

9/14/2010

Anniston, Alabama
September 14, 2010

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, September 14, 2010, at approximately 4:15 o'clock p.m.

Council Member Spain prayed the Invocation.

Council Member Spain 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, Dawson and Robinson; absent: none. 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 Dawson made a motion to dispense with the reading of and approve the minutes of August 24, 2010. 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, Dawson and Robinson; nays: none. The motion carried.

Council Member Dawson made a motion to delete from the agenda public hearings on the proposed revocation of the business license of Ron Gibson d/b/a Ron Gibson Construction and the proposed revocation of the business license of The Office LLC d/b/a Coyote Mike's Bar and Grill and the corresponding motions concerning said proposed business license revocations and to delete a proposed resolution asking the Anniston Civil Service Board to implement a hiring preference for military veterans, widows and widowers of veterans, and spouses of disabled veterans. 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, Dawson and Robinson; nays: none. The motion carried.

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

Mayor Robinson made a presentation to the Anniston Police Department Special Response Team.

Mayor Robinson read and presented the following proclamation:

9/14/2010

(Sickle Cell Foundation)

Steven Folks, Parks and Recreation Director, made presentations to individuals participating at the 33rd Annual Hershey Track and Field North American Final Meet and the 2010 Special Olympics National Games.

Steven Folks, Parks and Recreation Director, recognized individuals participating at the 33rd Annual Hershey Track and Field North American Final Meet and the 2010 Special Olympics National Games.

Council Member Spain made a motion to remove from the table Ordinance Number 10-O-11 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 growth, vermin and other nuisances contributing to neighborhood blight and deterioration and depressing property values. 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, Dawson and Robinson; nays: none. The motion carried.

On call of the roll on Council Member Spain's motion to amend Ordinance Number 10-O-11 to include in Section 34.3 - Enforcement the following:

“Illustrative Enumeration of Enforcement Procedures

- (1) When the owner or other responsible party has been identified and located the following steps are followed:
 - a. Complaint received or violation observed by the Code Enforcement staff.
 - b. Code enforcement staff identifies and locates property owner/responsible party/agent.
 - c. Responsible party notified by mail or hand delivery.
 - d. Upon failure to comply, the responsible party may be given a municipal citation and be summoned into municipal court.
 - e. Failure to appear may result in a warrant being issued for the responsible party's arrest.
 - f. Municipal Court may specify remedial actions, abatement, or penalties for non-compliance.
 - g. Failure to pay restitution may result in a tax lien on the property in favor of the city.

- (2) When the responsible party is an absentee owner, is unknown, resides outside of Alabama, or is the state.

- a. Council action is required to order abatement and/or multiple cuts.
 - b. Council meets once per year to hear cost recovery reports.Cost recovery may include the application of tax liens per Council order.”

and to include in Section 34.19 – Accounting of Costs for Abatement of Nuisance; Report the following:

“(4) The City shall take action assessing any costs as taxes only after a motion or resolution is adopted by the City Council authorizing the assessment.” And Council

9/14/2010

Member Palmore's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

ORDINANCE NO: 10-O-11

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.

BE IT ORDAINED by the City Council of the City of Anniston, Alabama, that a new Chapter 34

of the Code of Ordinances is hereby created to read as follows:

CHAPTER 34

HEALTH, SAFETY, AND SANITATION

Art. I. Administration and Enforcement, §34.1-34.5

Art. II. Nuisances-In General, §34.6-34.11

Art. III. Problematic Structures, Buildings, and Other Public Nuisances §34.12-34.18

Art. IV. Contractor Requirements for Demolition of Problematic Structures and Buildings §34.19

ARTICLE I. ADMINISTRATION AND ENFORCEMENT

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, as amended.

Property owners, lessees, and/or occupants of property in the City of Anniston, Alabama shall maintain 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, and/or being subject to abatement and cost recovery action by the City of Anniston, Alabama.

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 34.5 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.
(Code of Alabama 1975, Section 45-3-171.18)

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.

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 that 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: Putrescible animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food.

Inoperable motor vehicle: A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, 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: 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 material, or for the collection, dismantling, storage or salvaging of machinery or inoperable vehicles or for the sale of 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.

Motor Vehicle: Any style or type of motor driven vehicle used for conveyance of persons or property. For example, automobiles, trucks, go-carts, golf carts, all terrain vehicles, construction equipment, etc.

