

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, APRIL 9, 2020  
7:00 PM**

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This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and city management team members present:

David H. Smith                    ) – Mayor Presiding

Clark R. Bell                    )  
Edward J. Burks                )  
Walker B. Moffitt               ) – Council Members Physically Present in the Council Chamber  
Jane H. Redding                )

Linda H. Carter                 )  
Katie L. Snuggs                 ) – Council Members Present via Remote Participation  
Charles A. Swiers               ) (Telephone Conference Call)

John N. Ogburn, III, City Manager  
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal  
David L. Hutchins, Public Works Director  
Mark T. Lineberry, Chief of Police  
Trevor L. Nuttall, Community Development Director  
Michael D. Rhoney, Water Resources Director  
Jeffrey C. Sugg, City Attorney

**1. Call to order.**

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows. The number of elected officials, city management team members, and private citizens physically present in the council chamber at any point in time was limited to a maximum of ten individuals in order to comply with the applicable executive orders during the current public health emergency.

Roll call votes were conducted to ensure that council members using the conference call for remote participation were on the line and casting their vote.

**2. Moment of silent prayer and pledge of allegiance.**

After a moment of silence was observed in order to allow for private prayer and meditation, Mayor Smith asked everyone to stand and recite the pledge of allegiance.

**3. Public comment period.**

Mayor Smith opened the floor for public comments, and none were offered.

There being no comments from the public, Mayor Smith closed the public comment period.

**4. Franchise to operate a construction and demolition debris landfill:**

**(a) Public hearing.**

Mayor Smith opened the properly advertised public hearing on the request by Morton & Sewell Development Company, Inc. for a construction and demolition debris landfill franchise.

City Attorney Jeff Sugg reported that a franchise was initially granted by the Asheboro City Council in 2006. The applicant currently operates a construction and demolition debris landfill within the city's corporate limits at 385 Gold Hill Road, Asheboro. The request to amend the existing franchise has been filed in order to reflect alterations in the corporate identity of the franchisee, the term of the franchise, the footprint of the facility, the unit measurement for incoming waste, and the service area.

Mr. Al Morton, a representative for Morton & Sewell Development Company, Inc. was available to answer questions. No one spoke in opposition to the granting of the requested franchise. There being no comments from the public, Mayor Smith closed the public hearing.

**(b) Final action on the proposed franchise ordinance.**

Mr. Sugg presented and recommended adoption, by reference, of the second reading of an ordinance granting a construction and demolition debris landfill franchise to Morton & Sewell Development Company, Inc.

Upon motion by Council Member Bell and seconded by Council Member Snuggs, the Council voted unanimously to adopt the second reading of the following ordinance by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

**ORDINANCE NUMBER 10 ORD 4-20**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**AN ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION  
DEBRIS LANDFILL FRANCHISE TO  
MORTON & SEWELL DEVELOPMENT COMPANY, INC.**

**WHEREAS**, in compliance with a franchise initially granted by the Asheboro City Council (the "Council") in 2006, Morton and Sewell Land Company, LLC operates a construction and demolition debris landfill within the corporate limits of the City of Asheboro (the "City") at 385 Gold Hill Road, Asheboro, North Carolina 27203; and

**WHEREAS**, the current franchisee has asked to change the existing franchise to reflect alterations in the corporate identity of the franchisee, the term of the franchise, the footprint of the facility, the unit of measurement for incoming waste, and the service area; and

**WHEREAS**, immediately prior to taking final action on this request, the Council utilized a properly advertised public hearing to obtain comments from interested parties on the question of granting the requested franchise; and

**WHEREAS**, after reviewing the available information, the City Council of the City of Asheboro has concluded that granting the requested franchise is in the public interest.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Asheboro as follows:

**Section 1.** Pursuant to and in accordance with Sections 130A-294 and 160A-319 of the North Carolina General Statutes, Morton & Sewell Development Company, Inc. (the "Franchisee") is hereby granted a franchise to operate a construction and demolition debris landfill at 385 Gold Hill Road, Asheboro, North Carolina 27203 (the "Landfill").

**Section 2.** The Landfill shall have available for its use approximately 30 acres of land permitted in accordance with the laws of the State of North Carolina for use as a construction and demolition debris landfill.

**Section 3.** No more than 500 tons of waste shall be deposited into the Landfill per day. With this amount of incoming waste, the Landfill will have an estimated life of 20 years.

**Section 4.** With the submittal of data and mapping from its engineers, the Franchisee has provided to the City a facility plan for the Landfill that includes the boundaries of the proposed facility, the proposed development of the facility, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the Landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility as well as the proposed location of soil borrow areas and all other facilities and infrastructure, including ingress and egress to the facility. No leachate facilities are needed for this construction and demolition debris landfill.

A copy of the facility plan is on file in the city clerk's office and is available for public inspection. The facility plan submitted by the Franchisee is hereby incorporated into this Ordinance by reference as if copied fully herein.

**Section 5.** Throughout the duration of the franchise granted by this Ordinance, the Franchisee shall purchase and maintain a \$1,000,000 environmental liability insurance policy, a \$1,000,000 general liability insurance policy, and workers' compensation insurance coverage that complies with the applicable provisions of the North Carolina General Statutes. The City shall be named as an additional insured under the environmental liability insurance and general liability insurance policies.

On an annual basis, the City shall be furnished with Certificates of Insurance in a form satisfactory to the City for the purpose of verifying the existence of the insurance coverage required by this section. The insurance policies mandated by this section shall provide for 30 days advance written notice of material change, cancellation, or non-renewal.

**Section 6.** The population to be served by the Landfill will be primarily commercial contractors who specialize in construction and demolition activities. The main waste stream will primarily come from the City of Asheboro and Randolph County, but all counties in North Carolina are included in the Landfill's service area.

**Section 7.** As part of its efforts to reduce, reuse, and recycle as much solid waste as possible, the City has worked in a cooperative manner with the Landfill to dispose of the following materials: brush, tree trimmings, leaves, yard waste, and stumps as well as clean concrete, building materials, and construction and demolition materials. After these materials are taken to the facility by city personnel and/or others, the materials are processed in a variety of ways and, if possible, resold to the public. Therefore, the continued successful operation of the Landfill will have a positive impact on the City's efforts to reduce, reuse, and recycle solid waste.

With specific regard to the disposal of construction and demolition waste, the Landfill is a vital actor in the process. The granting of the requested franchise so as to maintain a privately owned and properly permitted construction and demolition debris landfill in Asheboro is critical to providing cost-effective disposal options to meet the needs of the municipality's citizens.

**Section 8.** The waste accepted by the Landfill shall be composed of waste or debris resulting from roofing, construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures. In furtherance of the City's goal to promote and make available to its citizens cost-effective disposal options that are environmentally sustainable, the Franchisee is authorized, by way of illustration and not limitation, to accept waste containing asbestos. However, the Franchisee shall monitor the waste offered to the Landfill and shall reject any unacceptable waste including without limitation organic/household waste; waste that has been in contact with petroleum, solvents, or chemicals; waste containing PCB's; and waste that has been in contact with pesticides or herbicides.

**Section 9.** The fee schedule for the Landfill is attached to this Ordinance as Exhibit A and is hereby incorporated into this Ordinance by reference as if copied fully herein. Beginning in the 2021 calendar year and continuing thereafter, this fee schedule may be adjusted by the Franchisee on an annual basis in accordance with the Consumer Price Index - All Urban Consumers, U.S. City Average, All Items (not seasonally adjusted) as



5. **Consent agenda.**

Upon motion by Council member Bell and seconded by Council Member Carter, the Council voted unanimously to approve/adopt the following consent agenda items. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

**(a) The meeting minutes for the city council's special meeting held on March 4, 2020.**

The approved meeting minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

**(b) The minutes and general account of the closed session held during the special city council meeting on March 4, 2020.**

The approved minutes and general account of the above-referenced closed session are on file in the city clerk's office. However, in compliance with the resolution approved as the next consent agenda item, the general account of the closed session is not currently available for inspection because such an inspection would frustrate the purpose of the closed session.

**(c) A resolution sealing the general account of the closed session on March 4, 2020.**

RESOLUTION NUMBER 04 RES 4-20

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**Resolution Sealing the General Account of a Closed Session  
Conducted during a Special Joint Meeting with the  
Randolph County Board of Commissioners on March 4, 2020**

**WHEREAS**, Section 143-318.10(e) of the North Carolina General Statutes provides, in pertinent part, that the "minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session;" and

**WHEREAS**, pursuant to Section 143-318.11(a)(1) and Section 131E-97.3 of the North Carolina General Statutes, the city council, upon unanimous adoption of a properly made and seconded motion, went into closed session on March 4, 2020, during a joint special meeting with the Randolph County Board of Commissioners, in order to discuss privileged and confidential information pertaining to competitive healthcare activities by or on behalf of Randolph Health; and

**WHEREAS**, the purpose for going into closed session on March 4, 2020, would be frustrated if the general account of the closed session were to be made available for public inspection at this time.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the general account of the closed session conducted on March 4, 2020, is hereby sealed and will remain sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that the city manager is hereby authorized to act as the council's agent with the authority to unseal these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection or when the unsealing of this general account is otherwise required by law.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on April 9, 2020.

/s/David H. Smith  
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk

- (d) **The meeting minutes for the city council's regular meeting held on March 5, 2020.**

The approved meeting minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

- (e) **The acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for February 3, 2020.**

The minutes of the meeting held by the Asheboro ABC Board on February 3, 2020 have been received by the city clerk, distributed to Mayor Smith and the Council Members for review, and have been filed in the city clerk's office.

- (f) **The community development division's request to schedule and advertise public hearings on the following land use cases that have been submitted in time for full consideration during the council's next regular meeting on May 7, 2020.**

- (i) **A combined hearing to consider a request to rezone property from R10 (Medium-Density Residential) to CU-I2 (Conditional Use General Industrial) and to obtain a conditional use permit authorizing Motor Vehicle Repair, Major and Rental/Sales of Domestic Vehicles land uses. The property is located at 1420 East Salisbury Street and 358 Patton Avenue (Randolph County Parcel Identification Number 7761513992)**
- (ii) **A quasi-judicial hearing on the applicant's request for a conditional use permit authorizing a land use identified as a Multi-Use Commercial Development on the property located at 1226 East Dixie Drive (Randolph County Parcel Identification Number 7760584122).**

The hearings concerning the applications for the above-referenced land use approvals will be scheduled and advertised in accordance with the applicable statutes/ordinances and then heard by the Asheboro City Council during its regular meeting on May 7, 2020.

- (g) **A contract amendment to extend the termination date from October 18, 2020 to October 18, 2021, for the PEMMCO grant agreement between the city and the North Carolina Department of Commerce.**

A copy of the above-referenced contract amendment is on file in the community development division.

- (h) **The 2020 Downtown Farmers' Market operational days and hours, including special events.**

The documentation transmitted by the recreation services director with the operational hours for the 2020 Downtown Farmers' Market is on file in the city clerk's office and may also be obtained by directly contacting the city's cultural and recreation services department. The Council Members acknowledged receiving the schedule for

the 2020 Downtown Farmers' Market. No action was taken by the Council Members to alter the schedule submitted by the recreation services director.

- (i) **Acknowledgement of the receipt and acceptance of the operational hours proposed by the Recreation Services Director for the city-owned pools during the 2020 season.**

The documentation transmitted by the recreation services director with the operational hours for the pools once the executive order closures mandated because of the pandemic are lifted during 2020 is on file in the city clerk's office and may also be obtained by directly contacting the city's cultural and recreation services department. The Council Members acknowledged receiving the schedule for the city-owned pools. No action was taken by the Council Members to alter the schedule submitted by the recreation services director.

