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Anniston, Alabama
May 10, 2011

The City Council of the City of Anniston, Alabama, met in Regular Session in the Council Chamber in the City Hall of the City of Anniston, Alabama, on Tuesday, May 10, 2011, at approximately 5:06 o'clock p.m.

Mayor Robinson prayed the Invocation.

Mayor Robinson led the Pledge of Allegiance to the Flag.

Mayor Robinson called the meeting to order. On call of the roll the following Council Members were found to be present: Council Members Spain, Palmore, Little, and Robinson; absent: Council Member Dawson. A quorum was present and the meeting opened for the transaction of business.

Don A. Hoyt, City Manager, was present.

Cleo Thomas, City Attorney, was present.

Council Member Little made a motion to dispense with the reading of and approve the minutes of April 12, 2011. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried.

Mayor Robinson made a motion for no additions or deletions to the agenda. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried.

Council Member Palmore made a motion to adopt the agenda. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried.

Council Member Spain made a motion to remove from the table a proposed motion to approve a Restaurant Retail Liquor ABC application for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried.

Council Member Spain asked if the information on the application had been verified.

Don Hoyt, City Manager, stated the information that Council Member Spain had asked to be verified had been verified concerning the application.

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Council Member Spain made a motion to approve a Restaurant Retail Liquor ABC application for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, and Robinson; nays: none; abstentions: Council Member Little; absent: Council Member Dawson. The motion carried.

Council Member Palmore reintroduced and read Ordinance Number 11-O-8 as follows:

ORDINANCE NO. 11-O-8

AN ORDINANCE REVISING SECTION 29.72, SECTION 29.74, AND SECTION 29.75 OF CHAPTER 29, ARTICLE V, OUTLINING THE CITY OF ANNISTON STREET OPENING, CUTTING AND EXCAVATION POLICY

BE IT RESOLVED by the City Council of the City of Anniston, Alabama as follows:

Section 1. The City Council of the City of Anniston, Alabama hereby amends the following sections of “The Code of the City of Anniston, Alabama, 1981” as follows:

Section 2. That Section 29.72 of the Code of Ordinances of the City of Anniston, Alabama is hereby amended to read as follows:

Section 29.72. - Issuance; fees

All permits [shall be] provided by the director of public works or his authorized designee. A permit fee of fifty dollars (\$50.00) shall be paid for the first two street cuts within two hundred linear feet of roadway or for the first twenty linear feet of continuous cut within the roadway, prior to issuance, in addition to all other charge required herein to be paid. Each additional street cut within the permitted 200 linear feet will require an additional twenty-five dollar (\$25.00) fee per cut. Street cuts larger than 20 linear feet will require a special permit fee of \$ 0.50 for each linear foot of cut over the initial 20 foot length. Failure to obtain the proper permit will result in penalties in the form of a monetary fine to be determined by the public works director. Any street cut within five years of paving will be subject to a fee of five (5) times the regular permit fee during the first year after paving and a prorated fee for every year within the first five years.
(Ord. No. 94-O-13, § 2, 3-22-94)

Section 3. That Section 29.74 of the Code of Ordinances of the City of Anniston, Alabama is hereby amended to read as follows:

Section 29.74. – Restoration; performance of work; payment of cost

(a) The permanent restoration of the pavement, curb or sidewalk shall be the sole responsibility of the utility company or contractor for whom application for such permit is made. Permanent restoration of the pavement, curb or sidewalk shall be completed in no less than thirty calendar days from the date of permit application. The city engineering

department will inspect all street cuts to ensure that permanent patching has been completed following the thirty day period. If the city engineering department determines that no permanent patching has been installed the permit holder will be fined a fee of no less than double the original permit fee of fifty dollars a day until such time that the permanent patching has been installed. If it is deemed necessary for the city to repair the street cut, the city will fine no less than one thousand dollars (\$1,000) in addition to the repair cost. The director of public works is hereby directed to review these fees/fines annually and to recommend alterations or modifications to such fees/fines to the city manager and the city manager is authorized to alter or modify such fees/fines not more often than annually.

(b) All excavations containing utilities service lines greater than 6 inches in diameter should be backfilled with crushed stone (ADH #57 or equivalent) to a depth of 6 inches above the top of the service line. In any case in which the total amount of surface to be cut, excavated or otherwise disturbed exceeds twenty (20) square feet in area, the excavation shall be backfilled with well compacted controlled engineered fill or crushed stone (ADH #57 or equivalent). All fill should be placed in 8 inch lifts and compacted accordingly. All fill should be compacted to 98% of the soils maximum dry density within +/- 2 percent of the soils optimum moisture content. All excavations less than twenty feet in length should be permanently patched using four inches of 2000 psi concrete overlain with 2 inches of hot mix asphalt concrete. The permanent patch should be such that the cut is extended 12 inches on each side past the excavated area for "bridging" purposes. In Lieu of bridging street cuts larger than 20 feet in length, the contractor may choose to over-excavate the cut area in such a way that the area to be can be backfilled with no less than 6 inches of well compacted Dense Grade Aggregate Base (DGAB) followed by 2 inches of hot mix asphalt concrete. The area should be excavated in such a manner to allow compaction with a large vibratory compactor. DGAB should be compacted to 100 percent of the soils maximum dry density at +/- 2 percent of the soils optimum moisture content.

Section 4. That Section 29.74 of the Code of Ordinances of the City of Anniston, Alabama is hereby amended to read as follows:

Section 29.75. - Fees for cutting Improved Surfaces.

Subject to the provisions of the preceding section, the succeeding section, and section 29.77, any person desiring to make or who has under section 29.73 made any opening, cut or excavation in or under the surface of any paved, curbed or otherwise improved street, alley or sidewalk for any rightful or necessary purpose shall, at the time the permit provided for in sections 29.71 and 29.74 is applied for and prior to the issuance thereof, pay to the revenue director a special impact fee to become part of the general fund of the city in an amount dependent upon the age and nature of the improvement according to a schedule determined and established by the public works director of the city. Any street cut within five years of paving will be subject to a fee of not less than five (5) times the regular permit fee during the first year after paving and a

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prorated fee for every year within the first five years. There shall be a minimum charge of fifty dollars (\$50.00).

Section 5. That this Ordinance shall become effective immediately upon its adoption and publication one (1) time in The Anniston Star, a newspaper of general circulation published in the City of Anniston, Alabama, and the City Clerk is hereby ordered and directed to cause a copy of this Ordinance to be published one time in said newspaper.

PASSED AND ADOPTED this the 10th day of May, 2011.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: /s/ Gene Robinson, Mayor

By: /s/ John Spain, Council Member

By: /s/ Herbert N. Palmore, Council Member

By: /s/ Benjamin L. Little, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Palmore made a motion for the passage and adoption of Ordinance Number 11-O-8 as reintroduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried and Ordinance Number 11-O-8 was passed and adopted.

Mayor Robinson reintroduced and read Ordinance Number 11-O-9 as follows:

ORDINANCE NO 11-O-9

TO PROMOTE THE HEALTH, SAFETY, AND WELFARE OF THE CITIZENS OF ANNISTON BY THE CONTROL AND ELIMINATION OF JUNK, TRASH AND DEBRIS, DILAPIDATED AND UNSAFE STRUCTURES, LITTER, NOXIOUS AND UNHEALTHFUL GROWTHS, VERMIN AND OTHER NUISANCES CONTRIBUTING TO NEIGHBORHOOD BLIGHT AND DETERIORATION AND DEPRESSING PROPERTY VALUES.