Nuisance: A condition, when declared to be so by the City Council according to Sections 45-3-171 of the Code of Alabama, which act, omission, condition or thing either

1. injures or endangers the comfort, repose, health or safety of others; or
2. is offensive to the senses; or
3. unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
4. essentially interferes with the comfortable enjoyment of life or property, or
5. tends to depreciate the value of the property of others.

Owner: A person, persons, or legal entity listed as current titleholder as recorded in the official property records of Calhoun County, Alabama.

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.

Refuse: All putrefiable and non-putrefiable solid waste (except body waste), garbage, rubbish, and solid market and industrial wastes.

Rubbish: Non-putrefiable solid waste consisting of both combustible and non combustible waste, such as paper, wrappings, cigarettes, cardboard, tin or aluminum cans, yard clippings, leaves, wood, glass, bedding, scrap metal, glass and similar material.

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.

Section 34.3. Enforcement

Unless prohibited or otherwise limited in Article III of this Chapter for specific types of violations, any of the following procedures, injunction, abatement, or misdemeanor penalties may be used by the City of Anniston to enforce this chapter's provisions.

General Abatement Procedures. In the event that any person, including but not limited to the property owner, general agent of the property, lessee or tenant, shall fail or neglect to comply with the provisions of this Chapter, the City of Anniston, Alabama is authorized, empowered and directed to cause the violation to be corrected and abated and to assess the charges against the person(s) responsible according to the provisions of Article III of this Chapter.

- (1) If the City of Anniston, Alabama undertakes abatement action, the property owner of record shall be notified of the city's intent to abate the violation according to the applicable provisions concerning said violation.

- a. The city may serve notice on the owner by certified or registered mail, addressed to the owner at his/her last known address or through personal delivery by an employee of the city when appropriate.
 - b. In the case of right-of-way obstructions, notice may be in the form of a “notice to remove” attached to the obstruction itself.
 - c. Notice of the city’s intent to abate a violation shall identify the explicit nature and location of the violation, including the legal property description, the owner thereof who is responsible, and the length of time allotted for voluntary correction.
- (2) All charges, costs, and expenses for abatement or correction of the violations incurred by the City of Anniston, Alabama shall be assessed to the person responsible and/or the property owner; and, if said person refuses to reimburse the city’s costs within thirty (30) days, the amount thereof may be collected through attachment of a tax lien as described in Section 34.18 of this Chapter.
- (3) The city manager or his duly authorized representatives shall keep an account of the cost of abating or removing the nuisance in front of or on each separate lot or parcel of land where work is done by the city or it’s employees, or by a duly authorized private contractor, company, enterprise, or individual at the city’s behest, and shall render an itemized report in writing to the City Council showing the cost of removing the nuisance on each separate lot, or in front of the lot.
- (4) Before the report is submitted to city council, a copy of the report shall be sent by certified or registered mail at least five (5) days prior, to the owner of record, to the hearing with a notice of the time and place when the report shall be submitted to the city council for consideration.
- (5) Abatement actions taken by the city under this Chapter shall not preclude the imposition of criminal penalties as otherwise provided by law.

Court Action.

- (1) The City of Anniston, AL may petition a court of competent jurisdiction for injunctive relief when responsible parties refuse to comply with the city’s lawful order to correct violations of this chapter.
- (2) In addition to the lien and enforcement procedures authorized under this Section, the city has a cause of action against the owner personally for the costs incurred by the City of Anniston, Alabama, if such owner is not indigent and has the ability to pay a judgment obtained by the city.

Misdemeanor Penalties. Any person violating any provision of this chapter may be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00), or by imprisonment for a term of not less than three (3) days

and not more than six (6) months, or both. Each day that a violation continues shall be considered a separate offense.

Illustrative Enumeration of Enforcement Procedures

(1) When the owner or other responsible party has been identified and located the following steps are followed:

- a. Complaint received or violation observed by the Code Enforcement staff.
- b. Code enforcement staff identifies and locates property owner/responsible party/agent.
- c. Responsible party notified by mail or hand delivery.
- d. Upon failure to comply, the responsible party may be given a municipal citation and be summoned into municipal court.
- e. Failure to appear may result in a warrant being issued for the responsible party's arrest.
- f. Municipal Court may specify remedial actions, abatement, or penalties for non-compliance.
- g. Failure to pay restitution may result in a tax lien on the property in favor of the city.