- (j) **A lease agreement with Randolph County pertaining to office space for the police department at 1453 North Fayetteville Street (the former Wachovia/Wells Fargo building).**

The executed lease agreement is on file in the city clerk's office. The approved lease agreement provides as follows:

**NORTH CAROLINA**

**RANDOLPH COUNTY**

**LEASE AGREEMENT**

This Lease, by and between the County of Randolph, a political subdivision of the State of North Carolina, Lessor (hereinafter referred to as the "County", and the City of Asheboro, a North Carolina Municipal Corporation, Lessee (hereinafter referred to as the "City").

**WITNESSETH**

**WHEREAS**, the County owns the old Wachovia/Wells Fargo building located at the Fayetteville Street corner of the Northgate County Office Complex and more particularly described as 1453 North Fayetteville Street, Asheboro, North Carolina hereinafter the "Property"; and

**WHEREAS**, the Property is in need of general maintenance and roof repair; and

**WHEREAS**, the Property is not currently being used by the County; and

**WHEREAS**, the City has been looking for a facility in which to locate an Asheboro North District Police Office; and

**WHEREAS**, the City has the means and desire to perform general maintenance and roof repair to the Property in order to make it suitable for use as a police precinct office; and

**WHEREAS**, the County recognizes the benefit of the presence of a police precinct office on the Property, both to the other County facilities nearby and to the citizenry; and

**WHEREAS**, North Carolina General Statute §160A-274 authorizes the County, upon such terms and conditions as it deems wise, with or without consideration, to lease property to the City upon action taken by the Randolph County Board of Commissioners; and

**WHEREAS**, this Lease was considered by and approved by the Randolph County Board of Commissioners at their regular meeting on March 9, 2020.

**NOW, THEREFORE**, subject to the terms and conditions herein set out, the County doth hereby let and lease unto the City, and the City doth hereby accept as tenant of the

County that Property described above. The terms and conditions of this Lease being as follows:

**Section 1. Effective Date.** The effective date of this Lease shall be the date of the last signature affixed hereto.

**Section 2. Term.** The term of this Lease begins on the Effective Date and shall continue for five (5) years unless terminated earlier as provided herein.

**Section 3. Termination.** If the City ceases to use the Property as a police precinct office or begins to use the property for any purpose other than as a police precinct office, this Lease shall terminate immediately. Furthermore, either party may terminate this Lease upon six (6) months prior written notice to the other party.

**Section 4. Consideration.** In lieu of rental payments, any improvements or repairs made to the Property by the City during the term of this Lease shall serve as the consideration paid to the County for the use of the Property.

**Section 5. Insurance.** The County shall maintain during the term of this Lease, on the structural portion of the Property, property insurance, including fire insurance against loss or damage as a result of fire and hazards customarily insured against in extended coverage clauses in North Carolina in an amount not less than 100% replacement value thereof. In the event of the destruction of or damage to the building, the proceeds of such insurance shall be used, to the extent necessary, in order to repair or restore the same to its condition just prior to the said destruction or damage. Insurance on the contents of the Property shall be the responsibility of the City.

**Section 6. Utilities/Maintenance.** Except as otherwise stated herein, the City shall pay all utility bills incurred in connection with the use of the Property during the term of this Lease. The City is also responsible for the maintenance of and for all janitorial/custodial work performed on the premises. The County shall be responsible for grounds and parking lot maintenance.

**Section 7. Property of City.** All goods, equipment, fixtures and other personal property of City stored or kept or maintained in or on the Property shall be at the sole risk of the City, and the County shall not be responsible for any loss or damage to the same.

**Section 8. Sublease/Assignment.** This Lease shall not be assigned, or the Property sublet, without the written consent of the County.

**Section 9. Changes/Alterations.** Other than general maintenance and roof repair, no alterations or changes shall be made in the improvements upon the Property without the written consent of the Lessor.

**Section 10. Liens and Claims.** The City shall at all times keep the Property and the County's estate or interest therein free and clear from all claims, liens, and encumbrances caused by or through the City or by or through the occupancy of the Property by the City or occurring as a result of construction work, repairs, alterations, additions and restoration work required or permitted to be done by the City pursuant to the terms of this Lease.

**Section 11. Indemnity.** The City shall indemnify and hold harmless the County from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees to the extent resulting from any negligent act or omission of the City, its officers, agents, servants, employees, contractors or assigns in connection with this Lease; provided, however, that the City shall not be obligated to indemnify the County from and against any suits, actions, legal proceedings, claims, demands, damages, costs, expenses, or attorneys' fees to the extent arising out of any negligent act or omission of the County, its officers, agents, servants, employees, contractors, or assigns.

The County shall indemnify and hold harmless the City from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees to the extent resulting from any negligent act or omission of the County, its

officers, agents, servants, employees, contractors or assigns in connection with this Lease; provided, however, that the County shall not be obligated to indemnify the City from and against any suits, actions, legal proceedings, claims, demands, damages, costs, expenses, or attorneys' fees to the extent arising out of any negligent act or omission of the City, its officers, agents, servants, employees, contractors, or assigns.

**Section 12. Care of Premises.** The City covenants and agrees that it will take good care of the Property and upon termination of this Lease will surrender the said Property in at least as good order and condition as it is in at the beginning of this Lease, ordinary wear and tear excepted.

**Section 13. Invalidity of Particular Provisions.** If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent be unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby; and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

**Section 14. E-Verify.** The City hereby certifies that it is in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, commonly referred to as "E-Verify" and shall remain in compliance for the duration of this Lease Agreement.

**Section 16. Governing Law.** The laws of the State of North Carolina shall govern this Lease Agreement. Any action filed on this Lease shall be filed in District or Superior Court in Randolph County, North Carolina.

**Section 16. Entire Agreement.** This Lease contains the entire agreement between the parties and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.

In Testimony Whereof, the parties hereto have hereunto set their hands and seals, this the day and year first above written.

**FOR THE LESSOR**  
**COUNTY OF RANDOLPH**

**(SEAL)**

Attest:

By: \_\_\_\_\_  
Darrell L. Frye, Chairman  
Randolph County Board of Commissioners

\_\_\_\_\_  
Dana Crisco, Clerk to the Board

I, a Notary Public of the County of Randolph, State of North Carolina, do hereby certify that Dana Crisco, who is personally known to me, appeared before me this day and acknowledged that she is the Clerk to the Board for the County of Randolph and that, by authority duly given and as the act of the County of Randolph, the foregoing instrument was voluntarily executed on behalf of the County by Darrell L. Frye, Chairman of the Randolph County Board of Commissioners, sealed with the County's corporate seal, and attested by her as Clerk to the Board for the purposes stated therein. Witness my hand and official stamp or seal, this day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

FOR THE LESSEE

CITY OF ASHEBORO

(SEAL)

By: \_\_\_\_\_  
David H. Smith, Mayor  
City of Asheboro

Attest:

\_\_\_\_\_  
Holly H. Doerr, City Clerk

State of North Carolina  
County of Randolph

I, a Notary Public of the County of Randolph, State of North Carolina, certify that Holly H. Doerr, who is personally known to me, appeared before me this day and acknowledged that she is the City Clerk for the City of Asheboro and that, by authority duly given and as the act of the City of Asheboro, the foregoing instrument was voluntarily executed on behalf of the City by David H. Smith, the Mayor, sealed with the City's seal, and attested by her as Clerk for the purposes stated therein.

Witness my hand and official stamp or seal, this \_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**6. Community Development Division items.**

- (a) **SUP-20-01 (quasi-judicial hearing): An application for a Special Use Permit authorizing a Manufacturing, Processing, and Assembly (Light) land use on property, which is zoned (B2 General Commercial), at 468 North Fayetteville Street (Randolph County Parcel Identification Number 7751859284).**

The above-referenced land use case has been withdrawn by the Applicant.

No action was taken by the Council during this portion of the meeting.

- (b) **RZ-20-01 (public hearing): An application to rezone property located at 137 North Randolph Avenue (Randolph County Parcel Identification Number 7761027972) from R7.5 (Medium-Density Residential) to B2 (General Commercial).**

Subsequent to Mayor Smith opening the public hearing on the above-referenced land use case, Community Development Director Trevor Nuttall presented a written request from the Applicant to continue the public hearing to the Council's regular meeting on May 7, 2020.

Upon motion by Council Member Bell and seconded by Council Member Redding, the Council voted unanimously to continue the above-referenced land use case to its regular meeting on May 7, 2020. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

A copy of the Applicant's written request for a continuance is on file in the Community Development Division.

- (c) **RZ-20-02 (public hearing): A zoning ordinance text amendment application related to Recreational Vehicle/Travel Park/Camp uses in the B2 and TH zoning districts, including but not limited to Article 200, Table 200-2 (Table of Permitted Uses) and Article 300A.**

Mayor Smith opened the public hearing on the following request.

Mr. Nuttall utilized a visual presentation to highlight proposed text amendments to Article 200, Table 200-2, and Article 300A of the Asheboro Zoning Ordinance. The Applicant, Mr. Kent Emirbayer, requested to amend the Asheboro Zoning Ordinance to establish supplemental Recreational Vehicle/Travel Park/Camp development standards in the B2 and TH zoning districts.

Highlights of the proposed amendments include the following:

1. The Asheboro Zoning Ordinance currently permits Recreational Vehicle/Travel Park/Camp uses in the R40 zoning district with a Special Use Permit and the B2 and TH districts by right.
2. Presently, there are no supplemental development requirements for this use in the B2 and TH zoning districts; development must comply with the standard requirements including, but not limited to, setbacks, landscaping, parking, and signage.
3. The Applicant proposes applying R40 development standards for such uses when built in the B2 and TH zoning districts with the following modifications:
  - (a) Establishing setbacks of 60 feet from any public right-of-way and 100 feet from a property line of a contiguous residentially zoned and residentially developed property for any recreational vehicle space, travel trailer space or campsite.
  - (b) Adding a provision requiring access to a minor thoroughfare or higher classification street and prohibiting spaces from having direct access to public streets.
  - (c) Allowing internal driveways and required parking areas to be all-weather surface instead of paved.
  - (d) Permitting occupancy of up to 3 months in any 12 month period, extending from the current allowance of 30 days within a 6-month period and a provision for caretaker residency.
  - (e) Modifying bathroom facilities from the current 2 toilets, 1 lavatory and 1 shower for each 8 spaces to 2 toilets and 2 lavatories for the first 25 sites, and for each additional 25 sites or fraction thereof that do not possess a sewer connection. This standard is based upon NFPA 1194, Standard for Recreational Vehicle Parks and Campgrounds.
  - (f) Prohibiting the use, parking or storage of any manufactured/mobile home.
  - (g) Stipulating that only building facades visible from a public right-of-way shall be required to comply with building design standards.

The Planning Board concurred with the following staff analysis from the Community Development Division and recommended approval of the proposed text amendments to the Asheboro Zoning Ordinance.

Approval of the request will establish minimum standards for Recreational Vehicle/Travel Park/Camp development in the B2 and TH districts. The standards ensure that such uses will be established on roadways suited to handle higher traffic volumes and prohibit direct access to public streets from park or campground spaces. Eliminating the paving requirement likely will necessitate the owner to perform more frequent roadway maintenance to keep the surface's shape and ensure the gravel remains free from ruts or potholes. However, public

safety can still be secured provided an adequate all weather roadway is continually maintained.

The staff report submitted to the city council identified three land development plan goals/policies that support the text amendment request and only one goal/policy that is negative toward the request. The identified goals/policies are listed as follows:

**Land Development Plan Goals/Policies Which Support Request:**

- Goal 2.1.1:** The zoning ordinance will periodically be reviewed to ensure that the specific regulations for each zoning district are aligned with the desired character and focus of each district.
- Goal 2.2:** Development that is located in appropriate locations.
- Goal 4.3:** Opportunities for citizens to responsibly enjoy the natural environment.