WHEREAS Alabama law (Sec 11-47-117) grants "All cities and towns of this state... the power to prevent injury or annoyances from anything dangerous or offensive or unwholesome and to cause all nuisances to be abated and assess the cost of abating the same against the person creating or maintaining the same"; and

WHEREAS unsanitary and unsafe buildings, dwellings, and structures of all types and descriptions used for human habitation exist in the City of Anniston, Alabama and that such unsanitary and unsafe conditions arise from obsolescence, disrepair, poor maintenance, and overcrowding; and

WHEREAS use of such buildings, dwellings, and structures used for human habitation and occupancy in such conditions are often compounded by inadequate provisions for light and air, insufficient protection against fire hazards, lack of living space, overcrowding and lack of heating, plumbing, and other facilities; and

WHEREAS such unsanitary and unsafe buildings, dwellings, and structures used for human habitation and occupancy constitute a danger to the health, safety, morals, welfare, well-being, and comfort of the inhabitants and general public; and

WHEREAS such conditions cause an increase in and spread of disease and crime and are damaging and injurious to the inhabitants and general public of the City of Anniston, Alabama;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Anniston, Alabama, that a Chapter 34 of the Code of Ordinances is hereby amended to read as follows:

CHAPTER 34. HEALTH, SAFETY, AND SANITATION

- Art. I. Administration, §34.1-34.2
- Art. II. Nuisances-In General, §34.3-34.11
- Art. III. Enforcement §34.12-34.36
- Art. IV. Contractor Requirements §34.37

ARTICLE I. ADMINISTRATION

Section 34.1. Purposes, Authority and General Requirements.

The intent of this Chapter is to foster harmonious relationships between citizens and promote the health, safety, and prosperity of all citizens of the City of Anniston, Alabama by specifying the rights and responsibilities of property owners and others in the City limits of the City of Anniston, Alabama for maintaining property under their control.

Provisions in this Chapter, when not governed by other statutes as specified herein, were adopted pursuant to the Code of Alabama 1975, §11-47-131, 11-53-1, et seq and 11-53B-1, et seq., as amended.

Section 34.2. Definitions.

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein:

ABATE: To stop, halt, end, or terminate. Abatement shall also mean repair, rehabilitation, demolition or removal of any nuisance declared under Sections 34.3 through 34.18.

APPROPRIATE

CITY OFFICIALS: *The* term Appropriate City Official shall mean any City building official or deputy or any other City official or City employee designated by the City Manager of the City as the person to exercise the authority and perform the duties required by this chapter. (*Section 11-40-31 and 11-53B-3 Code of Alabama*)

CITY: The City of Anniston, Alabama.

COUNTY: Calhoun County, Alabama

DEBRIS: Those things or conditions existing on private property in the City which are hazardous or detrimental to the public health or safety or which constitute a fire hazard, including conditions which by their unsightly appearance can result in decreasing the value of other properties in the immediate area. Debris includes but is not limited to the following: Accumulation of rubbish, trash, refuse, junk, and other abandoned materials such as pallets and lumber, partially dismantled, non-operating, wrecked, junked, or discarded Motor Vehicles; construction equipment, vehicles or equipment parts and other such equipment, garden tools, building supplies, household appliances, excess metal of any type, toys or furniture.

DESERTED

MOTOR VEHICLE: A motor vehicle that has been left unattended in thoroughfares, traffic lanes or access lanes, reserved or restricted zones or on private property without permission; or as otherwise defined by Section 34.7 hereof. A “deserted” vehicle is to be distinguished from an “abandoned” motor vehicle as defined by Section 32-13-1, Code of Alabama, as amended.

DEVELOPED

PROPERTY OR LOT: Any public or private property, which has been improved for a public or private facility, or for any future improvement, whether the property is actually occupied or not.

ENCLOSED AREA: Any area composed of at least four (4) solid walls and a solid roof which is inaccessible to public view except for the purpose of this article. A carport, front porch, or the use of tarpaulins or tarpaulin type materials to shield an area from public view is not an enclosed area.

GARBAGE: See “Refuse”.

INOPERABLE

MOTOR VEHICLE: A vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, deserted, abandoned, in a state of disrepair, or incapable of being moved under its own power and which has been stationary for a period of thirty (30) consecutive days.

JUNK: Old or discarded material; anything regarded as worthless, such as worn out, dismantled, inoperable, wrecked or dilapidated trailers, vehicles, appliances, scrap building materials, metals, rubber, paper, plastic, wood, clothes, machinery parts, or other discarded materials of every kind or substance whatsoever, or any scrap or salvage materials.

JUNK YARD: Any lot or parcel of land, structure, or part thereof, used for the collection, storage or sale of wastepaper, rags, scrap metal or discarded materials or for the collection, dismantling, storage, or salvaging of machinery or inoperable vehicles or the parts thereof.

LITTER: Garbage, refuse, debris, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare. The term also includes temporary posters, flyers, and Notices as specified by law, in public rights-of-way, on utility poles and structures in public rights-of-way or on public property.

MAINTENANCE

BY CITY: The removal of garbage, junk or debris from privately owned real property, or the bush hogging or otherwise cutting of overgrown grass, weeds, bushes and trees.

MOTOR VEHICLE: This term shall include all of the following: (a) Every automobile, motorcycle, mobile trailer, semi-trailer, truck, truck tractor, trailer and other device that is self-propelled or drawn, in, upon, or by which any person or property is or may be transported or drawn upon a public highway except such as is moved by animal power or used exclusively upon stationary rails or tracks; (b) Every trailer coach and travel trailer manufactured upon a chassis or undercarriage as an integral part thereof drawn by a self-propelled vehicle. (*Section 32-8-2 Code of Alabama*)

NUISANCE: A Nuisance is anything that works hurt, inconvenience or damage to another. The fact that the act done may otherwise be lawful does not keep it from being a nuisance. The inconvenience complained of must not be fanciful or such as would affect only one of a fastidious taste, but it should be such as would affect an ordinary reasonable man. (*Section 6-5-120, Code of Alabama.*)

OWNER: A person, persons, or legal entity listed as current titleholder as recorded in the official property records of Calhoun County, Alabama, or otherwise identified by investigation to be the owner of a beneficial interest in property.

OCCUPANT: A person, persons or legal entity that, through rights of ownership or tenancy, has possession or the use and enjoyment of the subject real property

PRIVATE PROPERTY: Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, or any commercial establishment, building or structure, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, ground, walks, drive-ways, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, commercial establishment or other structure.

PUBLIC NUISANCE: A Public Nuisance is one which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals. (*Section 6-5-121, Code of Alabama.*)

PUBLIC WAY: Any highway, road, street, avenue, alley or other way owned or maintained by the State of Alabama, Calhoun County or the City of Anniston which is maintained with public funds and is designed for vehicular or pedestrian use.

REFUSE: Anything discarded as worthless or useless; garbage; debris; trash; waste; rubbish

RESPONSIBLE PARTY: That individual deemed by the Appropriate City Official (or by higher authority) to be responsible in part or in whole for the conditions giving rise to complaint that a public nuisance exists.

RUBBISH: See "Refuse".

TRASH: See "Refuse".