(2) When the responsible party is an absentee owner, is unknown, resides outside of Alabama, or is the state.

- a. Council action is required to order abatement and/or multiple cuts.
- b. Council meets once per year to hear cost recovery reports.

Cost recovery may include the application of tax liens per Council order.

ARTICLE II. NUISANCES

Section 34. 4. Nuisances Prohibited.

All weeds growing upon streets or sidewalks or upon private property subject to this part 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, and any accumulation of trash, rubbish, junk or debris, or any unsightly or dangerous walls, or any abandoned or unsafe construction of any kind or nature, or motor vehicles not in usable condition, or any debris of a burned building, or any abandoned or unused swimming pool, or any abandoned wells or cisterns, may be declared to be a public nuisance by the City Council and thereafter abated as provided in this Chapter. It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance as defined herein.

(Act 95-375, p. 763, §2; Act 2004-256, p. 349, §1.)

Section 34.5. Illustrative Enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be on any public or private property of any of the following items, conditions, or actions may be declared to

be and constitute a nuisance and shall be prohibited in the City of Anniston, Alabama; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive;

- (1) Accumulation of garbage, rubbish, trash, refuse, junk, inoperable motor vehicles, motor vehicle parts, and other abandoned materials, metals, lumber, or other things.
- (2) Any condition which provides harborage for snakes, rats, mice, and/or other vermin.
- (3) Any building or other structure which is in such a dilapidated or burnt condition that it is unfit for human occupancy, or kept in such unsanitary condition that it is a menace to the health and safety of people in the vicinity thereof or presents a fire hazard.
- (4) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances, or other causes which give rise to the emission or generation of such odors and stenches.
- (5) The carcasses of animals not disposed of within a reasonable time after death.
- (6) The pollution 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.
- (7) Any building, structure, or other place or location where any activity which is in violation of local, state, or federal law is conducted, performed, or maintained.
- (8) Any accumulation of stagnant water permitted or maintained on any lot, parcel or piece of ground.

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 so that utility companies can provide services to its municipal customers.

- (1) The attaching of posters, signs, notices, or announcements to utility poles, columns, fences, walls, trees, ornamental shrubs, statues, or other authorized 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 the City of Anniston pursuant to this section.

- (2) Temporary “yard” signs, notices, or posters, which are defined by law as litter, may be removed 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 person responsible, giving them opportunity to abate the violation.

Section 34.7. Illegally Parked or Abandoned Vehicles.

It shall be unlawful for any person, corporation, or entity to park, station, or abandon 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 this Code, 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 such a way in an alley or on another street or highway so as to interfere with or obstruct free access to such alley or egress there-from by other vehicles or in such way as to interfere with the reasonable use of such alley 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 alley, street, boulevard, or avenue within the city, or on, upon or within a residential lot, including the driveway thereof, except for the purpose of loading or unloading.
- (3) No person shall park a house trailer or motor home upon a public street, road, or right-of-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 or private driveway, or in such a manner as to impair or impede the free ingress to or egress from any public or private driveway within the city or its police jurisdiction.

Section 34.8. Notice to be affixed.

Whenever a police officer or other designated city official has reason to believe that a vehicle, trailer, semi-trailer or motor home may be abandoned 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 abandoned and is in violation of this article. 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. Vehicles or other obstructions in designated and signed "tow-away" zones may be impounded according to Section 34.9 of this Chapter without owner notification.

Section 34.9. Impoundment of Abandoned Vehicles

An abandoned 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. The city may alternatively contract with a private company to tow, store, and dispose of abandoned vehicle, 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 abandoned on private property first requires consent of the property owner or notice of abatement according to Section 34.4 of this Chapter.

Section 34.10 Junk and Discarded Materials Including Wrecked Vehicles.

It shall be unlawful for any person, corporation or agency to deposit, store, or abandon, any junk, discarded or abandoned appliances, such as refrigerators, freezers, ranges, machinery, metal, building material debris, or any other discarded materials or parts thereof on any vacant lot or on any unused portion of any occupied lot, neutral ground, street, alley, or sidewalk in the City. Accumulations of such materials subject responsible parties to enforcement action and penalties according to Article III of this Chapter.