**Land Development Plan Goals/Policies Which Do Not Support Request:**

- Goal 3.1:** Enhancement, maintenance, and preservation of the built environment.

The Applicant, Kent Emirbayer and Ms. Jane Emirbayer presented comments in support of the request. There being no further comments, and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the case.

The city council concurred with the staff and planning board analysis of the general consistency of the request with the land development plan. Council Member Bell moved, and Council Member Burks seconded the motion, to adopt the plan consistency statement printed below and to approve the requested text amendments with the following multi-part motion:

1. Approval of the request will establish minimum standards for Recreational Vehicle/Travel Park/Camp development in the B2 and TH districts. The standards ensure that such uses will be established on roadways suited to handle higher traffic volumes and prohibit direct access to public streets from park or campground spaces. Eliminating the paving requirement likely will necessitate the owner to perform more frequent roadway maintenance to keep the surface's shape and ensure the gravel remains free from ruts or potholes. However, public safety can still be secured provided an adequate all weather roadway is continually maintained.

Considering these factors, and the above-listed land development plan goals/policies, the city council has concluded that this application for text amendments to the Asheboro Zoning Ordinance is generally consistent with the Land Development Plan, is generally in the public interest, and supports a reasonable use of the property.

2. In light of the above-stated analysis, the requested zoning ordinance text amendments are approved as consistent with the adopted plan.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes. Consequently, the above-stated motion was adopted unanimously.

The slide show utilized by Mr. Nuttall is on file in the city clerk's office. The approved text amendments are on file in the city clerk's office and the Community Development Division. The newly enacted Section 331A of the City of Asheboro Zoning Ordinance provides as follows:

**331A Recreational Vehicle/Travel Park/Camp**

- (1) Use shall have a minimum area of two acres.
- (2) No recreational vehicle space, travel trailer space or campsite shall be closer than 60 feet to a public right-of-way or 100 feet to a property line of a contiguous residentially zoned property that is developed with a residential use.
- (3) The minimum area occupied by any recreational vehicle or other camping structure shall be fifteen hundred square feet with a minimum width of thirty feet.
- (4) A clearance of at least twenty feet shall be maintained between each recreational vehicle, camping structure and/or building within the park.
- (5) Use shall have direct access to a minor thoroughfare or higher classification street, as shown on the Asheboro Comprehensive Transportation Plan. Recreational vehicle spaces, travel trailer spaces and campsites shall only have direct access to an internal private street which accesses a public street: none shall have direct access to a public street.
- (6) Notwithstanding Article 400, all recreational vehicle spaces, travel trailer spaces and campsites shall abut a driveway which shall be all-weather surface and maintained in a serviceable condition to a continuous width of twenty-five feet.
- (7) Notwithstanding Article 400, required parking areas shall be all weather surface.
- (8) Permanent residency shall be prohibited except for full-time facility employees acting as property caretaker(s). Occupancy by non-caretakers extending beyond three (3) months in any twelve (12) month period shall be presumed to be permanent residency and is prohibited.
- (9) Use shall provide 2 toilets and lavatories for the first 25 sites and two toilets and lavatories for each additional 25 sites, or fraction thereof, which do not possess a sewer connection.
- (10) The use, parking, or storage of any manufactured/mobile home shall be prohibited.
- (11) Notwithstanding Article 300A, only building facades visible from a public right-of-way shall be required to comply with building design standards.
- (12) All garbage and refuse shall be stored in a suitable water-tight and fly-tight standard garbage receptacle and shall be kept covered with tight fitting covers. At least one such receptacle shall be provided and conveniently located for every campsite except where a dumpster or dumpsters are conveniently located and used in the same manner as separate receptacles. It shall be the duty of the park/camp operator to see that all garbage and refuse is disposed of regularly. It shall also be the duty of the park/camp operator to see that no materials which attract insects or rodents is stored or allowed to remain on the premises. All areas of the premises shall be kept clean and free from weeds or undergrowth.

**(d) SUB-19-02: A request for preliminary plat approval for the Hillcrest Subdivision, Phase 2 (Breeze Hill Road and Fermer Road).**

The Applicant, Royal Crest Builders, has submitted for review and approval a preliminary plat for Hillcrest Subdivision, Phase 2 that is located on the northern corner of Breeze Hill Road and Fermer Road. The parcel information for this subdivision approval request includes approximately 7 acres of land that are more specifically identified by Randolph County Parcel Identification Number 7750396274.

The proposed number of lots is 26, with the average lot size of 10,779 square feet. The property is located within the city limits of Asheboro.

The proposal is for a conventional residential subdivision. Breeze Hill and Fermer Roads are both city-maintained streets west of Uwharrie Street. The proposal shows two entrances, one from Breeze Hill Road and one from Fermer Road.

The subdivision plat does not propose sidewalks. While the subdivision ordinance encourages sidewalks, it does not require them for a residential subdivision that is not a planned unit development. Subject to the subdivision and zoning ordinances, lots with frontage on existing public rights-of-way and having existing utilities available to each lot may be platted as a minor subdivision and reviewed by city staff.

During his presentation, Mr. Nuttall noted that the Planning Board concurred with the planning staff's recommendation to approve the preliminary plat for the Hillcrest Subdivision, Phase 2.

Council Member Bell moved, and Council Member Burks seconded the motion, to concur with the recommendations of the planning board and to approve the preliminary plat. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted unanimously in favor of the motion and approved the preliminary plat.

A copy of the slide show utilized by Mr. Nuttall is on file in the city clerk's office.

**7. Water Resources items.**

**(a) Summary of bids received for chemical purchases from April 16, 2020 to April 15, 2021, and recommended award of contract.**

Water Resources Director Michael D. Rhoney, PE reported that fifteen (15) bid packages were received on March 17, 2020 in response to the chemical procurement process undertaken for operations at the Water/Wastewater Treatment Plants. These bids included furnishing the chemicals required by the plants for the time period from April 16, 2020 to April 15, 2021.

Mr. Rhoney recommended that the contracts to supply the chemicals required by the plants from April 16, 2020 to April 15, 2021 be awarded to the responsive low bidders as listed below:

<u>Chemical</u>	<u>Company</u>	<u>Price</u>
Liquid Alum	C&S Chemicals	\$286.00/Ton
Liquid Caustic	Univar, USA, Inc.	\$409.00/Ton
Fluosilicic Acid	Pencco, Inc.	\$357.00/Ton
Sodium Hypochlorite	Univar, USA, Inc.	\$0.68/Gal
Calcium Nitrate	Evoqua Water Technologies	\$2.36/Gal
Sodium Permanganate	Shannon Chemical Corp.	\$8.17/Gal
Magnesium Hydroxide	Polytec, Inc.	\$1.88/Gal

Upon motion by Council Member Bell and seconded by Council Member Burks, the Council Members voted unanimously to award to the above-listed lowest responsive, responsible chemical suppliers the respective contracts to supply the chemicals required by the city's plants from April 16, 2020 to April 15, 2021. Council Members

Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

A copy of the bid summary presented by Mr. Rhoney is on file in the city clerk's office.

**(b) Summary of bids received for Wastewater Treatment Plant Paving Improvements received April 3, 2020, and recommended award of contract.**

Prior to considering the above-referenced agenda item, Council Member Moffitt disclosed that he is an employee for one of the companies that submitted a bid for the wastewater treatment plant paving improvements project. Council Member Moffitt is a salaried employee of the company with no ownership interest in the company, and he will receive no compensation from the company that is tied to the proposed project. There is no direct conflict of interest.

However, due to Council Member Moffitt's employment relationship with a bidder and concern about the appearance of a conflict of interest, Council Member Bell moved to excuse Council Member Moffitt from participating in the discussion and voting concerning this agenda item. Council Member Redding seconded the motion and the Council voted unanimously to excuse Council Member Moffitt from participating in the discussion and voting concerning this item. Council Members Bell, Burks, Carter, Redding, Snuggs, and Swiers voted in favor of the motion.

Mr. Rhoney reported that four (4) bid packages were received on March 24, 2020 for the Wastewater Treatment Plant Paving Improvements project. The scope of work for this project includes furnishing all materials, labor, tools, and equipment necessary for the complete application of asphalt overlay on the plant driveway and parking surfaces. Pavement depth ranges from 1.5-2" of S9.5B Asphalt requiring an estimated 1,600 tons.

Final payment for this project will be paid for by the ton in place based on the contractor's weight tickets. The following bids were received:

<u>Bidder</u>	<u>Unit Bid Amount</u>	<u>Total Amount</u>
Riley Paving, Inc.	\$112.25/Ton	\$179,600
Sharpe Brothers	\$97.74/Ton	\$156,384
Triangle Grading & Paving, Inc.	\$133.00/Ton	\$212,800
Waugh Asphalt, Inc.	\$104.96/Ton	\$167,936

Mr. Rhoney recommended that the Council award the paving improvements project to the apparent lowest responsive, responsible bidder which was Sharpe Brothers with a bid \$156,384.00. Council Member Burks moved to award the contract to Sharpe Brothers for the stated amount, and this motion was seconded by Council Member Bell. Council Members Bell, Burks, Carter, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

A copy of the bid summary presented by Mr. Rhoney is on file in the city clerk's office.

**(c) Resolution supporting and authorizing an application for a state loan for the Sanitary Sewer Lift Station No. 3 Improvements Project.**

Mr. Rhoney presented and recommended adoption, by reference, of a resolution supporting and authorizing an application for a state loan for the sanitary sewer lift station No. 3 improvements project.

Upon motion by Council Member Bell and seconded by Council Member Burks, the Council voted unanimously to adopt the following resolution by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

RESOLUTION NUMBER 05 RES 4-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION SUPPORTING AND AUTHORIZING AN APPLICATION FOR A  
STATE LOAN FOR THE SANITARY SEWER LIFT STATION NO. 3  
IMPROVEMENTS PROJECT**

**WHEREAS**, the Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (codified in Chapter 159G of the North Carolina General Statutes) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction for a wastewater collection system; and

**WHEREAS**, the City of Asheboro (hereafter referred to interchangeably as the “City” and the “Applicant”) needs and intends to construct wastewater collection system improvements described as the Sanitary Sewer Lift Station No. 3 Improvements Project (hereafter referred to as the “Project”); and

**WHEREAS**, the City intends to request state loan or grant assistance for the Project.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro (hereafter referred to as the “Council”) that the City, if approved for a State loan or grant award, will arrange financing for all remaining costs of the Project; and

**BE IT FURTHER RESOLVED** by the Council that the City will adopt and place into effect on or before completion of the Project a schedule of fees and charges, in addition to other available funds, that will provide adequate funding for the proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt; and

**BE IT FURTHER RESOLVED** by the Council that a provision will be included in the loan agreement authorizing the State Treasurer, upon failure of the City to make scheduled repayment(s) of the loan, to withhold from the City any State funds that would otherwise be distributed to the City in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan; and

**BE IT FURTHER RESOLVED** by the Council that the City will provide for the efficient operation and maintenance of the Project infrastructure upon completion of the construction thereof; and

**BE IT FURTHER RESOLVED** by the Council that John N. Ogburn, III, who is the city manager for the Applicant (the city manager will be hereafter referred to as the “Authorized Official”), and any successor so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan to aid in the construction of the Project described above; and

**BE IT FURTHER RESOLVED** by the Council that the Authorized Official, and any successor so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the Project, to make the assurances as contained above, and to execute such other documents as may be required in connection with the application; and

**BE IT FURTHER RESOLVED** by the Council that the City has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the Project and to Federal and State grants and loans pertaining thereto.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 9<sup>th</sup> day of April, 2020.