UNSAFE STRUCTURE: An unsafe structure is one that is found to be dangerous to the life, health, safety, or property of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because the structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

ARTICLE II. NUISANCES

Section 34.3. Nuisance Conditions Unlawful

- (a) Property owners, lessees, and occupants of real property in the City of Anniston, Alabama shall maintain the developed properties under their control in a clean, sanitary, and safe condition as required herein. Failure to do so may result in the Responsible Party being charged with a misdemeanor, being issued a summons from a court of competent jurisdiction, or being subject to abatement and cost recovery action by the City of Anniston, Alabama, or all such actions.
- (b) It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance as defined herein. The following conditions, which shall not be deemed an exclusive list, may be declared to be a public nuisance by the City Council and thereafter abated as hereinafter provided:
 - 1. Allowing weeds to grow upon streets or sidewalks or upon private property within the City limits of the City which attain such large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous;
 - 2. The accumulation of trash, rubbish, junk or debris;
 - 3. Maintenance of unsightly, dangerous or unsafe walls;
 - 4. Maintenance or storage of Motor Vehicles that are not in usable condition;
 - 5. Maintenance of Debris of a burned building;
 - 6. Maintenance of an abandoned or unused swimming pool;
 - 7. Maintenance of an abandoned well or cistern;
 - 8. Maintenance of any condition which provides harborage for snakes, rats, mice or other vermin.
 - 9. Causing or allowing any disagreeable or obnoxious odor or stench, as well as the conditions, substances or other causes which give rise to it.
 - 10. Failure to dispose of the carcasses of dead animals within a reasonable time.
 - 11. The polluting of any well, cistern, ditch, canal, stream, lake, or other body of water (except for legally maintained oxidation ponds) by sewage, dead animals, creamery or industrial wastes, Trash, Garbage, Refuse, Junk, Litter, Rubbish, chemical or biological wastes, or other illegal substances.
 - 12. Permitting stagnant water to be accumulated or maintained on any lot, parcel or piece of ground.

(Section 45-8-172.01)

Section 34.4 Exceptions.

The following activities shall not be deemed violations of Section 34.3 of Article II of this Chapter.

- 1. The operation of legitimate and licensed businesses that accumulate and store inoperable Motor Vehicles, appliances, machinery or other materials for repair or re-sale, or that operate “Junk Yards” as defined in Section 34.2, provided that the accumulated junk, machinery, Motor Vehicles, parts, appliances, or other materials:
 - (a) Are enclosed within a board fence, solid wall structure or otherwise completely obscured from public view,
 - (b) do not extend beyond the property limits within which the business is conducted, and
 - (c) do not become breeding places for rodents, snakes, insects or other vermin which may become a hazard to the health and safety of the citizens.

2. Any growth on property that is assessed for ad valorem taxes as agricultural or forest property, and any growth deemed by the City Council, after recommendation by the Appropriate City Official, to be necessary to control erosion.

Section 34.5. Other conditions that may be declared public nuisances.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance as defined herein. The following conditions may be declared to be a public nuisance by the City Council and thereafter abated as hereinafter provided:

1. Abandoned or unsafe construction of any kind or nature. (*Sec 11-40-31 and Section 45-8-172.01, Code of Alabama.*)
2. Any building that, due to poor design, obsolescence, or neglect has become unsafe or that may cause blight on the City or the neighborhood in which it is located. (*Sec 11-53B-1*)
3. Any building, structure or other place where activity in violation of local, state or federal law is frequently or recurrently conducted performed or maintained (*Sec 6-5-155 through 156.5*)

Section 34.6 Obstructions on Public Rights-of Way.

The building, erecting, or installing of structures, buildings, fences, walls, billboards, signs, poles, or other works either temporary or permanent, in public alleyways, ditches or rights-of-way or on any other public property by any person, corporation or entity is prohibited except temporary signs and warning devices intended to guide, inform, regulate and warn the public of dangers arising from work being done within the right-of-way and utility poles and structures as authorized by the City of Anniston.

1. The attaching of posters, signs, notices, or announcements to utility poles, columns, fences, walls, trees, ornamental shrubs, statues, or other legal structures in rights-of-way or on public property is prohibited and may be removed by the utility company in control of the structure or by the City of Anniston pursuant to this section.
2. Temporary "yard" signs, notices, or posters, deemed as "litter" by the appropriate city official, may be removed by him or her without Notice,
3. Structures larger than temporary yard signs and posters, which illegally occupy rights-of-way or public property, may be removed by the City of Anniston after reasonable notice to the responsible party giving him or her opportunity to abate the violation.

Section 34.7. Illegally Parked or Deserted Motor Vehicles.

It shall be unlawful for any person, corporation, or entity to park, station, desert or leave unattended any automobile or other vehicle in thoroughfares, traffic lanes, or access lanes such as driveways and alleyways, or in loading, reserved or otherwise restricted zones, "no parking" areas as established by the City, or on property owned by another person, corporation, or entity without the permission of that property's owner.

1. No vehicle shall be parked in any public right-of-way so as to interfere with or obstruct free access by other vehicles or in such way as to interfere with the reasonable use of such way for traffic purposes by persons with property or places of business abutting thereon.
2. No person shall park a commercial truck or tractor-trailer or any combination thereof on any Public Way within the City except for temporary loading or unloading.
3. No person shall park a house trailer or motor home upon a public way, in the City for a period longer than forty- eight (48) consecutive hours.

4. It shall be unlawful for any person to stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers in front of a public driveway, or in such a manner as to impair or impede the free ingress to or egress from any such driveway within the City.
5. A Motor Vehicle will be deemed deserted if left unattended on a public street, road, or highway or other public property for a period of at least seven days; or left unattended continuously for at least seven days in a business district or a residence district; or if left unattended in a business district that has at least one posted Notice in an open and conspicuous place indicating that there is a time limitation on the length of time a Motor Vehicle may remain parked in the district and the Motor Vehicle remains unattended for a period of time in excess of that posted on the Notice; or left unattended in a business district or residence district that has at least one posted Notice indicating that only authorized Motor Vehicles may park in that district and the owner of the Motor Vehicle or his or her agent has not received the required authority prior to leaving the Motor Vehicle unattended; or left unattended on a private road or driveway without the express or implied permission of the owner or lessee of the driveway or his agent.

Section 34.8. Litter in Public Places.

1. No person shall throw or deposit Litter in or upon any street, sidewalk, or other public place within the City of Anniston, Alabama except in public receptacles or in authorized private receptacles intended for collection.
2. Persons placing Litter in public receptacles or in authorized private receptacles shall do so in a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon another person's private property.
3. No Person shall sweep into or deposit in any gutter, street, or other public place in the City the accumulation of Litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and rights-of-way contiguous thereof free from Litter.
4. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place within the City the accumulation of Litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalks in front of their businesses and their premises free from Litter.
5. No person shall throw or deposit Litter in any stream, lake, fountain, pond, or any other body of water in a park or elsewhere in the City.

Section 34.9. Litter on Private Property.

It shall be unlawful for any person to suffer or permit Litter to exist or remain on private property owned or occupied or controlled by them, or to suffer or permit Litter to exist or remain on any adjoining public property, when such Litter has been generated from activities on such person's private property. For the purposes of this section, it shall be refutably presumed that Litter was generated from private property in instances where the Litter contains any materials identified with any person who has owned, occupied or resided upon the private property or engaged in any other activity upon the private property generating the Litter. *(Sec. 13A-7-29, Ala Code)*

Section 34.10. Litter Deposited from Vehicles.