- (1) As an alternative to removal, the offending material in violation of this section may be enclosed within a board fence, solid wall structure, or otherwise completely obscured from public view by responsible parties.
- (2) Otherwise lawfully conducted appliance repair, auto repair, auto salvage or storage businesses may not accumulate materials or parts which may protuberate beyond the buildings or structures within which the business is generally conducted.
- (3) Materials in violation of this section, whether or not enclosed within a fence or structure, shall not be allowed to become breeding places or habitat for rodents, snakes, insects, or any other vermin which may become a hazard to the health and safety of citizens.

Section 34.11 Noxious Growths and Weeds.

General Provisions. It is unlawful for any person, corporation, or agency to allow the growth or accumulation of noxious weeds or grass or other deleterious, unhealthful, or noxious growths on any lot, place or area or on any unused portion of any lot including easement areas and rights-of-way adjoining private property in excess of twelve (12) inches, with the exception of:

- (1) flowers, hedges, trees, ornamental shrubs, and plants cultivated for their edible parts,
- (2) growth deemed by the Council after recommendation by the Director of Public Works to be necessary to control dangerous or harmful erosion, or
- (3) growth on property that is assessed for ad valorem taxes as agricultural or forest property.

Allowing said growth will subject the person responsible to enforcement actions according to Article III of this Chapter.

Multiple Cuttings. 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 to Section 34.16 of this Chapter, the City may undertake the cutting, destruction, or removal of said noxious growths without further notice on a monthly basis for the duration of the current growing season.

City Clerk to File a Lien.

The cost of abating such nuisance in front of or upon the various parcels of land mentioned in the report shall be referred to as a “weed lien” and as thus made and confirmed shall constitute a “weed lien” on the property for the total amount of such initial lot cleaning assessment along with any administrative fees, respectively. After confirmation of the report, the city shall attempt to collect the “weed lien.” If this attempt by the city proves futile, a copy of the “weed Lien” confirmation report will be turned over to the revenue commissioner who, under the “optional method of taxation,” is charged with the collection of the city’s municipal taxes pursuant to Code of Alabama, Sections 11-51-40 through 11-51-74, (1975). It shall be the duty of the revenue commissioner to add the amount of the respective “weed liens” to the next regular bill for taxes levied against the respective lots and parcels of land, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency pursuant to Code of Alabama, Sections 11-51-40 through 11-51-74, (1975), as set forth in Code of Alabama, Section 11-67-1 et seq.

Section 34.12. Litter.

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.

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 by them, or to suffer or permit litter to exist or remain on any public property adjacent to private property owned or occupied by them, 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.

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 or large passenger vehicle or school bus, it shall be prima facie evidence that the throwing, dumping, or depositing was done by the driver of the motor vehicle.
- (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.

Hazardous Liquid Leakage.

No person shall operate, stop, station, or stand 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, and 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. PROBLEMATIC STRUCTURES, BUILDINGS, AND OTHER PUBLIC NUISANCES.

Section 34.13. Application of Chapter.

For the purposes of this Chapter, “city” means the City of Anniston, Alabama, including its police jurisdiction; however, the provisions of this section shall not apply to any property that is assessed for ad valorem taxes as agricultural or forest property.

(Act 95-375, p. 763, §1; Act 2004-256, p.349, §1)

Section 34.14. Resolution Declaring Public Nuisance.

Whenever any officer or employee of the city having that responsibility reports to the City Council the existence of any condition enumerated in Section 34.5, the city 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 upon which or in front of 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.

(Act 95-375, p. 763, §3)

Section 34.15. Notice to Remove Public Nuisance.

After the passage of the resolution, the City Council shall conspicuously post in front of the property on which the nuisance exists, at not more than one hundred (100) feet in distance apart; at least two notices headed “Notice to Remove Public Nuisance.” The heading to be in words not less than one (1) inch in height and substantially in the following form:

NOTICE TO REMOVE PUBLIC NUISANCE

Notice is hereby given that on the ____ day of _____, 20__ , the City Council of the City of Anniston, Alabama 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. The public nuisance must be abated by its removal by the city or county authorities, 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.

All property owners having any objections to the proposed removal of the public nuisance are notified to attend a meeting of the City Council of the City of Anniston, Alabama to be held (give date, time and location), when their objections will be heard and given due consideration.

Dated this day of _____, 20__ , City of Anniston, Alabama by _____, City Clerk

The notice shall be posted at least five (5) days prior to the time for hearing objections by the City Council of the City of Anniston, Alabama. In addition, a notice shall be mailed to the last person assessed for property taxes due on the property according to the records of the county tax assessor shall be conclusively presumed to be adequate and to comply with these requirements.

