

Derrick Mostella  
Mayor



P.O. Box 70  
211 8th Street  
Ashville, AL 35953

Chrystal St. John  
City Clerk

Phone: 205-594-4151  
Fax: 205-594-4292

County Seat of St. Clair County

---

**ORDINANCE NO. 2018-003**

---

**AUTHORIZING A MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN THE CITY OF ASHVILLE AND MUNICIPAL INTERCEPT SERVICES AND ESTABLISHING A DEBT SETOFF AND APPEALS PROCESS, PURSUANT TO THE PROVISIONS OF THE CODE OF ALABAMA 1975, SECTIONS 40-18-100 *et. seq.***

WHEREAS, municipalities in the State of Alabama have been authorized pursuant to Ala. Code 1975, § 40-18-100 *et. seq.* to collect payment of outstanding and unpaid debts owed by individual taxpayers by setting off such debts against the individual's Alabama State income tax refund; and

WHEREAS, the City of Ashville, Alabama desires to collect payment of outstanding and unpaid debts owed to the City by individual taxpayers by setting off such debts against the individual state income tax refunds of such taxpayers, and to establish procedures by which the City may collect unpaid debts by submitting such debts to Municipal Intercept Services, LLC, and an appeals procedure by which individual taxpayers may contest the setoff of a debt against their Alabama State income tax refund; and

WHEREAS, in order to submit such debts to Municipal Intercept Services, LLC the City of Ashville, must execute a Memorandum of Understanding and Agreement with Municipal Intercept Services, LLC for the collection of debts of twenty-five dollars (\$25.00) or more, which are owed by individual taxpayers to the City of Ashville and which are unpaid and delinquent for a period of sixty (60) days or more; and

WHEREAS, the City Council has received and reviewed the Memorandum of Understanding and Agreement, and is satisfied that the provisions of said agreement are a reasonable means of collecting unpaid debts which are owed to the City of Ashville by individual taxpayers in accordance with State law; and is also satisfied that such agreement serves the best interests of the City of Ashville.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHVILLE, ALABAMA, WHILE IN REGULAR SESSION ON April 2, 2018 that:

---

Council Members

---

Sue Price • Cliff Roberts • Shirley Smith • Nickie VanPelt • Charles Williams

1. The Mayor of the City of Ashville is hereby authorized to execute the Memorandum of Understanding and Agreement between the City of Ashville and Municipal Intercept Services, LLC, attached hereto as Exhibit "A".

2. The City of Ashville hereby adopts and establishes the following procedures by which the City may collect unpaid debts by submitting such debts to Municipal Intercept Services, LLC, and an appeals procedure by which individual taxpayers may contest the setoff of a debt against their Alabama State income tax refund, in accordance with the provisions of Alabama Code 1975, § 40-18-100 *et. seq.*:

**Section 1. DEFINITIONS:**

(a). **General Debt:** Money owed by an individual taxpayer, who is neither a minor nor business, to the City and which has remained unpaid and delinquent for at least sixty (60) days after the debt is finalized by ordinance or resolution of the City Council.

(b). **Judgment Debt:** Money owed by an individual taxpayer to the City, which has been finalized by an order of a court of law, including but not limited to fines, court costs, and other penalties, and which has remained unpaid and delinquent for at least sixty (60) days since entry of the order. No action of the City Council is required to finalize a Judgment Debt.

**Section 2.** When an individual taxpayer owes the City a General Debt or a Judgment Debt of twenty-five dollars (\$25.00) or more, and such debt is past due and remains unpaid, the City of Ashville may submit the debt to the Alabama Department of Revenue through MIS for collection no sooner than sixty (60) days after the debt is finalized by law, ordinance or resolution.

**Section 3.** Prior to submitting a General Debt to MIS, the City Clerk shall send notice to the debtor by first class, certified or registered mail at their last known address, that unless the debt is paid in full within seven days of the notice, the City intends to submit the debt to MIS for collection by setoff against the individual's Alabama State income tax refund. The notice shall also inform the debtor that they may contest the debt by presenting to the City Clerk, either in person or in writing, evidence that they have paid the debt or do not owe the debt. Any such evidence must be presented within seven (7) days of the date of the notice. **In the case of a Judgment Debt which has been finalized by a court of law, no such notice shall be required.**

**Section 4.** After review of any evidence submitted by the debtor relating to a General Debt, or upon the failure of the debtor to submit any evidence, the City Clerk shall (a) acknowledge

that the debt has been satisfied, (b) adjust or reduce the debt, or (c) submit the debt to the City Council to be finalized by resolution.

**Section 5.** Upon presentation of General Debts determined by the City Clerk to be owed to the City, the City Council shall adjust or reduce the debt, declare the debt to be satisfied or affirm and finalize the debt by resolution. Any General Debt so finalized may be submitted to MIS for collection after the expiration of sixty (60) days from the date it is finalized by the City Council.

**Section 6.** Upon notification that the Alabama Department of Revenue has intercepted a tax refund, the City shall send notification to the debtor of the debtor's rights to appeal the setoff within thirty (30) days of the date of the notice. The notice sent by the City shall also be addressed to a joint filer, if any, and provide notification, as required by law, of the appeal rights of any such joint filer. Failure of the debtor, or joint filer if applicable, to request a hearing within thirty (30) days after the mailing of the notice shall be deemed a waiver of the opportunity to appeal the setoff.


**Section 7.** Upon receipt of funds transferred from the Alabama Department of Revenue, the City shall deposit and hold such funds in an escrow account until a final determination of the validity of the debt.

**Section 8.** Upon receipt of a request for a hearing under Section 6, the City Clerk shall schedule a hearing with the debtor or taxpayer and the City Council as soon as practicable after the filing of the request, provided however that the debtor or taxpayer shall be advised of the time and place of such hearing at least fifteen (15) days in advance thereof. At such hearing, the debtor or taxpayer may present evidence to the City Council. The City Council, in its discretion, shall affirm, amend, or refund the setoff. The City Council's decision shall be a final determination and notice of the decision shall be given as soon as practical and shall inform the debtor or taxpayer of their right to appeal such final determination.

**Section 9.** Upon final determination of the amount of the debt due and owing by means of a hearing provided by Section 8 or other appeal or by the taxpayer's default through failure to timely request a review or appeal, the City shall remove the amount of the debt due and owing from the escrow account and credit such amount to the debtor's obligation. Upon transfer of the debt due and owing from the escrow account to the credit of the debtor's account, the City shall notify the debtor in writing of the finalization of the setoff and shall refund any amount of the claimed debt originally certified and transferred to it by the Alabama Department of Revenue in excess of the amount of the debt finally found to be due and owing.

This Ordinance shall become effective on the 2<sup>nd</sup> day of April, 2018.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ASHVILLE,  
ALABAMA this 2<sup>nd</sup> day of April, 2018.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