/s/David H. Smith  
David H. Smith, Mayor  
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk  
City of Asheboro, North Carolina

**(d) Consideration of Supplemental Design-Build Utility Agreement between the city and the North Carolina Department of Transportation for the Asheboro Southern Bypass.**

Mr. Rhoney presented and recommended adoption/approval, by reference, of a Supplemental Design-Build Utility Agreement between the North Carolina Department of Transportation and the City of Asheboro for the Asheboro Southern Bypass. This agreement will allow payments to be split evenly into four (4) annual payments of \$364,888.52 each for the construction and relocation of municipal water and sewer lines for R-2536, US 64 (Asheboro Southern Bypass) in Randolph County. The original 2016 Utility Construction Agreement provided that a lump sum amount of \$1,459,554.08 would be paid by the city.

Upon motion by Council Member Moffitt and seconded by Council Member Bell, the Council voted unanimously to adopt/approve the above-referenced agreement. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

A copy of the above-referenced agreement is on file in the city clerk's office.

**8. Presentation of amendments to the FBO agreement at the Asheboro Regional Airport.**

City Manager John Ogburn reported that the Asheboro Airport Authority has recommended amending the Original FBO Agreement to reflect Cardinal Air's agreement to assume responsibility for providing the Airport with a fuel truck.

The FBO intends to fulfill this new responsibility by entering into a 5-year leasing arrangement with a third party vendor, and the consideration to be provided by the city to Cardinal Air in exchange for the FBO assuming this new fuel truck responsibility is additional financial support for airport fuel infrastructure. The amount of additional financial support to be provided by the city is \$1,200.00 per month over the course of five (5) years.

In order to address the above-stated new responsibilities, Mr. Ogburn presented and recommended adoption/approval, by reference, of the amendments to the Asheboro Regional Airport Fixed Based Operator Lease Agreement. Upon motion by Council Member Moffitt and seconded by Council Member Burks, the Council voted unanimously to adopt/approve the following lease agreement. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

With the exception of the signature pages for the parties, the approved amendments provide as follows:

STATE OF NORTH CAROLINA

ASHEBORO REGIONAL AIRPORT FIXED  
BASE OPERATOR LEASE AGREEMENT  
AMENDMENTS

COUNTY OF RANDOLPH

THESE ASHEBORO REGIONAL AIRPORT FIXED BASE OPERATOR LEASE AGREEMENT AMENDMENTS (the “FBO Agreement Amendments”) are made and entered into, as of the dates indicated on the signature pages, by and between the CITY OF ASHEBORO (hereinafter the “City” or “Lessor”), a North Carolina municipal corporation with its principal office located at 146 North Church Street, Asheboro, North Carolina 27203, and CARDINAL AIR, LLC (hereinafter the “FBO,” “Cardinal Air,” or “Lessee”), a North Carolina limited liability company with its principal office located at 80 Aviation Drive, Siler City, North Carolina 27344.

WITNESSETH:

WHEREAS, the City owns the ASHEBORO REGIONAL AIRPORT (the “Airport”) located in Randolph County at 2222 Pilots View Road, Asheboro, North Carolina 27205; and

WHEREAS, pursuant to the existing “Lease Agreement for Fixed Base Operator of the Asheboro Regional Airport” dated December 16, 2015 (the “Original FBO Agreement”), Cardinal Air is the fixed base operator at the Airport (a copy of the Original FBO Agreement is attached hereto as ATTACHMENT A and is incorporated into these FBO Agreement Amendments by reference as if copied fully herein); and

WHEREAS, the Asheboro Airport Authority has recommended amending the Original FBO Agreement to reflect Cardinal Air’s agreement to assume responsibility for providing the Airport with a fuel truck; and

WHEREAS, the FBO intends to fulfill this new responsibility by entering into a 5-year leasing arrangement with a third party vendor; and

WHEREAS, the consideration to be provided by the City to Cardinal Air in exchange for the FBO assuming this new fuel truck responsibility is additional financial support for airport fuel infrastructure; and

WHEREAS, the amount of additional financial support to be provided by the City for airport fuel infrastructure is one thousand two hundred and no hundredths dollars (\$1,200.00) per month over the course of five (5) years; and

WHEREAS, the Asheboro City Council finds that (a) the City has no alternative uses for the facilities/infrastructure to be leased to Cardinal Air during the lease term specified in the FBO Agreement Amendments, and (b) the adoption of the Asheboro Airport Authority recommendation is in the best interest of the City.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

**SECTION 1: AMENDMENT OF LEASE PERIOD**

Article I (TERM) of the Original FBO Agreement is hereby amended by rewriting Article I to provide as follows:

*The intent of the Lessor and Lessee is for this Agreement to have an initial 3-year term that will commence at 12:01 a.m. on January 1, 2016, and will expire at midnight on December 31, 2018, unless earlier terminated under the provisions of this Agreement. Subject to the terms and conditions found herein, this Agreement will automatically renew for one additional 3-year renewal term upon the same terms and conditions unless either the Lessor*

~~or Lessee notifies the other party in writing of the intent not to renew this Agreement at least 60 calendar days prior to the expiration of the initial lease term.~~

~~If such an automatic renewal term is allowed to commence, the renewal term for this Agreement will commence at 12:01 a.m. on January 1, 2019, and will expire at midnight on December 31, 2021. Alternatively, upon delivery of the above referenced 60-day notice of non-renewal, this Agreement will conclusively terminate at midnight on December 31, 2018. Delivery of the notice of non-renewal shall be deemed to be proper and effective when such notice is given in accordance with the notice provisions found in this Agreement's Article XV, Paragraph C. If the Lessee fails to surrender the demised premises upon the early termination or expiration of the Agreement, there shall be no renewal of this Agreement or exercise of an option by operation of law.~~

The initial 3-year term of this Agreement commenced at 12:01 a.m. on January 1, 2016, and, due to one renewal followed by a mutually agreed upon amendment extending the lease term, the Agreement will expire at midnight on April 30, 2025, unless earlier terminated in accordance with the contractual provisions found within the Original FBO Agreement and the subsequent FBO Agreement Amendments.

If the Lessee fails to surrender the demised premises upon the expiration or early termination of this amended Agreement, there shall be no renewal of the Agreement or exercise of an option by operation of law.

## **SECTION 2: AMENDMENT OF FUEL TRUCK RESPONSIBILITIES**

Paragraph B.6 of Article IV (APPURTENANT PRIVILEGES) in the Original FBO Agreement is hereby amended by rewriting the referenced paragraph to provide as follows:

*Specific duties and responsibilities of the Lessor and the Lessee for the maintenance, operation, and expenditures concerning assets of the Asheboro Regional Airport are itemized as follows:*

<i><u>ASSET</u></i>	<i><u>LESSEE</u></i>	<i><u>LESSOR</u></i>
<i>Airfield</i>	<i>Manages; Post NOTAMS</i>	<i>Pays Maintenance &amp; Mowing</i>
<i>Runway/Lighting</i>	<i>Manages; Replaces Lamps</i>	<i>Pays Lamps, Maintenance, &amp; Electricity; Removes Snow</i>
<i>Windsock</i>	<i>Manages; Replaces Lamps/ Sock</i>	<i>Pays Maintenance, Lamps, &amp; Electricity</i>
<i>NDB/AWOS Monitors</i>	<i>Manages/Monitors</i>	<i>Pays Maintenance &amp; NDB/AWOS Electricity</i>
<i>Light Beacon</i>	<i>Manages</i>	<i>Pays Maintenance &amp; Electricity</i>
<i>Apron-North</i>	<i>Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)</i>	<i>Pays Maintenance; Removes Snow</i>

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
<i>Fuel Facilities</i>	<i>Rent Free Use; Monitors Fuel on Daily Basis; Provides Operational Maintenance (Filters, Quality Control, and Clean-Up); Pays 5% of Gross Receipts from Flowage Fee to Lessor when Sales Exceed Year 150,000 Gallons in a Calendar Year</i>	<i>Provides Facility Maintenance; Receives 5% of Gross Receipts from Flowage Fee When Sales Exceed 150,000 Gallons in a Calendar</i>
<i>Terminal/Furn.</i>	<i>Rent Free Use of Office, Training Room, &amp; Manager's Office; Pays Operational Maintenance Costs</i>	<i>Pays Structural Maintenance Costs; Pays Electric Bill</i>
<i>Parking Lot</i>	<i>Manages; FBO Rental Car Use</i>	<i>Provides Maintenance; Removes Snow</i>
<i>Water System</i>	<i>Uses Free of Charge</i>	<i>Operates the Municipal Water Supply &amp; Distribution System</i>
<i>Sewer System</i>	<i>Uses Free of Charge</i>	<i>Operates the Municipal Sanitary Sewer System</i>
<i>T Hangars (16)</i>	<i>Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)</i>	<i>Pays Structural Maintenance</i>
<i>Maint. Hangar - East</i>	<i>Uses for Business Rent Free</i>	<i>Pays Structural Maintenance; Pays Heat &amp; Electricity</i>
<i>Maint. Hangar - West</i>	<i>Uses for Business Rent Free</i>	<i>Pays Structural Maintenance; Pays Heat &amp; Electricity</i>
<i>Air Compressor</i>	<i>Pays All Maintenance</i>	<i>No Obligation to Replace</i>
<i>Roads</i>	<i>Manages; Common Use</i>	<i>Pays Maintenance; Removes Snow</i>
<i>Area Lighting</i>	<i>Manages; Calls for Maintenance</i>	<i>Pays for Service</i>
<i>Public Phone</i>	<i>Manages; Calls for Maintenance</i>	<i>Pays for Service</i>
<i>UNICOM</i>	<i>Furnishes &amp; Operates</i>	<i>Reserves Access by Others</i>

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Apron South	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Reserves Right to Lease to Others; Pays Maintenance; Removes Snow
Other Non-Commercial Hangars or Facilities Existing and Those Developed in the Future	Manages, Subject to City Lease Agreement(s)	Subject to City Lease Agreement(s)
<del>Fuel Truck</del>	<del>Provides Gas for Truck; Provides Operational Maint. of Fueling Equipment (Filters, Quality Control, &amp; Clean Up)</del>	<del>Provides Truck; Provides Maint. Service for Truck &amp; Repair of Equipment</del>
<u>Fuel Truck</u>	<u>Provides Truck, Gas for Truck, &amp; Maintenance of Truck, including Fueling Equipment, in Coordination with FBO's Third Party Vendor(s) Beginning May 1, 2020</u>	<u>Provides Funding Directly to FBO for Airport Fuel Infrastructure in the Amount of \$1,200.00 per Month Beginning May 1, 2020</u>
Trash Containers	Free Use of Containers; Monitors & Limits Unauthorized Use	Provides Containers; Empties Containers & Pays for Trash Disposal

### SECTION 3. AMENDMENT OF PAYMENT PROVISIONS

Paragraphs A and C of Article VI (PAYMENTS) in the Original FBO Agreement are hereby amended by rewriting the referenced paragraphs to provide as follows:

~~A. Fees. In consideration of the rights and privileges granted by this Agreement, Lessee agrees to pay to Lessor during the term of this Agreement the following:~~

~~After the threshold amount of 150,000 gallons of aviation fuel is sold by Lessee in a calendar year, the Lessee shall pay an amount equal to five percent (5%) of gross fuel sales dollars as a fuel flowage fee on all aviation fuel dispensed by Lessee on the premises. Payments shall be made on or before the 10th day of each month for fuel dispensed during the prior month.~~

A. Fees. In consideration of the rights and privileges granted by this Agreement, the parties agree to pay to each other during the term of this Agreement the following:

1. After the threshold amount of 150,000 gallons of aviation fuel is sold by Lessee in a calendar year, the Lessee shall pay an amount equal to five percent (5%) of gross fuel sales dollars as a fuel flowage fee on all aviation fuel dispensed by Lessee on the premises. Payments shall be made on or before the 10<sup>th</sup> day of each month for fuel dispensed during the prior month.