(Act 95-375, p. 763, §4)

Section 34.16. Hearings of objection or Protest Regarding Public Nuisances.

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 governing body. Upon the conclusion of the hearing, the governing body, 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 governing body 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 governing body on the matter shall be deemed final and conclusive.

(Act 95-375, p. 763, §5)

Section 34.17. Order for Abatement of Nuisance.

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. Any property owner or other person responsible may abate the nuisance at his or her expense.

(Act 95-375 p. 763, S6)

- (1) 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.
- (2) Demolition of a structure requires a standard demolition permit. Reconditioning a structure according to current building codes requires a standard building permit.
- (3) All debris and materials must be deposited by the responsible party into the Calhoun County Landfill or other legal depository of waste materials.

Section 34.18. Order of Forced Removal of Nuisance.

If the owner or other responsible party fails to abate the nuisance within the prescribed time period, the Code Enforcement Official shall report his or her failure to do so to the City Council. The owner or other responsible party shall be given at least five (5) days notice of the meeting mailed to the last person assessed for property taxes due on the property according to the records of the Calhoun County tax assessor. After due notice according to this subsection, the City Council shall, by motion or resolution, order forced removal of the nuisance on a date specified by the Council. All necessary employees of the city and/or 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.

(Act 95-375, p. 763, §6)

Section 34.19. Accounting of Costs for Abatement of Nuisance; Report.

After submission of necessary documents by the Director of Public Works or his designee, the Director of Finance or his designee shall render an itemized report showing the cost of abating the nuisance. Before the report is submitted to the Council, a copy shall be mailed to the owner or other responsible parties at least five (5) days before the report is submitted for review.

- (1) 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.

- (2) The amounts for 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.
- (3) After confirmation of the report, a copy shall be turned over to the City Clerk, who 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 taxes.
- (4) The City shall take action assessing any costs as taxes only after a motion or resolution is adopted by the City Council authorizing the assessment.

(Act 95-375, p. 763, §7; Act 2001-406, p. 516, §1; Act 2004—256, p.349, §1)

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

Section 34.20. Description.

Whether under contract for nuisance abatement by the City or under occasional contractual agreement with property owners, private contractors shall provide all plant, labor, subcontract, 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. Demolition permits shall be acquired and inspections called for as required. Penalties and charges for abatement of nuisances may be assessed against contractors who leave lots in partially abated conditions or otherwise fail to thoroughly abate violations as assigned.

General Provisions

- (1) Structures shall be leveled to ground level; pilings and concrete pads shall be removed.
- (2) 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.
- (3) Appropriate erosion control measures, such as hay bales and silt fencing, shall be utilized where necessary to prevent sedimentary runoff from the property.
- (4) Water spray and other measures shall be utilized during demolition and grading activities to minimize the disbursement of dust.

9/14/2010

- (5) The entire lot shall be cleared of all brush, grass, rocks, shrubbery, undergrowth, trash, and debris.
- (6) 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.
- (7) All asbestos or other hazardous materials shall be disposed of in accordance with all Federal, state, and/or local regulations.

Utilities

- (1) Water service lines shall be removed to the property lines or water meter, whichever is more practical. Any leakage shall be the contractor's responsibility.
- (2) Natural gas and electrical facilities shall be completely removed from the property and contractors shall arrange with utility providers to have their equipment removed.
- (3) Sewer lines shall be plugged or capped in such manner as to not affect adjacent property or other utility subscribers.

All work must be completed, inspected, and accepted by the City no later than thirty (30) days from the date of the notice to proceed, unless a longer period is authorized and indicated on the permit issued by the City.

Section 34.21. Interpretation; Validity; Effective Date; Repealer.

- (1) *Interpretation:* In interpreting and applying the provisions of this Chapter, they shall be held to the minimum requirements for the promotion of the public health, safety and general welfare. Whenever the provisions of this Chapter require higher standards than are required in any other applicable statute, ordinance or regulation, the provisions of this Chapter shall govern.
- (2) *Validity:* The requirements and provisions of this Chapter are severable, and should any section or part thereof be declared by any court of competent jurisdiction to be unconstitutional or invalid, the decision of the court shall not affect the validity of the Chapter as a whole or any section or part thereof other than the section or part thereof so declared to be unconstitutional or invalid.
- (3) *Effective Date:* This Chapter shall become effective after its adoption and publication according to law.
- (4) *Repealer:* All provisions of the City Code in conflict with or inconsistent with the provisions of this Chapter are hereby repealed.