No person, while a driver or a passenger in a Motor Vehicle, shall throw, deposit, drop, or dump Litter upon any street or public place within the City or upon private property.

1. If the throwing, dumping, or depositing of Litter was done from a Motor Vehicle, except a bus, van or school bus, it shall be prima facie evidence that the throwing, dumping, or depositing was done by the driver of the Motor Vehicle or by his/her consent or direction.
2. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or Litter from being blown or deposited upon any street, alley, or other public place.

Section 34.11. Hazardous Liquid Leakage.

No person shall operate, stop, station, or park any vehicle while the carburetor, tank, or other appliance for containing oil or gasoline is in such condition as to permit oil or gasoline to run, leak, drip or fall upon any street or alley or upon the property of another without authorization. No person shall deposit on public rights-of-way or on private property any hazardous liquids such as gasoline, oil, diesel fuel, solvents, or other dangerous chemicals, or allow them to leak out of proper storage containers where they may be a hazard to the public.

ARTICLE III. ENFORCEMENT

Section 34.12. Enforcement

Unless prohibited or limited by this Chapter, for specific types of violations, the following procedures may be used by the City to enforce this chapter's provisions.

Section 34.13. Illegally Parked or Deserted Vehicles.

1. Whenever a police officer or other Appropriate City Official has reason to believe that a vehicle, trailer, semi-trailer or motor home may be illegally parked, or deserted, within a street or highway, or upon the right-of-way of a street or highway, he/she shall securely affix to the windshield or to the driver's side door of the vehicle, or to the side of a trailer or semi-trailer, a conspicuous warning Notice, indicating that the vehicle, trailer, semi-trailer or motor home is believed to be illegally parked or deserted and is in violation of law.
2. The Notice shall further state that, if the vehicle, trailer, semi-trailer or motor home is not removed within the time period written on the Notice, the same shall be removed and impounded.
3. Vehicles or other obstructions in designated and signed "tow-away" zones may be impounded according to Section 34.7 of this Chapter without owner notification.
4. A deserted vehicle, trailer, semi-trailer or motor home which has not been removed after Notice shall be towed and stored at a place set aside by the City for such storage.
5. The City may contract with a private company to tow, store, and dispose of such vehicles, trailers, semi-trailers and motor homes provided said company is licensed with the City of Anniston, Alabama and carries adequate liability insurance to cover the cost of any damage inflicted on the vehicle, trailer, semi-trailer or motor home during towing or storage. However, removal or impoundment of a vehicle deserted on private property first requires consent of the property owner or Notice of abatement according to Section 34.15 of this Chapter.

Section 34.14. Investigations Concerning Nuisance Violations

1. Whenever the conditions enumerated in Section 34.3 and 34.5 come to the attention of the Appropriate City Official, he or she shall cause an examination of the public records to be made to discover the ownership of the affected property and to identify the owners of other beneficial interests in the property. He shall also make a diligent effort to discover contact information for all such owners.
2. Upon the completion of his investigation, the Appropriate City Official shall provide the City Manager with a report showing:
 - (a) the location of the alleged public nuisance;
 - (b) a clear statement describing the nature of the alleged public nuisance;
 - (c) the identity and contact information for the holder of each beneficial interest in the property including mortgages of record; and
 - (d) what diligent efforts have been made to identify such owners and their contact information.
3. The City Manager may refer the case to the City Attorney or other outside professional in an attempt to determine the viability of securing proper notice and eventual cost recovery.

Section 34.15. Abatement Concerning Violations Governed by Section 34.3 (Weeds, Debris. & Junk)

Whenever an Appropriate City Official having that responsibility reports in writing to the City Council the existence of any condition enumerated in Section 34.3, the City Council may, by resolution, if the proof is satisfactory, declare the condition to be a Public Nuisance. The resolution shall refer to the street or road by the name under which it is commonly known, and describe the property in front of which or upon which the nuisance exists by giving a legal description thereof. No other description of the property shall be required. Any number of streets, roads, sidewalks, or parcels of private property may be included in the same resolution.

(Ala Code Section 45-8-172.02)

Section 34.16. Posting of Notice.

After the passage of the resolution, the City Council shall have conspicuously posted in front of the property on which or in front of which the nuisance exists at not more than one hundred feet in distance apart at least two Notices headed "Notice to Remove Public Nuisance." The heading to be in words not less than one inch in height and substantially in the following form:

<p>NOTICE TO REMOVE PUBLIC NUISANCE</p> <p>Notice is hereby given that on the ____ day of _____ , 20____, the Anniston City Council passed a resolution declaring that a public nuisance exists upon or in front of the property on _____(street) (road) in the City, more particularly described in the resolution (a copy of which is attached hereto). The public nuisance must be abated by its removal by the City, and the cost of the removal shall be assessed upon the lots and lands from which or in front of which the public nuisance is removed. The cost shall constitute a lien upon the lots or lands until paid. Reference is hereby made to the resolution for further particulars.</p>

All property owners having any objections to the proposed removal of the public nuisance are notified to attend a meeting of the Anniston City Council to be held on the ___ day of _____ 20__ at _____ O'clock __.M. in the Council Chambers of the City Council when objections will be heard and given due consideration.

Dated this _____ day of _____, 20__
CITY OF ANNISTON

BY:

City Clerk

The Notice shall be posted at least fifteen (15) days prior to the time for hearing objections by the City Council. In addition, a Notice shall be mailed to the owner of the property at least fifteen (15) days before the meeting at which objections will be heard. The Notice shall be mailed to the person last assessed for property taxes due on the property according to the records of the county tax assessor, and to the holder of each beneficial interest (including mortgagees of record) as determined by the record examination and the investigation required by Section 34-14 of this Chapter. Notices shall be mailed certified or registered, postage prepaid, and with return receipt requested.

(Ala Code Section 45-8-172.03)

Section 34.17. Hearings of objection or Protest Regarding Public Nuisances Under Section 34.3. At the time stated in the Notices, the City Council shall hear and consider all objections or protests, if any, to the proposed removal of the nuisance, and may continue the hearing to a date and time as established by the City Council. Upon the conclusion of the hearing, the City Council, by motion or resolution, shall allow or overrule any or all objections. If the objections are overruled with respect to any piece of property, the City Council shall be deemed to have acquired jurisdiction to proceed and perform the work of removal with respect to the piece of property. The decision of the City Council on the matter shall be deemed final and conclusive.

(Ala Code Section 45-8-172.04)

Section 34.18. Order for Abatement of Nuisance Governed by Section 34.3.

After final action has been taken by the City Council on the overruling of any protests or objections with respect to any described piece of property, or in case no protests or objections have been received, the City Council by motion or resolution shall order the abatement of the nuisance by having the nuisance removed.

- 1, All necessary employees of the City and its contractors are expressly authorized to enter upon private property for the purpose of abatement.

2. Any property owner may have any nuisance removed at his or her own expense providing it is done prior to the arrival of the employees of the City to remove it.
3. The Responsible Party and the City may execute a written contract specifying the conditions of voluntary abatement, including but not limited to stabilization, refurbishment, and removal of all nuisance conditions.
4. Reconditioning a structure according to current building codes requires a standard building permit.
5. All debris and materials must be deposited by the Responsible Party into the Calhoun County Landfill or other legal depository of waste materials.