2. Effective May 1, 2020, and continuing through the remainder of the term of this Agreement, the Lessor shall pay to the Lessee an airport fuel infrastructure payment of one thousand two hundred and no hundredths dollars (\$1,200.00) per month. This monthly airport fuel infrastructure payment shall be made on or before the 10<sup>th</sup> day of each calendar month.

~~C. *Place of Payment. All payments due Lessor from Lessee shall be delivered to the City of Asheboro Finance Department, 146 N. Church Street, P.O. Box 1106, Asheboro, NC 27204-1106.*~~

**C. Place of Payment. Payments required under the terms and conditions of this Agreement shall be delivered as follows:**

- 1. All payments due to the Lessor from the Lessee shall be delivered to the City of Asheboro Finance Department, 146 N. Church Street, P.O. Box 1106, Asheboro, NC 27204-1106.**
- 2. All payments due to the Lessee from the Lessor shall be delivered to Cardinal Air, LLC, 2222 Pilots View Road, Asheboro, North Carolina 27205.**

#### **SECTION 4. NO IMPACT ON OTHER TERMS AND CONDITIONS**

Except as specifically modified or amended by provisions found within these FBO Agreement Amendments, the Original FBO Agreement shall remain unchanged and in full force and effect in accordance with its terms.

**[The “ATTACHMENT A” referenced in the preceding passages from the approved amendments is on file in the city clerk’s office.]**

#### **9. Presentation of the proposed City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance.**

City Attorney Jeffrey Sugg and Public Works Director David Hutchins presented and recommended adoption, by reference, of a cross-connection control and backflow prevention ordinance.

Upon motion by Council Member Bell and seconded by Council Member Moffitt, the Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

**ORDINANCE NUMBER 11 ORD 4-20**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

#### **CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION ORDINANCE**

**WHEREAS**, in accordance with Chapter 160A, Article 16 of the North Carolina General Statutes, the city owns and operates as a public enterprise a water supply and distribution system; and

**WHEREAS**, Section 160A-312(b) of the North Carolina General Statutes provides as follows:

A city shall have full authority to protect and regulate any public enterprise system belonging to or operated by it by adequate and reasonable rules. The rules shall be adopted by ordinance, shall apply to the public enterprise system both within and outside the corporate limits of the city, and may be enforced with the remedies available under any provision of law; and

**WHEREAS**, the Asheboro City Council has concluded that rules must be adopted by ordinance to adequately and reasonably protect against contaminants and pollution that might backflow into the public water system; and

**WHEREAS**, rules pertaining to the city’s water and sewer enterprise are found in Chapter 50 of the Code of Asheboro.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro as follows:

**Section 1.** The following City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance is hereby enacted as Section 50.046 of the Code of Asheboro:

**§ 50.046      CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION**

(A) This section applies to all persons and entities that use, or connect in any way, to the public potable water distribution system of the City of Asheboro (the “Public Water System”). The purposes of this section are as follows:

- (1) To protect the Public Water System by containing within the consumer's water system such contaminants, waterborne health hazards, and other significant pollutants that could backflow or back siphon through uncontrolled cross-connections into the Public Water System; and
- (2) To establish a continuing inspection program designed to systematically and effectively control all actual or potential cross-connections.

(B) For the purposes of the cross-connection control and backflow prevention ordinance, the following designations of responsibility are made.

- (1) *Responsibilities of the City of Asheboro Public Works Division and Water Resources Division.* Except as otherwise provided herein, the city is the water purveyor and is responsible for ensuring a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water system(s). The city will determine the degree of hazard or potential hazard to the Public Water System, the degree of protection required, and will enforce proper containment protection through an ongoing inspection program. The city will identify premises/facilities where the installation of approved backflow prevention assemblies is required. When a determination is made that a backflow prevention assembly is required for the protection of the Public Water System, the city will require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at the service connection, to test that backflow prevention assembly immediately upon installation and thereafter at a frequency determined by the city, and to properly repair and maintain the assembly or assemblies. The required testing date will be determined by the city and may be adjusted as necessary.
- (2) *Responsibilities of City of Asheboro Building Inspectors.* Where the review of building plans and/or inspections of work on a job site detect actual or potential cross-connections within the plumbing system, a building inspector has the responsibility for requiring either the elimination of such cross-connections or the proper installation of approved backflow prevention equipment.
- (3) *Responsibilities of the City of Asheboro Public Works Director and the Cross-Connection Control Coordinator.* The public works director and the cross-connection control coordinator, and their designees, are responsible for administering the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance found in this section.
- (4) *Consumer Responsibilities.* The consumer has the primary responsibility of preventing pollutants and contaminants from entering the consumer's water system. The consumer's responsibility starts at the point of delivery from the Public Water System and includes all of the consumer's water system. The consumer, at the consumer's expense, is responsible for properly installing, operating, testing, and maintaining approved backflow prevention assemblies. The consumer shall have a certified backflow prevention assembly tester submit test reports to the city in the manner required by this section and the administrative guidelines adopted by the city's public works division.

Following any repair, overhaul, re-piping, or relocation of an assembly, the consumer shall have the backflow prevention assembly tested in compliance with applicable provisions of this section to ensure that the apparatus is in good operating condition and will prevent backflow.

(5) Responsibilities of a Certified Backflow Prevention Assembly Tester. The certified backflow prevention assembly tester will have the following responsibilities:

(a) Each person wishing to test backflow prevention assemblies shall certify to the city that he/she has met the minimum qualification standards established by this section for certification as a backflow prevention assembly tester. This certification shall be in the form and manner prescribed in the administrative guidelines adopted by the city's public works division. If at any time a backflow prevention assembly tester's certification is revoked, suspended, or flagged as inactive, such an individual shall not submit test reports to the city for approval;

(b) The backflow prevention assembly tester is responsible for making competent inspections and making reports of such activities to the consumer and the city. The backflow prevention assembly tester shall be equipped with and be competent to use all the necessary tools, gauges, and other equipment necessary to properly test backflow prevention assemblies. The backflow prevention assembly tester is responsible for the competency and accuracy of all tests and reports, which shall be retained by the tester for a minimum of three years from the date of testing. Copies of all test and repair reports shall be provided by the backflow prevention assembly tester in accordance with the provisions of this section to the consumer and the city within ten business days of any completed test;

(c) In order for a backflow prevention assembly test report to be eligible for submission to the city, the report must document that the tested backflow prevention assembly is currently in a passing status. When a backflow prevention assembly fails a test, the device shall be repaired and achieve passing status before the report is submitted to the city;

(d) Backflow prevention assembly testers shall comply with all applicable federal, state, and local laws and regulations while performing testing activities in the city; and

(e) Only the property owner or a certified licensed plumber is permitted to repair or replace a backflow prevention assembly.

(C) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this section, will have the meanings hereafter designated.

(1) Air gap means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air gap" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel and in no case less than one inch (2.54 cm).

(2) Approved check valve means a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi (pounds per square inch) and the outlet pressure is zero. The check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (e.g., clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly (i.e., pressure vacuum breaker, double-check valve assembly, double-check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly).

- (3) Atmospheric type vacuum breaker or non-pressure type vacuum breaker means a device containing a float-check, a check seat, and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls and forms a check valve against back siphonage and at the same time opens the air inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream may be an integral part of the device. An atmospheric vacuum breaker is designed to protect against a non-health hazard (isolation protection only) under a back siphonage condition only.
- (4) Auxiliary intake means any piping connection or other device whereby water may be obtained from a source other than the Public Water System.
- (5) Auxiliary water supply means any water supply on or available to the premises/facility other than the Public Water System. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the city does not have sanitary control.
- (6) Back pressure means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration, which would cause, or tend to cause, a reversal of the normal direction of flow.
- (7) Back siphonage means a form of backflow due to a reduction in system pressure, which causes a sub-atmospheric pressure to exist at a site in the water system.
- (8) Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable supply of water from any source or sources. See terms "back pressure" and "back siphonage."
- (9) Backflow prevention assembly means a mechanical valve/assembly used to prevent backflow into a consumer or public potable water system that meets or exceeds standards set forth by both the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research ("USCFCCHR") and the American Society of Sanitary Engineering ("ASSE") and appears on both of the entities' approval lists. A backflow prevention assembly used on fire suppression systems must have the additional approval of the Factory Mutual Research Corporation ("FM") and comply with the National Fire Protection Association ("NFPA") code. The type of assembly used should be based on the existing or potential degree of hazard. The types of backflow prevention assemblies are enumerated on the following list:
- (a) Double-check valve assembly ("DCVA");
  - (b) Double-check detector assembly (fire system) ("DCDA");
  - (c) Pressure vacuum breaker ("PVB");
  - (d) Reduced pressure principle assembly ("RP");
  - (e) Reduced pressure principle detector assembly ("RPDA"); and
  - (f) Residential dual check ("RDC").
- (10) Below grade means underneath the surface of the earth or beneath material placed on the surface of the earth.
- (11) Building story means a building floor, section, or division equal to ten feet in height.
- (12) Certified backflow prevention assembly tester or testers means a person who has proven their competency to the satisfaction of the city. Only a state licensed plumber or the owner of the property where the backflow prevention assembly is installed may repair or replace backflow prevention assemblies. Only a fire sprinkler contractor can install, replace, or repair backflow

preventers that are part of a fire sprinkler system. Each person who is certified to make competent tests and make reports on backflow prevention assemblies shall:

- (a) Be knowledgeable of all federal, state, and local laws and regulations applicable to backflow prevention assemblies in Asheboro; and
  - (b) Hold a certificate of completion from a city recognized and approved North Carolina cross-connection school for the testing of backflow prevention assemblies.
- (13) Certified licensed plumber means a person that holds a plumbing class I license or plumbing class II license issued by the North Carolina State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors or is licensed as a public utilities contractor by the North Carolina Licensing Board for General Contractors.
- (14) Consumer means any person, partnership, company, corporation, association, organization, body politic or corporate, and any other group acting as a unit using or receiving water from the Public Water System.
- (15) Consumer's water system means that portion of any water system lying between the point of delivery from the Public Water System and the point of use. This system includes all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances located beyond the point of delivery from the Public Water System. Such a system may be either a potable water system or an industrial piping system.
- (16) Containment means preventing the impairment of the Public Water System by installing an approved backflow prevention assembly at the service connection.
- (17) Containment assembly means a backflow prevention assembly installed at the point of separation between the Public Water System and a private service or private distribution system or at a point of metering.
- (18) Contamination means an impairment of the quality of the water that creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or waterborne health hazards in the form of physical or chemical contaminants or biological organisms and pathogens.
- (19) Cross-connection means any unprotected actual or potential connection or structural arrangement between the Public Water System and a consumer's water system or any other source or system through which it is possible to introduce any contamination or pollution other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross-connections.
- (20) Cross-connection control coordinator means the employee designated by the city's public works director to administer this section.
- (21) Degree of hazard is derived from the evaluation of conditions within a system and can be classified as either a "pollution" (non-health) or a "contamination" (health) hazard.
- (22) Double-check valve assembly means an assembly composed of two independently acting, approved check valves, including tightly closing shut-off valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a pollution (i.e., non-health) hazard. Such a device must be on the USFCCHR and the ASSE approval lists.