PASSED AND ADOPTED this the 14th day of September, 2010.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA
By: /s/ Gene Robinson, Mayor

9/14/2010

By: /s/ John Spain, Council Member
By: /s/ Herbert N. Palmore, Council Member
By: /s/ Benjamin L. Little, Council Member
By: /s/ David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Spain made a motion for the passage and adoption of Ordinance Number 10-O-11 as amended. 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, Dawson and Robinson; nays: none. The motion carried and Ordinance Number 10-O-11 was passed and adopted.

Mayor Robinson announced that was the time for the public hearing to receive comments on the proposed FY 2011 General Fund Budget, declared the hearing open and asked if anyone wished to address the Council concerning the proposed FY 2011 General Fund Budget.

No one addressed the Council concerning the proposed FY 2011 General Fund Budget.

Mayor Robinson declared the public hearing to receive comments on the proposed FY 2011 General Fund Budget closed.

Council Member Dawson introduced and read Ordinance Number 10-O-12 as follows:

(10-O-12, amending Section 8.17 of the City Code levying special or additional court costs and fees)

Council Member Dawson made a motion for the unanimous consent of the Council for the immediate consideration of Ordinance Number 10-O-12 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, Dawson and Robinson; nays: Council Members Palmore and Little. The motion failed.

Council Member Palmore introduced and read Resolution Number 10-R-96 as follows:

(10-R-96, reimbursements to City officials for travel expense)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 10-R-96 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, Dawson and Robinson; nays: none. The motion carried and Resolution Number 10-R-96 was passed and adopted.

Council Member Spain introduced and read Resolution Number 10-R-97 as follows:

9/14/2010

(10-R-97, changing the curbside garbage collection service charge for each residential unit in the city)

Council Member Spain made a motion for the unanimous consent of the Council for the immediate consideration of Resolution Number 10-R-97 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, Dawson and Robinson; nays: Council Members Palmore and Little. The motion failed.

Council Member Spain introduced and read Resolution Number 10-R-98 as follows:

RESOLUTION NUMBER 10-R-98

WHEREAS, the City Council of the City of Anniston has heretofore authorized, directed and empowered Gene D. Robinson, as the Mayor of the City of Anniston, to negotiate a contract to purchase the property located at 131 West nth Street, Anniston, Alabama, from the Anniston Water Works and Sewer Board (A WWSB) for the sum of \$360,000.00; and

WHEREAS, the Council has further authorized, directed and empowered the Mayor to negotiate a lease agreement with the Anniston Water Works and Sewer Board for the continued occupancy of said property by the A WWSB after its sale to the City for a period not to exceed three (3) years.

WHEREAS, the Mayor has negotiated and presents here, separately and severally, a real estate sales contract by and between the City and A WWSB, and a lease agreement between those two parties, copies of each being attached hereto as Exhibit A and Exhibit B, and incorporated into this resolution by reference as if fully set out herein.

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

Section 1. That Gene D. Robinson, Mayor of the City of Anniston, be and is hereby authorized, directed and empowered for and in the name of the City of Anniston to execute the real estate sales contract by and between Anniston Water Works and Sewer Board and the City, attached hereto as Exhibit A.

Section 2. That Gene D. Robinson, Mayor of the City of Anniston, be and is hereby authorized to execute the lease agreement by and between the City of Anniston and Anniston Water Works and Sewer Board and the City, attached hereto as Exhibit B.

Section 3. That Alan B. Atkinson, City Clerk of the City Anniston, be and he is hereby directed to attest to the Mayor's execution of said contract and to the Mayors execution of said lease agreement and affix the seal of the City to contract and the lease agreement, separately and severally.

9/14/2010

PASSED AND ADOPTED this the 14th day of September, 2010.

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/ David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Spain made a motion for the passage and adoption of Resolution Number 10-R-98 as introduced and read. The motion was seconded by Mayor Robinson.

Council Member Little stated they should not be spending money from reserves for a building they did not need.

Council Member Palmore stated they had no use for this building and they would have to maintain it now.