(Ala Code Section 45-8-172.05)

Section 34.19. Order of Forced Removal of Nuisance Under Section 34.3.

If the owner or other Responsible Party fails pursuant to a contract for voluntary abatement, to abate the nuisance within the prescribed time period, the Appropriate City Official shall report his or her failure to do so to the City Council. At the direction of the City Council, the owner or other Responsible Party shall be given at least ten (10) days written Notice of the City's initiating the abatement, and the City Council, by motion or resolution, shall order the forced removal of the nuisance on or after a date specified by the Council. All necessary employees of the City and its contractors are expressly authorized to enter upon private property for the purpose of the abatement. Any property owner may have any nuisance removed at his or her own expense providing it is done prior to the arrival of the employees of the City or contractors hired by the City to remove it.

(Section 45-8-172.05)

Section 34.20. Repeated Maintenance by City

If the Party Responsible for the accumulation of noxious and deleterious growths has been cited or notified according to Article III of this Chapter, and forced removal has been ordered by the City according no Section 34.17 of this Chapter, the City at its discretion may undertake further cutting, or removal of said noxious growths without further Notice on a monthly basis for the duration of the then current growing season.

Section 34.21 Accounting of cost for abatement of nuisance; report; civil action to abate or enjoin nuisance under Section 34.3.

The Director of Public Works shall submit to the Finance Director regular reports of expenses incurred for all nuisance abatement activity in the department including all invoiced expenses from outside contractors or legal professionals engaged in cost recovery actions. The Finance Director shall regularly report said expenditures to the Council and City Clerk. The Clerk shall permanently maintain said records for the Council. Before the report is submitted, a copy shall be mailed by First Class Mail to the owner or owners of the property at least ten days before the report shall be submitted. The Notice shall be mailed to the owner as identified on the current tax assessor's records and also to the owners as identified by the record examination and the investigation required by Section 34.14.

[Section 45-8-172.06 (a)]

Section 34.22. Report on abatement of nuisance; modifications; liens; special assessments under Section 34.3.

- (a) At the time fixed for receiving and considering the report, the City Council shall hear the report, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating the nuisance. It shall make such modifications in the report as it deems necessary, after which by motion or resolution the report shall be confirmed. The amounts of the cost for abating the nuisance in front of or upon the various parcels of land mentioned in the report shall constitute special assessments against the respective parcels of land and shall constitute a lien on the property for the amount of the assessments. After confirmation of the report, a copy shall be turned over to the Calhoun County Revenue Commissioner who is charged with the collection of taxes or assessments. The Revenue Commissioner shall add the amounts of the respective assessments to the next regular bills for taxes levied against the respective lots and parcels of land for City or county purposes. Thereafter, the amounts shall be collected at the same time and in the same manner as ordinary City or county taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary City or county taxes. (*Section 45-8-172.07*)
- (b) The fixing of the costs by the City Council shall constitute a Special Assessment against the lot or lots, parcel or parcels of land upon which the nuisance was located, and thus made and confirmed shall constitute a lien on the property for the amount of the assessment. The lien shall be superior to all other liens on the property except liens for taxes, and shall continue in force until paid. A certified copy of the resolution shall also be filed in the Office of the Judge of Probate of the County. Upon filing, the tax collector and Revenue Commissioner of county shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax and remit the amount to the City. (*Section 11-40-33, Code of Alabama*)
- (c) The City may assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased by the state of Alabama at any sale for the nonpayment of taxes, and where the assessment is made against the lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem, or sale thereof by the state, shall not operate to discharge, or in any manner affect the lien of the City for the assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the state for the nonpayment of taxes, shall take the same subject to the assessment. The assessment shall then be added to the tax bill of the property, collected as a tax, and remitted to the City. (*Section 11-40-34, Code of Alabama*)
- (d) The City Manager shall assign the City Attorney, Deputy City Attorney, or special counsel to enforce the lien in a court of law when necessary. (*see also 35-11-222 and 6-5-248, Code of Alabama*)
- (e) The City may redeem the property from which, or adjacent to which a nuisance has been abated, at any sale made by the state for taxes upon the same terms as required by law for owners to redeem, and no person shall be allowed to redeem from the City without paying to the City the amount paid to redeem such property and all claims of the City thereon for taxes and penalties or otherwise, and no redemption shall be made in any case from the City after two years from the date of the sale. (*Section 11-51-25, Code of Alabama*)

Section 34.23. Abatement Concerning Violations under Section 34.5 (Dangerous Structures).

- (a) Whenever the Appropriate City Official finds that any building, structure, part of building or structure, party wall, or foundation situated in the City is unsafe to the extent that it is a public nuisance, the Official shall give the person or persons, firm, association, or corporation last assessing the property for state taxes and all mortgagees of record, by certified or registered mail to the address on file in the tax collector’s office (and at the address of the property), notice to remedy the unsafe or dangerous condition of the building or structure, or to demolish the same within a reasonable time set out in the notice which time shall be not less than 30 days or suffer the building or structure to be repaired or demolished by the City and the cost thereof assessed against the property.
- (b) The notice shall also be mailed in like manner to the above said owner last assessing the property at the address of the property. The Notice shall also be mailed in like manner to the holder of each beneficial interest in the property (including mortgagees of record) as determined by the record examination and the investigation required by Section 34.14. If no address for the mortgagee is set forth in the mortgage, the Notice to the mortgagee must be sent to the address determined to be the correct address by the person responsible for the Notice. The mailing of the certified or registered mail notice, properly addressed and postage prepaid, shall constitute notice as required herein. *(Sections 11-40-31 and 11-53B-3)*
- (c) Within three days of the mailing, the Appropriate City Official shall also conspicuously post in front of the property on which, or in front of which, the nuisance exists, at not more than one hundred feet in distance apart, at least two Notices headed “Notice to Remove Public Nuisance.” The notice shall also be posted at or within three feet of an entrance to the building or structure, provided that if there is not entrance, the notice may be posted at any location on the building or structure. The heading of the notice to be in words not less than one inch in height and substantially in the following form:

NOTICE TO REMOVE PUBLIC NUISANCE	
TO:	_____

Notice is hereby given that a building, party wall, foundation or other structure located at _____ in Anniston, Alabama is deemed unsafe and is believed therefore to constitute a public nuisance. This notice is intended for the owner or owners of this property. Notice is hereby given that the unsafe condition of the building or structure must be remedied or the structure must be demolished.	
The conditions present that form the basis for the finding that the building or structure is a public nuisance are:	

The owner(s) of the property must take either of the following actions:

(1) Where repair is required, accomplish the specified repairs or improvements within 45 days of the date of this notice or, if the same cannot be repaired within that time, provide the Appropriate City Official with a work plan to accomplish the repairs, which plan shall be submitted within 45 days of the making of the notice and shall be subject to the City's approval.

OR

(2) Where demolition is required, demolish the structure within 45 days of this Notice.

In the event the owner(s) does/do not comply, within the time specified herein, the repairs or demolition shall be accomplished by the City and the cost thereof assessed against the property.

Section 34.24. Remedies to Unsafe Structures

If the owner or owners of any property cited hereunder fail to comply with the notice prescribed, the City may take either of the following actions:

- (a) In the case where repair is required, repair the building at the expense of the municipality and assess the expenses of the repair on the land on which the building stands or to which it is attached.
- (b) In the case where demolition is required, demolish the building at the expense of the municipality and assess the expenses of the demolition on the land on which the building stands or to which it is attached. The term "assessment" as used in this chapter shall refer to the cost of repair or demolition as provided herein.
- (c) The appropriate City Official shall determine the correct remedy in each case.