- (23) Double-check detector assembly means a specially designed assembly composed of a line-size approved double-check valve assembly with a specific bypass water meter and a meter-sized approved double-check valve assembly. The meter shall register in cubic feet or U.S. gallons accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a pollution (i.e., non-health) hazard. Such a device must be on the USCFCCHR and the ASSE approval lists.
- (24) Dual check valve means a type of backflow device manufactured pursuant to ASSE Standard 1024.
- (25) Enclosure means a physical above-ground or below-ground apparatus that provides protection to backflow assemblies. An above-ground apparatus shall meet ASSE 1060 specifications. A below-ground apparatus shall meet current North Carolina Plumbing Code specifications.
- (26) Finish grade means any surface that has been cut or built to the elevation requested, indicated, or approved for that point. The surface elevation of a lawn, driveway, flower bed, patio, or other improved surface after completion of grading operations is considered finish grade.
- (27) Fire line means a system of pipes and equipment used to supply water in an emergency for extinguishing fire.
- (28) Health hazard means an actual or potential threat of contamination of a physical, chemical, biological, pathogenic, or toxic nature to the Public Water System or consumer's water system to such a degree or intensity that there would be a danger to health. Examples of waterborne health hazards include but are not limited to:
- (a) Physical – Radioisotopes/radio-nuclides;
  - (b) Chemical – Lead, mercury, and other heavy metals, organic compounds, and other toxins and hazardous substances; and
  - (c) Biological – Pathogenic micro-organisms like cryptosporidium, typhoid, cholera, and E. coli.
- (29) Health agency means the North Carolina Department of Environmental Quality (“NCDEQ”) and/or the Randolph County Health Department.
- (30) Imminent hazard means a condition that presents a substantial and immediate risk to the public health.
- (31) Industrial fluids means any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health or non-health hazard if introduced into the Public Water System or a consumer’s water system. Such fluids may include, but are not limited to, process waters, chemicals in fluid form, acids and alkalis, oils, gases, etc.
- (32) Industrial piping system means a system used by the consumer for transmission, conveyance, or storage of any fluid, solid, or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances that are or may be polluted or contaminated.
- (33) Interconnection means any system of piping or other arrangement whereby the Public Water System is connected directly to a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device that contains or could contain sewage or other waste or substance which would be capable of imparting contamination to the Public Water System.

- (34) Irrigation season means the time of year that irrigation is used in the City of Asheboro. For the purposes of this section, the irrigation season is March 1 through September 30 of each year.
- (35) Irrigation system means any system supplying dry land with water by means of ditches, streams, piping, and appurtenances.
- (36) Isolation means the act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: The City of Asheboro may make suggestions as to the usage of isolation devices/assemblies, but the city does not assume or have responsibility whatsoever for such installations.
- (37) Isolation assembly means a backflow prevention assembly required by the North Carolina Plumbing Code that is installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of the private system.
- (38) Lead free means a material content in the backflow preventers of less than or equal to 0.25%.
- (39) Non-health hazard means an actual or potential threat to the quality of the Public Water System or the consumer's water system. If introduced into the Public Water System, a non-health hazard could be a nuisance to water customers but would not adversely affect human health.
- (40) Owner means any natural or legal person that has legal title to, or permission or obligation to operate or inhabit, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.
- (41) Permanent irrigation system means any system supplying dry land with water by means of piping and appurtenances below ground or finish grade that is not readily accessible.
- (42) Point of delivery means, generally, at the backside of the meter, adjacent to the public street where the city's water distribution mains are located. The consumer shall be responsible for all water piping and control devices located on the consumer's side of the point of delivery.
- (43) Pollution means an impairment of the quality of the water to a degree that does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.
- (44) Pollution hazard means an actual or potential threat to the quality of the Public Water System or the consumer's water system but which would not constitute a health or a system hazard. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.
- (45) Potable water means, for the purposes of this section, water from any source that has been approved for human consumption by the NCDEQ.
- (46) Pressure type vacuum breaker means an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (i.e., contaminant) under a back siphonage condition only.

- (47) Public potable water system means any publicly or privately owned water system operated as a public utility under a current NCDEQ permit to supply water for public consumption or use. This system will include all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store potable water for public consumption or use.
- (48) Readily accessible means access is available without the need to remove obstructions or items.
- (49) Reduced pressure principle backflow prevention assembly means an assembly containing within its structure a minimum of two independently acting, approved check valves together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure to a predetermined amount so that, during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure.
- The unit shall include tightly closing shutoff valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e., contaminant). Such a device must be on the USCFCCHR and the ASSE approval lists.
- (50) Reduced pressure principle detector assembly means a specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter-sized approved reduced pressure principle backflow prevention assembly. The meter shall register in cubic feet or U.S. gallons accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against a health hazard (i.e., contaminant). Such a device must be on the USCFCCHR and the ASSE approval lists.
- (51) Service connection means the terminal end of a service connection from the Public Water System (i.e., where the city loses control over the water at its point of delivery to the consumer's water system).
- (52) Unapproved water supply means a water supply that has not been approved for human consumption by the NCDEQ.
- (53) Used water means any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

(D) Rights of entry and access to information.

- (1) Upon presentation of proper credentials and identification, authorized representatives from the city shall have the right to enter any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this section. Those duties may include sampling and testing of water or inspections and observations of all piping systems connected to the Public Water System. Where a consumer has security measures in force that would require proper identification and clearance before entry into the consumer's premises, the consumer shall make necessary arrangements with the security personnel so that, upon presentation of suitable identification, city personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities under this section. Refusal to allow entry for these purposes may result in discontinuance of water service until the requested right-of-entry has been granted.

- (2) On request, the consumer shall furnish to the city any pertinent information regarding the consumer's water system on such property where cross-connections and backflow are deemed possible.
- (E) Elimination of cross-connections and the degree of hazard.
- (1) When cross-connections are found to exist, the city will provide written notice to an owner, an owner's agent, an occupant, or a tenant, as applicable, of the requirement to comply with the cross-connection and backflow prevention ordinance within the time limit established by the city. The degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the Public Water System. In cases where the city identifies an existing health hazard attributable to a cross-connection, water service to the structure or premises where such a cross-connection is found may be terminated without any delay unless an air gap is immediately provided or the cross-connection is immediately eliminated. Otherwise, subject only to the specific backflow prevention assemblies listed in subsection (H) for certain facilities, the maximum time limits are as follows:
- (a) Cross-connections with private wells or other auxiliary water supplies require immediate disconnection;
- (b) All facilities that pose a potential health hazard to the Public Water System must have a reduced pressure principle backflow prevention assembly within 30 days of notification by the city; and
- (c) All industrial and commercial facilities not identified as a health hazard shall be considered non-health hazard facilities. All non-health hazard facilities must install a double-check valve assembly within 60 days of notification by the city.
- (2) Water mains served by the city, but not maintained by the city, shall be considered cross-connections and the degree of hazard will be determined by the city. The required degree of protection shall be based upon the city's determination of the degree of hazard.
- (3) In cases where a facility has been secured by the consumer and the ability of city personnel to inspect the facility has been restricted (e.g., classified research and development facilities or federal government property) to the point that access to every portion of the consumer's water system is too limited to allow a complete evaluation of the degree of hazard associated with the private water system, an approved reduced pressure principle backflow prevention assembly shall be required as a minimum level of protection.
- (4) No person shall fill special use tanks or tankers containing pesticides, pathogenic micro-organisms, fertilizers, other toxic chemicals, or their residues from the Public Water System except at a city-approved location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the Public Water System.
- (F) Installation of assemblies.
- (1) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by the city and/or in the latest edition of the North Carolina Plumbing Code.
- (2) All new construction plans and specifications, when required by the North Carolina Plumbing Code and/or the NCDEQ, shall be made available to the city for review and approval, including a determination by the city of the degree of hazard.
- (3) Ownership, testing, and maintenance of the assembly shall be the responsibility of the consumer.

- (4) All double-check valve assemblies shall be installed in a location in which no portion of the assembly can become submerged in any substance under any circumstance. Pit and/or below-grade installations are prohibited.
- (5) Reduced pressure principle backflow prevention assemblies shall be installed according to their listing and in a location in which no portion of the assembly can become submerged in any substance under any circumstance. Pit and/or below-grade installations are prohibited.
- (6) Any backflow assembly not approved by the city shall be replaced with an assembly that is approved by the city.
- (7) No backflow prevention assembly shall be installed in a traffic area or city right-of-way unless pre-approval is obtained in writing from the city's public works director or the cross-connection control coordinator.
- (8) The consumer is responsible for ensuring that a backflow prevention assembly is working properly upon installation and shall also ensure that the following information is provided to the city within 10 business days after a reduced pressure principle assembly (RP), double-check valve assembly (DCVA), pressure vacuum breaker (PVB), double-check-detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed at a facility:
  - (a) Facility name;
  - (b) Complete physical address of the facility where the assembly is located;
  - (c) Telephone number and email address, if available, for the facility where the assembly is located;
  - (d) Name of the owner of the real property where the assembly is located;
  - (e) Property owner's complete address, if different from the facility address;
  - (f) Property owner's telephone number and email address, if available;
  - (g) Description of the assembly's location at the facility (e.g., hotbox, mechanical room, inside structure, vault, etc.);
  - (h) Date of new installation of assembly;
  - (i) Identity of the installer who installed the assembly, specifically including the installer's name, the plumbing company represented, the plumber's license number, and the installer's complete address, telephone number, and email, if available;
  - (j) The type of assembly (i.e., RP, DCVA, PVB, DCDA, and RPDA);
  - (k) The name of the manufacturer of the assembly along with the model number, serial number, and size of the assembly;
  - (l) The orientation of the assembly;
  - (m) The type of test performed (e.g., domestic, irrigation, commercial, pool);
  - (n) Passing test results/report;
  - (o) Date of the test;
  - (p) Tester signature and date of submittal;
  - (q) Line pressure;
  - (r) Any repairs or replacement of the assembly; and
  - (s) A passing designation for the assembly status.
- (9) When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The city will not accept an unprotected bypass around a backflow assembly.
- (10) Upon notification by the city, the consumer shall install the appropriate containment assembly within a time frame that complies with the following requirements:
  - (a) An imminent hazard must be corrected immediately;
  - (b) A health hazard must be corrected within 30 days; and
  - (c) A non-health hazard must be corrected within 60 days.

- (11) Following installation, all RP, DCVA, PVB, DCDA, and RPDA are required to be tested by a certified backflow prevention assembly tester within 10 business days.
- (12) Backflow prevention assembly installations with exposure to cold weather shall comply with ASSE 1060 specifications. Backflow prevention assemblies installed for lawn irrigation shall be designed for removal during cold weather exposure or installed in compliance with ASSE 1060 specifications.
- (13) All backflow preventers installed in order to comply with this section shall be lead free.

(G) Testing and repair of assemblies.

- (1) With the exception of RDC assemblies maintained by the city at its expense, every backflow prevention assembly shall be tested by a certified backflow prevention assembly tester upon installation and annually thereafter unless a different frequency is established by the city. The consumer is responsible for all expenses and fees charged by the certified backflow prevention assembly tester for testing and documenting the results of the required backflow prevention assembly test.
- (2) The certified backflow prevention assembly tester conducting a test required by this section must submit the test reports/records for such backflow prevention assembly testing to the city within 10 business days of the date upon which the required testing was completed.
- (3) Regardless of whether the need for repairs is discovered because of required testing or because of a routine inspection by the consumer or the city, if a determination is made that repairs to a backflow prevention assembly are required, such repairs must be completed without unnecessary delay and within a definite time frame that will be set in accordance with the degree of hazard. The time period allowed for such repairs shall not exceed 7 days for a health hazard facility and shall not exceed 21 days for a non-health hazard facility.
- (4) Unless a different frequency is specifically established by the city for an identified facility, all backflow prevention assemblies with test cocks are required to be tested annually.
- (5) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment that is, on an annual basis, checked for accuracy, calibrated as necessary, and certified to the city on an annual basis as to such accuracy/calibration. The calibration method used by the tester must meet the minimum standards established in the administrative guidelines adopted by the city's public works division.
- (6) It shall be unlawful for any consumer or certified backflow prevention assembly tester to submit any record to the city that is false or incomplete in any material respect.
- (7) It shall be unlawful for any consumer or certified backflow prevention assembly tester to fail to submit to the city any record that is required by this section.
- (8) Any consumer that has not submitted the required backflow prevention assembly test report(s) to the city via a certified backflow prevention assembly tester before the due date is non-compliant and subject to the enforcement actions specified in this section.
- (9) Upon providing the notice specified in this subsection, any due date identified in the cross-connection control program administrative guidelines established by the city's public works division may be changed in order to make the

program more effective and/or efficient. Notice of a change in a due date shall be provided to the consumer no less than two months before the due date currently identified in the cross-connection control program guidelines. This notice may be provided by either phone, email, or letter. A change in the due date shall not increase the number of required tests in a 12-month period unless otherwise required by this section.

