections:

1.21.010 Contract approval authorization.

1.21.020 Emergency contracts.

1.21.030 Purchasing policy.

1.21.010 Contract approval authorization.

A. The city council authorizes the mayor to enter into and execute on behalf of the city certain types of contracts without individual approval of each contract by the city council. This authority is granted only if the contract is consistent with the approved annual budget for the city, and the city’s liability under the contract does not exceed available fund balances. All contracts must be reviewed and “approved as to form” by the City Attorney in order to be approved by this process. The contract types authorized by the council include:

Contract Type	Maximum Annual Contract Amount*	Mayor with Review of City Attorney
Settlement (claims/suits)	\$ 5,000	Yes
Goods, services, supplies, materials or equipment, including capital equipment	\$15,000	Yes
Maintenance Contracts	\$15,000	Yes
Public Works Contracts	\$35,000 (multiple trades) or \$20,000 (single trade)	Yes Yes
Professional service or consultant agreements	\$15,000	Yes

Contract Type	Maximum Annual Contract Amount*	Mayor with Review of City Attorney
Lease agreements for materials, supplies or equipment	\$15,000	Yes
Routine contract extensions for contracts that have been approved by the City Council when such extensions are under substantially similar terms and are within the adopted budget	\$75,000	Yes
Contracts which carry out or implement a provision of this code or established city policy, e.g., maintenance or performance bonds for plat improvements	–	Yes

* Including sales or use tax – if applicable.

1. Contracts not consistent with the above table, or are to be paid with unappropriated funds, must be preapproved by the city council.

2. The breaking down of any purchase or contract into units or phases for the purpose of avoiding the maximum dollar amounts is prohibited. The amount of a contract includes all amendments. Amendments that do not exceed in total 10 percent of the contract amount up to \$25,000 may be entered into without prior city council approval.

B. All contracts presented for signature by the mayor shall be signed by the city attorney as to form and legality.

C. The mayor in his or her discretion may present any contract to the city council for prior approval, even if the contract is allowed to be approved without prior city council approval.

D. Interlocal agreements shall be presented to the city council for prior approval.

E. Other than the mayor, no elected or appointed official has the authority to purchase or enter into contracts on behalf of the city. For the purposes of this section, a purchase does not include approved travel, training or per diem reimbursements consistent with the personnel policies.

F. For the purpose of this chapter, “contract” means any agreement creating a legal relationship between the city and another person or entity, or any amendment thereto.

1.21.020 Emergency contracts.

A. The city council authorizes the mayor or designee to enter into emergency contracts for purchase of materials, supplies, equipment or services using unappropriated funds in emergency situations.

B. “Emergency” means a set of unforeseen circumstances that either:

1. Presents a real, immediate threat to the proper performance of essential functions; or

2. May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken;

3. For public works projects, may result in a substantial loss to the city if the contract is not immediately entered into.

C. Emergency procurements shall be made with such competition as is practical under the circumstances.

D. A written determination of the basis for the emergency and for the selection of the particular contractor/vendor shall be included in the contract file.

E. A record of each emergency procurement shall be made and shall set forth the contract’s name, the amount and type of the contract, and listing of the item(s) procured under the contract, which shall be reported to the city council at the next subsequent council meeting.

F. If a contract is awarded without competitive bidding due to a declared emergency, the city council must adopt a resolution certifying the emergency situation existed no later than two weeks or the next council meeting following the award of the contract, whichever is longer.

1.21.030 Purchasing Policy.

The mayor is authorized to develop internal purchasing policies that are consistent with this chapter and state competitive bidding laws.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 21st day of February, 2017.

APPROVED by the Mayor this 21st day of February, 2017.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

APPROVED AS TO FORM:



Office of the City Attorney

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO. 1493