(Section 11-53B-3(d))

Section 34.25. Hearings—Appeals .

Within the time specified in the Notice, but not more than 30 days from the date the Notice is given, any person, firm, or corporation having an interest in the building or structure may file a written request for a hearing before the City Council, together with his or her objections to the finding by the Appropriate City Official that the building or structure is unsafe to the extent of becoming a public nuisance.

- (a) The filing of the request shall hold in abeyance any action on the finding of the said City official until determination thereon is made by the City Council.
- (b) Upon holding the hearing, which hearing shall be held not less than five nor more than 30 days after the request, or in the event no hearing is timely requested, after the expiration of the 30 days from the date the notice is given, the City Council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance.
- (c) In the event that it is determined by the City Council that the building or structure is unsafe to the extent that it is a public nuisance, the City Council shall order the building or structure to be repaired or demolished, as the case may be.

1. The repairs or demolition may be accomplished by the City by contract for the repairs or demolition.
 2. The City shall have authority to sell or otherwise dispose of salvaged materials resulting from any demolition hereunder.
- (d) Any person aggrieved by the decision of the City Council at the hearing may, within 10 days thereafter, appeal to the circuit court upon filing with the clerk of the court notice of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk.
1. Upon filing of the notice of appeal and approval of the bond, the Clerk of the court shall serve a copy of the notice of appeal on the Clerk of the City.
 2. The Clerk of the City shall, upon receiving the notice, file with the Clerk of the court a copy of the findings and determination of the City Council in proceedings and trials shall be held without jury upon the determination of the City Council that the building or structure is unsafe to the extent that it is a public nuisance.
- (Sections 11-40-32 and 11-53B-4, Code of Ala)*

Section 34.26. Cost Report and Recovery

Upon demolition or repair of the building or structure, the Appropriate City Official shall make a report to the City Council of the cost thereof, and the City Council shall adopt a resolution fixing the costs which it finds were reasonably incurred in the demolition or repair and assessing the same against the property.

- (a) Any person, firm, or corporation having an interest in the property may be heard at the meeting as to any objection he or she may have to the fixing of such costs or the amounts thereof.
- (b) The City Clerk shall give notice of the meeting at which the fixing of the costs is to be considered by first-class mail to all entities having an interest in the property whose address and interest is determined from the tax assessor's records on the property or as otherwise known to the Clerk or determined from the record examination and investigation required by Section 34.14.
- (c) The fixing of the costs by the City Council shall constitute an assessment against the lot or lots, parcel or parcels of land upon which the building or structure was located, and as made and confirmed shall constitute a lien on the property for the amount of the assessment ("the final assessment").
 1. The lien shall be superior to all other liens on the property except liens for taxes, and except for mortgages recorded prior to the creation of the lien for the assessment, and shall continue in force until paid.
 2. A certified copy of the resolution fixing the final assessment shall also be recorded in the Office of the Judge of Probate of Calhoun County.
 3. The proceeds of any moneys received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of the demolition.

(Sections 11-40-33 and 11-53B-5, Code of Alabama)

Section 34.27. Assessments against state purchased property.

The City shall have the power to assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, and where such an assessment is made against the lot or lots, parcel or parcels of land, a

subsequent redemption thereof by any person authorized to redeem, or sale thereof by the state, shall not operate or discharge, or in any manner affect the lien of the City for the assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale by the state for the nonpayment of taxes, shall take the same subject to the assessment.

(Sections 11-40-34 and 11-53B-6, Code of Alabama)

Section 34.28. Payment of Assessments.

The City, in ordering any repair or demolition the cost of which or any part thereof is to be assessed against any property in accordance with this chapter, shall provide that the amount shall be paid in cash within 30 days after the final assessment, unless the responsible party elects to pay in annual installments as follows.

- (a) If the assessed amount is greater than ten thousand dollars (\$10,000), the property owner may, at his or her election, arrange to pay the final assessment in ten (10) equal annual installments.
 1. The property owner must notify the City in writing within 30 days after the final assessment is determined.
 2. The account shall bear interest at twelve percent (12%) per annum.
 3. Interest shall begin to accrue upon the expiration of 30 days from the date on which the final assessment is set by the City Council.
 4. The first installment shall be payable within 30 days after the final assessment is determined, and all installments thereof shall be payable at the office of the finance office of the City.
 5. Upon full payment of the final assessments and accrued interest thereon, the City shall record a satisfaction of the lien in the Office of the Judge of Probate of Calhoun County.
 6. The interest shall be due and payable at the time and place the assessment is due and payable.
- (b) Any person who elects to make installment payments may pay the outstanding balance of the final assessment together with all accrued interest thereon at any time during the payment schedule. *(Section 11-53B-7)*
- (c) Where the remedy has been demolition, and where the property owner has failed to pay the assessment, the Appropriate City Official shall proceed to collect the assessment as provided in Sections 11-48-49 to 11-48-60, inclusive of the Code of Alabama.
- (d) Alternatively, the City may elect to have the tax collector or revenue commissioner collect the assessment by adding the assessment to the tax bill. Upon the election, the Calhoun County Revenue Commissioner shall collect the assessment using all methods available for collecting ad valorem taxes.
- (e) The City Manager shall assign the City Attorney, Deputy City Attorney, or special counsel to enforce the lien in a court of law when necessary. *(see also 35-11-222 and 6-5-248, Code of Alabama)*

Section 34.29. Default sale procedures.

If the property owner fails to pay the assessment lien within 30 days, or having elected to make installment payments, fails to make any installment payment when due, the whole assessment lien shall immediately become due and payable, and the officer designated by the City Manager to collect the assessment lien shall proceed to sell the property against which the assessment lien

is made to the highest bidder for cash, but in no event less than the amount of the lien plus interest through the date of default.

- (a) Prior to the sale, notice shall be given by publication once a week for three consecutive weeks in a newspaper published in the City or of general circulation therein, setting forth the date and time of the sale and the purpose for which the same is made, together with a description of the property to be sold.
- (b) If the officer shall fail to advertise and sell any property on which the payments are past due, any taxpayer of the City shall have the right to apply for a writ of mandamus requiring the official to take such action to any court of competent jurisdiction, and the court shall, on proof, issue and enforce the writ.

(Section 11-53B-8)

Section 34.30. Payment and sale procedures.

- (a) Any property owner, notwithstanding his or her default, may pay the assessment lien with interest and all costs if tendered before a sale of the property.
- (b) The cost of any notice and sale resulting from a default on paying an assessment shall constitute a charge against the property to be sold and shall be retained out of the proceeds of the sale.
- (c) The officer making the sale shall execute a deed to the purchaser, which shall convey all the rights, title, and interest which the party against whose property the assessment was made had or held in the property or on the date of making the sale. Any surplus arising from the sale shall be paid to the City treasurer to be kept as a separate fund by the treasurer for the owner upon the responsibility of his or her official bond. The City may, by its agents, purchase real estate sold as provided under this chapter and, in the event of the purchase, the deed for the same shall be made to the City.
- (d) No mistake in the notice of sale in the description of the property or in the name of the owner shall vitiate the assessment or the lien and if for any reason, the sale made by the City is ineffectual to pass title, it shall operate as an assignment of the lien, and, upon the request of the purchaser, supplementary proceedings of the same general character as required in this chapter may be had to correct the errors in the proceedings for his or her benefit or the lien so assigned to him or her may be enforced by civil action.