(10) The annual due date for testing involving irrigation systems shall fall within the irrigation season.

(H) Approved backflow prevention assemblies shall be installed on the service line to any premises/facility identified by the city as having a potential for backflow. All assemblies and installations shall be subject to inspections and approval by the city.

The city has identified the following specific types of facilities as having a potential for backflow of non-potable water into the Public Water System. Therefore, as indicated below, specific backflow prevention assemblies are required for the facilities that have been evaluated as to the degree of hazard associated with the respective premises listed in this subsection. Other types of facilities that are not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the city. As a minimum requirement, all commercial and mixed use facilities will be required to install a double-check valve assembly, unless otherwise listed below.

For purposes of this subsection, the following abbreviations are used: Double-Check Detector Assembly (DCDA), Double-Check Valve Assembly (DCVA), Fire Department Connection (FDC), Reduced Pressure Principle Detector Assembly (RPDA), Reduced Pressure Principle Assembly (RP), and Residential Dual Check (RDC).

(1) Automotive Services Stations, Dealerships, Etc. – RP

(2) Auxiliary Water Supply:

- (a) Approved Public/Private Water Supply – RP
- (b) Unapproved Public/Private Water Supply – RP
- (c) Used Water and Industrial Fluids – RP

(3) Bakeries:

- (a) Non-Health Hazard – DCVA
- (b) Health Hazard – RP

(4) Beauty Shops/Barber Shops:

- (a) Non-Health Hazard – DCVA
- (b) Health Hazard – RP

(5) Beverage Bottling Plants – RP

(6) Breweries, Wineries, and Distilleries – RP

(7) Canneries, Packing Houses, and Rendering Plants – RP

(8) Commercial Car Wash Facilities – RP

(9) Commercial Greenhouses – RP

(10) Commercial Sales Establishments (e.g., Department Stores, Malls, etc.):

- (a) Non-Health Hazard – DCVA
- (b) Health Hazard – RP

(11) Concrete/Asphalt Plants – RP

- (12) Dairies and Cold Storage Plants – RP
- (13) Dye Works – RP
- (14) Film Laboratories – RP
- (15) Fire Systems Two Inches and Smaller in Size:
  - (a) Non-Health Hazard – DCVA
  - (b) Health Hazard (Booster Pumps, Foam, Antifreeze Solution, FDC, etc.) – RPDA
- (16) Fire Systems Larger Than Two Inches in Size:
  - (a) Non-Health Hazard – DCDA
  - (b) Health Hazard (Booster Pumps, Foam, Antifreeze Solution, FDC, etc.) – RPDA
- (17) Fire Trucks – RP
- (18) Hospitals, Medical Buildings, Sanitariums, Morgues, Mortuaries, Autopsy Facilities, Nursing and Convalescent Homes, Medical Clinics, and Veterinary Hospitals – RP
- (19) Laundries and Dry Cleaners – RP
- (20) Lawn Irrigation Systems – RP
- (21) Metal Manufacturing, Cleaning, Processing, and Fabricating Plants – RP
- (22) Mixed Use Business and Residential Occupancy:
  - (a) Non-Health Hazard – DCVA
  - (b) Health Hazard – RP
- (23) Mobile Home Parks – RP
- (24) Motels and Hotels – RP
- (25) Oil and Gas Production, Storage, Transmission, Distribution, and Sales (Bulk Wholesale or Retail) Facilities/Properties – RP
- (26) Pest Control (Exterminating and Fumigating) – RP
- (27) Power Plants – RP
- (28) Restaurants – RP
- (29) Residential (Single-Family Homes and Individually Metered Duplexes, Triplexes, Multiplexes, Apartments, Townhouses, Condominiums, etc.) – RDC or RP
- (30) Restricted, Classified, or Other Closed Facilities – RP
- (31) Sand and Gravel Plants – RP
- (32) Schools and Colleges – RP
- (33) Sewage and Storm Drain Facilities – RP
- (34) Structures Not Otherwise Listed in this Subsection with Unprotected Cross-Connections – RP

(35) Swimming Pools – RP

(36) Yard Hydrant – RP

(I) Unless written notice to the contrary is provided by the public works director or the cross-connection control coordinator on the basis of the city’s most recent evaluation of the potential degree of hazard posed to the Public Water System at a facility, all existing backflow prevention assemblies installed with the approval of the city prior to the initial effective date of the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance shall be allowed to remain in service so long as such assemblies are maintained, tested, and repaired in compliance with this section and all other applicable statutes, ordinances, rules, regulations, and guidelines. However, if such an existing assembly must be replaced, or if there is an event of proven water theft through an unmetered source, the consumer shall be required to install an approved backflow prevention assembly that is compliant with the current standards found in all applicable statutes, ordinances, rules, regulations, and guidelines.

(J) Connections with unapproved sources of supply.

(1) No person shall connect or cause to be connected to the Public Water System any supply of water not approved by the NCDEQ. Any connections allowed by the city must be in conformance with the backflow prevention requirements of this section.

(2) In the event of contamination or pollution of the Public Water System or of the consumer’s water system, the consumer shall notify the city immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

(K) Enforcement.

(1) The consumer or person in charge of any premises/facility found to be in violation of the provisions of this section shall be notified in writing with regard to the corrective action(s) to be taken. Notices of violation and/or citations may be issued by the city’s public works director or his designee.

(2) Such notice shall be served by personal delivery, registered mail, or certified mail to the consumer or person in charge and shall explain the violation(s) and give the time period within which the violation(s) must be corrected. The time period set to correct a violation shall not exceed 30 days after receiving notice unless otherwise specified by subsection (E) above.

(3) In the event a consumer is found in violation of this section and fails to correct the violation in a timely manner, including the payment of any civil penalty or fees assessed under this section, water service may be terminated without additional notice. Water service shall be reestablished when the violation is corrected and any applicable civil penalties and other required fees are paid in full with good funds.

(4) Civil penalties imposed under this section may be recovered by the city in a civil action in the nature of a debt if the offender does not pay the penalty within the prescribed period of time after service of the citation informing the offender of the incident(s) of noncompliance, the remedial action required to abate the violation(s), and the amount of the assessed civil penalty.

(5) When determining the amount of a civil penalty to be assessed for violating the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance, the public works director shall act in accordance with the following guidelines:

- (a) Unprotected cross-connections involving a private water system that create a health hazard are subject to a civil penalty of up to \$1,000.00 per day, not to exceed \$10,000.00.
  - (b) Unprotected cross-connections involving a private water system that create a non-health hazard are subject to a civil penalty of up to \$500.00 per day, not to exceed \$5,000.00.
  - (c) The failure of a consumer or a certified backflow prevention assembly tester to properly submit any record required by this section may result in a civil penalty of up to \$500.00 per violation.
  - (d) The submission of falsified reports/records may result in a civil penalty of up to \$500.00 per violation.
  - (e) In the event a certified backflow prevention assembly tester fails to submit any record within the timeframe required by this section or fails to exercise the same degree of care, skill, and judgment in the performance of services to the citizens of the city as is ordinarily provided by a similar professional under the same or similar circumstances, then the public works director is authorized to remove the tester from the list of available certified testers for a period of up to 12 calendar months.
  - (f) If a certified backflow prevention assembly tester submits falsified records to the city, the public works director is authorized to remove the tester from the list of available certified testers for an indefinite period of time.
  - (g) The failure to test or maintain backflow prevention assemblies in compliance with this section may result in a civil penalty of up to \$200.00 per day.
- (6) Any assessed civil penalty must be paid in full within 30 days of receipt by the consumer or person in charge of the premises/facility identified in the citation listing the violation(s) and assessing the corresponding civil penalties.
- (7) Each individual violation of the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance shall be a separate and distinct offense.
- (8) Requests by the offender for an extension of time in which to abate the violation(s) and/or pay the assessed civil penalty must be submitted in writing to the public works director within the time frame stated in the notice of violation for the abatement of the violation and/or the payment of the assessed civil penalty.
- (9) The city may immediately discontinue water service to any consumer if the public works director makes either of the following findings:
- (a) The consumer or person in charge of the premises/facility is noncompliant with the provisions of this section, neglects the responsibility to correct a violation after having been given notice thereof, and such noncompliance constitutes or presents an imminent hazard to the public health, safety, and welfare; or
  - (b) The consumer or person in charge of the premises/facility has a water connection to the Public Water System that, in the judgment of the public works director, presents an imminent hazard to the public health, safety, and welfare.
- (10) Notwithstanding anything to the contrary in this section, the provisions of the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (L) Adjudicatory hearings and appeals from enforcement actions taken pursuant to this section shall be made in accordance with the following procedures:
- (1) Adjudicatory hearings. A consumer subject to an enforcement action taken pursuant to this section, including without limitation the disconnection of

water service and/or the assessment of a civil penalty, has the right to an adjudicatory hearing with the City of Asheboro Water Resources Director. In order to exercise this right, the consumer must transmit to the water resources director's office a written demand identifying the specific issues to be contested. This written demand must be delivered to the water resources director's office and accepted by the water resources director, or a designee, within 30 calendar days of the date of service of the notice/citation upon which the hearing request is based. Unless such written demand is properly delivered within the time frame specified herein, the action stated in the notice/citation served on the consumer is final and binding.

Upon receipt of a properly filed demand for an adjudicatory hearing, the water resources director, or the director's designee in the water resources division, shall hold a hearing within 15 calendar days of the date upon which the written demand for an adjudicatory hearing was received in the water resources director's office. After holding the hearing, the water resources director, or the director's designee, shall have 15 calendar days to prepare a written decision resolving the contested issues. Such a written decision shall be transmitted to the consumer by means of first class, postage pre-paid, United States mail to the consumer's address of record with the City of Asheboro Water and Sewer Utility.

- (2) Appeal hearings. A decision by the water resources director, or the director's designee, may be appealed to the city manager by any party to the adjudicatory hearing. In order to appeal such a decision, the party seeking to file an appeal must transmit to the city manager's office a written demand identifying the basis for the appeal. This written demand must be delivered to the city manager's office and accepted by the city manager, or a designee, within 30 calendar days of the date on which the written decision by the water resources director, or the director's designee, was placed in the custody of the United States Postal Service for delivery to the consumer. Unless such written demand is properly delivered to the city manager's office within the time frame specified herein, the decision by the water resources director, or the director's designee, shall be final and binding.

Upon receipt of a properly filed appeal, the city manager shall hold a hearing within 30 calendar days of the date upon which the written demand for an appeal was received in the city manager's office. After holding the hearing, the city manager shall have 15 calendar days to prepare a written decision. The city manager's written decision shall be transmitted to all of the parties to the appeal by means of first class, postage pre-paid, United States mail. The city manager's written decision shall be final and binding.