On call of the roll on Council Member Spain's motion for the passage and adoption of Resolution Number 10-R-98 as introduced and read and Mayor Robinson's second to said motion the following vote was recorded: ayes: Council Members Spain, Dawson and Robinson; nays: Council Members Palmore and Little. The motion carried and Resolution Number 10-R-98 was passed and adopted.

Council Member Dawson made a motion to approve the concept plan submitted by Mack Crook for Seeds of Abraham Thrift Store to be located at 1601 East 16th Street. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Little made a motion to ask the Legislature to have the bill submitted to the Justice Department for pre-clearance on the last amendment passed to the Council-Manager Act in order that it may be in effect. The motion was seconded by Council Member Palmore.

Council Member Little made a motion to table his motion to ask the Legislature to have the bill submitted to the Justice Department for pre-clearance on the last amendment passed to the Council-Manager Act in order that it may be in effect. 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, Dawson and Robinson; nays: none. The motion carried.

Council Member Spain made a motion to authorize a Request for Proposal on the management of the Cane Creek Golf Course. The motion was seconded by Council

9/14/2010

Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little and Dawson; nays: Mayor Robinson. The motion carried.

Mayor Robinson made a motion directing and empowering the Public Building Authority to take all necessary steps in facilitating construction and financing of a new public safety and judicial complex for the City of Anniston. The motion was seconded by Council Member Dawson.

Council Member Little stated he did not want the Public Building Authority taking on this project. He stated this had not been on the discussion agenda.

Council Member Dawson stated he thought it would be good to have a fact sheet on this subject showing the pros and cons of the PBA taking on this project.

Danny McCullars, Finance Director, stated there was no immediate time sensitivity for this motion. He explained that by having the PBA take on this project the money borrowed would not count against the City's debt limit.

Mayor Robinson made a motion to table his motion directing and empowering the Public Building Authority to take all necessary steps in facilitating construction and financing of a new public safety and judicial complex for the City of Anniston. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Little, Dawson and Robinson; nays: Council Member Palmore. The motion carried.

Council Member Little made a motion to approve Council Member Spain as the voting delegate and Council Member Palmore as the alternate for the National League of Cities Annual Business Meeting to be held Saturday, December 4, 2010. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

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

(The Aquatic Center)

Jay Jenkins, architect, addressed the Council concerning the bids for the construction of the aquatic center.

Council Member Spain made a motion the bid the total amount of \$4,510,153.00 by C. W. Woods Contracting for the construction an Aquatic Center be accepted. 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, Dawson and Robinson; nays: none. The motion carried.

9/14/2010

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

(Concrete for FY 2011)

Council Member Dawson made a motion that the bid in the total amount of \$70.00 per cubic yard by Webb Concrete for concrete for FY 2011 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, Dawson and Robinson; nays: none. The motion carried.

Josie Redding addressed the Council about not getting paid.

Louis Bass, 100 Avery Drive, addressed the Council and stated that the golf course operation had improved tremendously.

Ed Kimbrough, Bel Air, addressed the Council concerning the golf course and stated he was opposed to the leasing of the golf course.

Doc O'Neil, 1605 Valley Place, addressed the Council concerning the golf course and stated he was opposed to the leasing of the golf course.

Julius Walker, 1605 Valley Place, concerning the need for better education in Anniston.

Jeremy McGatha addressed the Council concerning the golf course and stated the course at Cane Creek was as good as he had ever seen it.

Robbie Morrison addressed the Council concerning the golf course and stated that Cane Creek had improved tremendously and stated they should reconsider leasing the golf course.

Ernest Washington, Morton Road, addressed the Council and stated that Cane Creek Golf Course is improving and the Council should reconsider leasing the golf course.

Mayor Robinson stated it was time for the Council to stop micromanaging the City. He stated they needed to pass the one cent sales tax. He stated they needed to build an appropriate judicial complex.

Council Member Spain asked that Mayor Robinson come to the next Council Inquiry session to answer questions.

(Mayor Robinson left the meeting at approximately 6:23 p.m.)

Council Member Little stated no decision had been made on Cane Creek Golf Course and there would be a public hearing before any decision to lease it out was made.

9/14/2010

Council Member Palmore stated he had confidence in Steven Folks and he thought the golf course was in good hands.

There being no further business to come before the meeting at that time Council Member Dawson 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 Dawson; nays: none; absent: Mayor Robinson. The motion carried and the meeting was adjourned at approximately 6:28 o'clock p.m.