(Section 11-53B-9)

Section 34.31. Post sale redemption requirements.

- (a) Any real property heretofore or hereafter sold for the satisfaction of an assessment lien imposed thereon by the City may be redeemed by the former owner, or his or her assigns, or other persons authorized to redeem property sold for taxes by the state, within two years from the date of the sale by depositing with the officer designated by the City to collect the assessments the amount of money for which the lands were sold, with interest thereon at the rate of 12 percent per annum from the date of the sale through the date of the payment.
- (b) In addition to any other requirements set forth in this section, the proposed redemptioner must pay or tender the purchaser or his transferee all insurance premiums paid or owed by the purchaser with accrued interest on the payments computed from the date the premiums were paid at 12 percent per annum through the date of payment.
- (c) In addition to any other requirements set forth in this section, the proposed redemptioner must pay or tender to the purchaser or his transferee the value of all permanent improvements

made on the property determined in accordance with this section. As used herein "permanent improvements" shall include, but not be limited to, all repairs, improvements, and equipment attached to the property as fixtures. The proposed redemptioner shall make written demand upon the purchaser of a statement of the value of all permanent improvements made on the property since the assessment sale. In response to written demand made pursuant to this section, the purchaser shall within 10 days from the receipt of the demand, furnish the proposed redemptioner with the amount claimed as the value of the permanent improvements, and within 10 days after receipt of the response, the proposed redemptioner either shall accept the value so stated by the purchaser, or disagreeing therewith, shall appoint a referee to ascertain the value of the permanent improvements. The proposed redemptioner shall in writing

1. notify the purchaser of his or her disagreement as to the value, and
 2. inform the purchaser of the name of the referee appointed by him or her.
- (d) Within 10 days after the receipt of the notice, the purchaser shall appoint a referee to ascertain the value of the permanent improvements and advise the proposed redemptioner of the name of the appointee. The two referees shall, within 10 days after the purchaser has appointed his or her referee, meet and confer upon the award to be made by them. If they cannot agree, the referees shall at once appoint an umpire, and the award by a majority of the body shall be made within 10 days after the appointment of the umpire and shall be final between the parties.
- (e) If the proposed redemptioner fails or refuses to nominate a referee as provided in subsection (c), he or she shall pay the value put upon the improvements by the purchaser. If the purchaser refuses or fails to appoint a referee, as provided in subsection (c), the purchaser shall forfeit his or her claim to compensation for the improvements. The failure of the referees or either of them to act or to appoint an umpire shall not operate to impair or forfeit the right of either the proposed redemptioner or the purchaser in the premises. In the event of failure without fault of the parties to affect an award, the appropriate court shall proceed to ascertain the true value of the permanent improvements and enforce the redemption accordingly.
- (f) In addition to all other payments provided hereunder, the proposed redemptioner shall also pay interest to the purchaser on the value of all permanent improvements computed from the date the improvements were made at the rate of 12 percent per annum through the date of the payment. *(Section 11-53B-10)*
- (g) The fixed two-year period of redemption allowed by this Section 34.31, for the redemption of any property heretofore or hereafter sold for the satisfaction of any assessment lien may be extended to a date 60 days after the date of the certificate of warning to redeem provided for in Section 34.32, but in no event for a longer period than six years from the date of such sale. *(Section 11-53B-11, Code of Alabama)*

Section 34.32. Certificate of warning to redeem.

At any time after an assessment sale deed has been recorded in the office of the judge of probate, and after expiration of the fixed two-year period of redemption allowed by Section 34.31, any person may apply to the judge of probate for the certificate of warning to redeem, which references the recorded volume and page number of the deed to be recorded in the real estate records, in substantially the following form:

"I hereby certify that on or prior to the date of this certificate, I mailed a certified copy of the deed here recorded, together with notice that the same is here recorded, and a warning to redeem to each of the one or more persons other than the grantee in said deed, to whom the property therein described was last finally assessed for ad valorem taxation at the address of each such person as shown by said ad valorem tax assessment records, and to each owner of a beneficial interest in the property as determined by the record examination and investigation required by Section 34.12B herein. This ___ day of _____, 20___, Judge of Probate, Calhoun County, Alabama."

(Section 11-53B-12)

Section 34.33. Certification procedures.

- (a) At the time of application for entry of the certificate of warning to redeem, the applicant shall deliver to the judge of probate, three certified copies of the recorded deed and shall pay to the judge of probate a fee of one dollar (\$1). Copies of the deed need not include any certificate of acknowledgment.
- (b) The applicant shall also deliver to the judge of probate a certified copy of the ad valorem tax assessment records of the county containing the name of the person or persons other than the grantee in the deed to whom the property described in the deed was last finally assessed for ad valorem taxation, or as otherwise determined by record search or investigation, together with the address of each person as shown by the tax assessment records, or otherwise, or an affidavit that there is no one else.
- (c) The judge of probate shall promptly mail to each person at such address one of the aforesaid certified copies of the deed, together with an attached warning to redeem in substantially the following form:

"Take notice that there is recorded in my office in Deed Book ___ at page ___ a deed of which the attached is a correct copy. You are warned that unless you, or those claiming under you, take prompt steps to redeem from those claiming under the deed, all rights of redemption may be lost. This ___ day of _____, 20___, Judge of Probate, Calhoun County, Alabama."

- (d) Promptly upon or after mailing the notice or notices and certified copy or copies of the deed, it shall be the duty of the judge of probate to record in the real estate records the signed and dated certificate of warning substantially as prescribed by Section 11-53B-12.
- (e) At the expiration of 60 days after the date of the certificate all rights to redeem from the sale shown by the deed shall cease and desist.

(Section 11-53B-13)

Section 34.34. Time extension.

The fixed two-year period of redemption allowed by Section 34.31 for the redemption of any property heretofore or hereafter sold for the satisfaction of any assessment lien may be extended to a date 60 days after the date of the certificate of warning to redeem provided for in Section 34.32, but in no event for a longer period than six years from the date of such sale.

(Section 11-53B-11)

Section 34.35. Redemption procedures.

Redemption may be effected after expiration of the fixed two-year period of redemption allowed or provided by Section 34.31 and before the extended period of redemption has expired in the same manner and at the same redemption price as is provided in Section 34.34; provided, that if the judge of probate has made the certificate of warning to redeem as provided in Section 34.33, said redemption price shall be increased by one dollar (\$1).

(Section 11-53B-14)

Section 34.36. Emergency action.

Notwithstanding any other provisions of this chapter, the Appropriate City Official may initiate immediate repair or demolition of a building or structure when, in the opinion of the official so designated, such emergency action is required due to imminent danger of structural collapse endangering adjoining property, the public right of way, or human life or health. The cost of the emergency action shall be fixed by the Council and shall be assessed as provided by this chapter.

(Section 11-53B-15)

Section 34.37. Relocation Assistance.

The Council may provide relocation assistance to persons displaced by the acquisition of real property by local land acquisition programs and to comply with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, Public Law 91-646, Title 2, §§207 and 210, 84 Stat. 1898 and 1899, 42 USCA, §§4627 and 4630, and the requirements and regulations thereunder. The Council may appropriate public funds to provide such relocation assistance and to comply with the requirements of such act and the requirements and regulations thereunder in connection with projects financed in whole or in part by federal funds. The city may exercise the authority granted hereunder by enactment of resolutions or ordinances to establish criteria for providing such relocation assistance.