**Section 2.** All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

**Section 3.** This Ordinance shall be in full force and effect upon and after October 1, 2020.

The Asheboro City Council approved this Ordinance in open session during a regular meeting held on the 9<sup>th</sup> day of April, 2020.

/s/David H. Smith  
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk

**10. Presentation of proposed updates to Chapter 50 (Water and Sewers) of the Code of Asheboro.**

Mr. Sugg presented and recommended adoption, by reference, of an ordinance to amend Chapter 50 (Water and Sewers) in the Code of Asheboro by enacting Section 50.010 and rewriting Section 50.045.

Upon motion by Council Member Burks and seconded by Council Member Redding, the Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

**ORDINANCE NUMBER 12 ORD 4-20**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**AN ORDINANCE TO AMEND CHAPTER 50 (WATER AND SEWERS) IN  
THE CODE OF ASHEBORO BY ENACTING SECTION 50.010  
AND REWRITING SECTION 50.045**

**WHEREAS**, Section 160A-312(b) of the North Carolina General Statutes provides as follows:

A city shall have full authority to protect and regulate any public enterprise system belonging to or operated by it by adequate and reasonable rules. The rules shall be adopted by ordinance, shall apply to the public enterprise system both within and outside the corporate limits of the city, and may be enforced with the remedies available under any provision of law; and

**WHEREAS**, Section 160A-314(a) of the North Carolina General Statutes provides as follows:

A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished or to be furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city; and

**WHEREAS**, the spread of the novel coronavirus (COVID-19) with the associated public health and safety crisis has led to a closer examination of the actions that policy makers can take to equip units of government, including public enterprise systems, to respond in a rapid, efficient, and lawful manner to the challenges of the day; and

**WHEREAS**, the current public health crisis has highlighted the importance of not disconnecting water services when citizens are confronting a pandemic and economic distress; and

**WHEREAS**, the Asheboro City Council has decided to respond to these challenges by delegating to the city manager, during a state of emergency, the authority to adjust billing procedures and practices, specifically including the authority to halt collection actions such as the disconnection of services, to suspend the imposition of late fees or charges, and to establish payment plans directly tied to the executive order or declaration that defines the state of emergency; and

**WHEREAS**, in addition to learning from situations encountered during a state of emergency, the utility must also continue to operationally evolve and improve in accordance with current legal interpretations and best practices focused on issues such as the cost of conducting disconnection operations when normal business operations eventually resume; and

WHEREAS, Section 50.045 of the Code of Asheboro prohibits tampering with municipal water system infrastructure; and

WHEREAS, Section 14-151 of the North Carolina General Statutes provides for civil actions and criminal penalties that can be pursued when an individual interferes with components of a water utility's infrastructure; and

WHEREAS, in light of the remedies provided by state statute for tampering with water utility infrastructure, the Asheboro City Council has concluded that the tamper fee provisions currently found in Section 50.045 of the Code of Asheboro should be repealed; and

WHEREAS, the Asheboro City Council has also concluded that a disconnection fee should be established to assist with offsetting the costs associated with performing extra administrative and field service work when the disconnection of water services is used to enforce compliance with the utility's rules and regulations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro as follows:

**Section 1.** Section 50.010 of the Code of Asheboro is hereby enacted to provide as follows:

**§ 50.010 DELEGATION OF AUTHORITY TO THE CITY MANAGER**

Notwithstanding any other provision in this chapter, during a lawfully declared state of emergency, the city manager is authorized to modify or waive the billing procedures and practices established by this chapter. This delegated authority specifically includes the authority to halt collection actions such as the disconnection of services, to suspend the imposition of late fees or charges, and to establish payment plans arising out of the applicable local state of emergency declaration or gubernatorial executive order. This delegated authority to modify or waive billing procedures and practices is temporary in duration and shall be in effect only during a lawfully declared state of emergency or during the time period needed for the full implementation of payment plans created to comply with the triggering gubernatorial executive order or local state of emergency declaration, whichever time frame is longer.

**Section 2.** Section 50.045 of the Code of Asheboro is hereby rewritten to provide as follows:

**§ 50.045 — TAMPERING WITH INFRASTRUCTURE PROHIBITED.**

- (A) ~~It shall be unlawful for any person to deface, tamper with or injure any municipal infrastructure connected with or pertaining to the water system owned and operated by the city, specifically including without limitation any house, reservoir, valve cock, wheel, fire plug or other fixture connected with or pertaining to the city water system, or to place any building material, rubbish or other matter or substance on any valve, stop cock, meter box, water main or service pipe, or to obstruct access to any fixture connected with the city water system, or to remove, tamper with or injure any pipe, fire plug, hydrant, valve or cock or to open any of them, except when due authority has been given therefor by the Water and Sewer Department.~~
- (B) ~~Tampering with any municipal infrastructure connected with or pertaining to the city water system, specifically including without limitation a fire hydrant and a water meter or any device attached thereto, is hereby expressly declared to be unlawful and will result in a charge and other enforcement actions as hereinafter set out. Within any 12 calendar month period, there will be a charge of \$150 for the first offense, \$500 for the second offense, and criminal penalties, including without limitation a fine of \$500, shall be instituted thereafter in accordance with G.S. § 14-4. By way of illustration and without limitation, a person shall be deemed to have tampered with municipal infrastructure in violation of this section if, without authorization from the Water and Sewer Department, a fire hydrant is opened or operated in any manner; a water meter is activated, operated, or manipulated in an effort to restore water service for any premises for which water service has been discontinued; the water meter or~~



11. **Presentation of proposed updates to Chapter 93 (Civil Emergencies) of the Code of Asheboro.**

Mr. Sugg presented and recommended adoption, by reference, of an ordinance updating the emergency management provisions in Chapter 93 of the Code of Asheboro.

Upon motion by Council Member Bell and seconded by Council Member Burks, the Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

**ORDINANCE NUMBER 13 ORD 4-20**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**AN ORDINANCE UPDATING THE EMERGENCY MANAGEMENT PROVISIONS  
IN CHAPTER 93 OF THE CODE OF ASHEBORO**

**WHEREAS**, Chapter 93 (Civil Emergencies) of the Code of Asheboro contains the city's emergency management ordinance provisions; and

**WHEREAS**, the Asheboro City Council has concluded that these ordinance provisions should be updated to include the current definition of "emergency" found in Section 166A-19.3(6) of the North Carolina General Statutes and to incorporate the emergency road closure authority found in Section 166A-19.31(b)(1)(e) of the North Carolina General Statutes.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Asheboro as follows:

**Section 1.** Section 93.01 of the Code of Asheboro is hereby rewritten to provide as follows:

**§ 93.01 EMERGENCY RESTRICTIONS AUTHORIZED**

(A) The following definitions shall apply in this chapter:

(1) ~~EMERGENCY. An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause;~~

(1) EMERGENCY. An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident;

(2) EMERGENCY AREA. The geographical area covered by a state of emergency; and

(3) STATE OF EMERGENCY. A finding and declaration by the City Council of the City of Asheboro or the Mayor of the City of Asheboro acting under the authority of G.S. 166A-19.22 that an emergency exists.

(B) In the event of an emergency, the Mayor is hereby authorized and empowered, pursuant to G.S. 166A-19.22, to issue a state of emergency declaration that declares to all persons the existence of a state of emergency and, in order to more effectively protect the lives and property of people within the city, to place in effect any or all of the restrictions hereinafter authorized.

(C) The Mayor is hereby authorized and empowered to limit with the state of emergency declaration the application of all or any part of such restrictions to an emergency area

specifically designated or described within the city and to specific hours of the day or night and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters, rescue squad members, and public employees; doctors, nurses, and employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities and public transportation companies; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the city.

**Section 2.** Section 93.07 of the Code of Asheboro is hereby rewritten to provide as follows:

**~~§ 93.07~~ RESTRICTION ON ACCESS TO AREAS**

- (A) ~~The state of emergency declaration may prohibit obtaining access or attempting to obtain access to any area designated in the manner described in this Section in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.~~
- (B) ~~Areas to which access is denied or restricted shall be designated by the chief of police or the chief's designees when directed in the declaration by the Mayor to do so. When acting under this authority, the chief of police and the chief's designees may restrict or deny access to any area, street, highway, or location within the emergency area if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.~~

**§ 93.07 RESTRICTION ON ACCESS TO AREAS**

- (A) The state of emergency declaration may prohibit accessing or attempting to access any location within the emergency area that is designated by an order, clearly posted notice, or barricade indicating that access to the designated location is denied or restricted.
- (B) The state of emergency declaration may also provide authorization for the closure within the emergency area of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular traffic; provided, however, the following conditions must be satisfied whenever this emergency road closure authority is exercised:
- (1) In addition to any other notice or dissemination of information, notification of any closure of a road or public vehicular area shall be given to the North Carolina Department of Transportation as soon as practicable; and
- (2) The above-stated emergency road closure authority shall not restrict the movement of emergency responders and other persons necessary for recovery from the emergency.
- (C) Notwithstanding any other provision in this chapter, and in accordance with G.S. 166A-19.70(c) and (d), access to and from a restricted area must be allowed, regardless of whether a local curfew is in effect, upon the presentation of a valid state re-entry certificate for drivers and vehicles transporting essential goods or assisting in restoring utility services during a state of emergency.
- (D) Within the emergency area, the chief of police, or the chief's designee, may use the emergency road closure authority and identify locations to which access is denied or restricted so long as the following conditions are satisfied:
- (1) The state of emergency declaration delegates to the chief of police, or the chief's designee, the authority to deny or restrict access to locations within the emergency area and to exercise the emergency road closure authority provided by G.S. 166A-19.31 and this section; and

- (2) The chief of police, or the chief's designee, has concluded that the denial or restriction of access to a location, including the use of the emergency road closure authority, within the emergency area is reasonably necessary to maintain order and protect lives or property during the state of emergency.

**Section 3.** All previously adopted ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

**Section 4.** This Ordinance shall be in full force and effect upon and after the date of its adoption.

**This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting on the 9<sup>th</sup> day of April, 2020.**

/s/David H. Smith  
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk

12. **Presentation of a resolution seeking the council's concurrence with the manager's decision to offer a limited, temporary form of employee leave related to the current public health crisis.**

Mr. Sugg presented and recommended adoption, by reference, of a resolution authorizing COVID-19 employer provided supplemental leave for city employees.

Upon motion by Council Member Redding and seconded by Council Member Burks, the Council voted unanimously to adopt the following resolution by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

**RESOLUTION NUMBER 06 RES 4-20**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**A RESOLUTION AUTHORIZING COVID-19 EMPLOYER PROVIDED SUPPLEMENTAL LEAVE FOR CITY EMPLOYEES**

**WHEREAS**, on March 18, 2020, Congress passed, and the President signed into law, the Families First Coronavirus Response Act, Public Law 116-127 (the "FFCRA"); and

**WHEREAS**, the FFCRA is a compilation of different acts with different purposes; and

**WHEREAS**, two acts within the FFCRA are the subject of this Resolution – the Emergency Paid Sick Leave Act (the "Emergency Sick Leave Act") and the Emergency Family and Medical Leave Expansion Act (the "Emergency FMLA Act"); and

**WHEREAS**, in general terms, the Emergency Sick Leave Act requires the city to provide a maximum of 80 hours of paid sick leave to employees who have been advised to self-isolate or self-quarantine, are seeking a diagnosis because of COVID-19 symptoms, are caring for an individual who is either under an isolation or quarantine order or has been advised to self-quarantine for COVID-19 related reasons, or are caring for a child because the child's school or childcare facility has been closed or because the child's normal caregiver is unavailable due to COVID-19 precautions; and

**WHEREAS**, in general terms, the Emergency FMLA Act adds a new category of leave eligibility to the original Family and Medical Leave Act by requiring the city to provide paid