ARTICLE IV. CONTRACTOR AND PRIVATE PARTY REQUIREMENTS FOR
DEMOLITION OF PROBLEMATIC STRUCTURES AND BUILDINGS

Section 34.38. Contractor Requirements

Whether under contract for nuisance abatement by the City or under occasional contractual agreement with property owners, private contractors shall provide all plans, labor, subcontractors, materials, and equipment necessary for complete demolition and removal of all debris and waste and completely clean and clear the designated lot, depositing all removed materials in the Calhoun County Landfill or other suitable waste depository, as verified by dump tickets or receipts.

- (a) Demolition permits shall be acquired and inspections called for as required.
- (b) Penalties and charges for abatement of nuisance may be assessed against contractors who leave lots in partially abated condition or otherwise fail to thoroughly abate violations as assigned.
- (c) Structures shall be leveled to ground level, and pilings and concrete pads shall be removed.

- (d) All excavations, such as cellars, and low places shall be filled with clean, inert fill, not to include debris from the demolition; and the entire lot shall be leveled and graded to prevent standing water.
- (e) Erosion control measures, such as hay bales and silt fencing, shall be utilized where necessary to prevent sedimentary runoff from the property.
- (f) Water spray and other measures shall be utilized during demolition and grading activities to minimize the disbursement of dust.
- (g) All trees or other objects that are supposed to remain on the lot shall be flagged in advance by the City staff or private property owner monitoring the work.
- (h) All asbestos or other hazardous materials shall be disposed of in accordance with all Federal, state, and/or local regulations.
- (i) All utility lines shall be removed to the property lines or water meter, whichever is more practical, and any leakage shall be the contractor's responsibility.
- (j) Natural gas and electrical facilities shall be completely removed from the property and contractors shall arrange with utility providers to have their equipment removed.
- (k) Sewer lines shall be plugged or capped to prevent release of any content.

Section 34.39 through 34.50. Reserved

PASSED AND ADOPTED this the 10th day of May, 2011.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: /s/ Gene Robinson, Mayor

By: /s/ John Spain, Council Member

By: /s/ Herbert N. Palmore, Council Member

By: /s/ Benjamin L. Little, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Mayor Robinson made a motion for the passage and adoption of Ordinance Number 11-O-9 as reintroduced and read. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried and Ordinance Number 11-O-9 was passed and adopted.

Council Member Little introduced and read Resolution Number 11-R-41 as follows:

(11-R-41, travel reimbursement)

Council Member Little made a motion for the passage and adoption of Resolution Number 11-R-41 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried and Resolution Number 11-R-41 was passed and adopted.

5/10/2011

Council Member Little made a motion to authorize Ed Isom to negotiate the purchase of the property at "A" and Leighton. The motion was seconded by Council Member Spain.

Council Member Little stated he had meant for the property at 15th Street to be included in this motion.

Mayor Robinson stated that he felt a detention pond was needed in this area and the area was prone to flooding. He stated that commercial development at this location would be cost prohibitive.

Council Member Little stated he had been to this location many times when it rains and it was not flooding in this area like Mayor Robinson stated. He stated they needed some commercial development in this area.

Council Member Palmore stated he did not have a problem with negotiating for this property. He asked if there was a plan established for the use of this property.

Council Member Little stated there would be mini-mart and possibly two other small businesses there.

Council Member Palmore asked if there was a developer to build it and who was going to own it because the City could not afford to do it.

Council Member Little stated they had someone previously and if they could acquire the property then it could be marketed to find a developer.

Council Member Palmore stated they did not need to buy property without a plan to develop it.

Council Member Spain stated before they could come up with a plan they needed to know what they could acquire the property for.

On call of the roll on Council Member Little's motion to authorize Ed Isom to negotiate the purchase of the property at "A" and Leighton and Council Member Spain's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, and Little; nays: Mayor Robinson; absent: Council Member Dawson. The motion carried.

Council Member Little made a motion to authorize the City manager to execute a lease for operation of concessions at the Multi-Modal facility with Jerrell Hicks, owner and operator of Adam and Eve Restaurant. The motion was seconded by Council Member Spain.

Mayor Robinson stated this was not properly bid out. He stated there was only one person in the running for this lease. He stated they should have gone through a bidding process.

Council Member Spain asked the City Attorney if they were proceeding properly if they voted affirmatively for this motion.

5/10/2011

Cleo Thomas, City Attorney, stated that this was basically working as an assignment of the original contract and to the best of his knowledge there was nothing improper in this process.

Mayor Robinson stated he disagreed since the entity leasing the property had changed.

On call of the roll on Council Member Little's motion to authorize the City manager to execute a lease for operation of concessions at the Multi-Modal facility with Jerrell Hicks, owner and operator of Adam and Eve Restaurant and Council Member Spain's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, and Little; nays: Mayor Robinson; absent: Council Member Dawson. The motion carried.

Alan Atkinson, City Clerk, advised that copies of the following Bid Fact Sheet had been given to the Council:

(Lease/purchase of one compact track loader)

Council Member Little made a motion that the bid in the total amount of \$20,831.70 per year for four years with a \$1.00 buyout by Thompson Tractor Company for the lease/purchase of one compact track loader for the Public Works Department be accepted. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried.

Harvey Roberts, 1326 Christine Avenue, addressed the Council and stated he was opposed to a men's shelter being opened on Woodstock Avenue.

Morrell Hughley, 1314 Christine Avenue, addressed the Council and stated he was opposed to a men's shelter being opened on Woodstock Avenue. He stated he had received something from Dr. Carla Thomas stating they should come to this meeting to state their opinion on this subject. He stated they had no notice of this men's shelter coming to their neighborhood.

Camara Mason, 1420 Woodstock Avenue, addressed the Council and stated she was opposed to a men's shelter being opened on Woodstock Avenue. She stated they had no notice of this men's shelter coming to their neighborhood.

Bonnie Harris, 1118 Woodstock Avenue, addressed the Council and stated she was opposed to a men's shelter being opened on Woodstock Avenue. She stated they had no notice of this men's shelter coming to their neighborhood.

Don Hoyt, City Manager, stated that nothing had yet been approved for a men's shelter on Woodstock Avenue and nothing had come before the Council concerning a men's shelter on Woodstock Avenue.

David Joyner, City of Anniston retiree, addressed the Council concerning the increasing cost of retiree insurance at the City of Anniston. He asked the City Council to look at this situation for the retirees.

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Mayor Robinson stated that this week they would be celebrating the 50th anniversary of the Freedom Riders.

Council Member Little stated he hoped they could help the retirees with their insurance costs. He stated they were having some extreme difficulties and problems in the public housing communities. He stated there was too much gunfire in these areas and they needed police raids to remove these guns and criminals. He stated he supported the police action in the public housing communities in Ward 3.

Council Member Palmore stated there had been problems at Norwood homes. He stated they were not going to tolerate crime in the public housing communities. He encouraged everyone to attend events this week celebrating the 50th anniversary of the Freedom Riders.

There being no further business to come before the meeting at that time Council Member
Council Member Little made a motion the meeting be adjourned. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; absent: Council Member Dawson. The motion carried and the meeting was adjourned at approximately 5:51 o'clock p.m.