

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, MARCH 10, 2016
7:00 p.m.**

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)
Linda H. Carter) – Council Members Present
Walker B. Moffitt)
Jane H. Redding)
Charles A. Swiers)

Katie L. Snuggs) – Council Member Absent

John N. Ogburn, III, City Manager
Robert L. Brown, Jr., Police Captain
Holly H. Doerr, CMC, NCCMC, City Clerk
Michael L. Leonard, P.E., City Engineer
Trevor L. Nuttall, Community Development Director
Steven O. Paye, Safety Coordinator
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
Jody P. Williams, Chief of Police

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. Council Member Carter was not present when Mayor Smith called the meeting to order, but Ms. Carter arrive before the conclusion of agenda item number 4. Council Member Carter missed no votes taken by the council.

2. Silent prayer and pledge of allegiance.

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

3. Appearance and recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance and recognized boy scouts from Troop 513 who were in attendance as a requirement for obtaining their citizenship badge.

4. An overview of the vision for the N.C. Zoo.

In furtherance of the continuing positive relationship between the city government and the N.C. Zoo, Zoo Director Patricia Simmons, who was accompanied by Zoo Deputy Director Mary Joan Pugh and Randolph County Tourism Development Authority Executive Director Tammy O’Kelley, updated the elected officials on future plans for the zoo. N.C. Zoo Director Simmons utilized a visual presentation to give an overview of a vision plan for the N.C. Zoo. A copy of the visual presentation utilized by Ms. Simmons is on file in the city clerk’s office.

No formal action was requested of or taken by the council. However, Mayor Smith and the council members expressed their individual appreciation for the presentation and indicated that they look forward to a continuing partnership.

5. Consent agenda:

Upon motion by Mr. Burks and seconded by Mr. Swiers, Council voted unanimously to approve/adopt, as presented, the following consent agenda items. Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

- (a) The minutes of the city council's regular meeting on February 4, 2016.
- (b) Acknowledgement of the receipt from the Asheboro ABC Board of the meeting minutes for the local board's meeting on January 4, 2016.
- (c) The scheduling and advertisement of a legislative zoning hearing to be held on April 7, 2016, concerning the application to rezone the property at 601 East Dixie Drive from R15 (Low-Density Residential) to B2 (General Commercial) (Zoning Case No. RZ-16-03).
- (d) The following ordinance to amend Chapter 34 of the Code of Asheboro to reflect that the fire department no longer deploys volunteer firefighters.

ORDINANCE NUMBER _____ 03 ORD 3-16 _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

Ordinance to Modernize Outdated Provisions in Chapter 34 of the Code of Asheboro

WHEREAS, Section 160A-291 of the North Carolina General Statutes authorizes the city to establish, organize, equip, and maintain a fire department; and

WHEREAS, Chapter 34 (Departments, Boards and Commissions) of the Code of Asheboro has thirteen sections (Sections 34.25 through 34.37) pertaining to the city's fire department; and

WHEREAS, the existing code provisions reference a fire department that utilizes a combination of paid and, as described in the existing code provisions, part-paid volunteer members; and

WHEREAS, the City of Asheboro Fire Department is now staffed with full-time firefighters, and the city no longer deploys volunteer firefighters as members of the Asheboro Fire Department; and

WHEREAS, the Asheboro City Council has concluded that the Code of Asheboro should be updated to reflect the current operational practices of the municipal fire department;

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

Section 1. Sections 34.25 through 34.37 of the Code of Asheboro are hereby repealed in their entirety and the following revised sections within Chapter 34 are hereby enacted:

§ 34.25 FIRE DEPARTMENT CONSTITUTED

- (A) There is hereby established a department within the city government to be known as the Asheboro Fire Department.
- (B) The purpose of the fire department is to protect the lives and property of the citizens of Asheboro from fires and other emergencies through fire suppression, fire prevention, public education, and such other means as may be needed.

§ 34.26 APPOINTMENT AND TERM OF OFFICE OF THE FIRE CHIEF

The Chief of the Fire Department, who may also be referred to as the Asheboro Fire Chief, shall be appointed by and serve at the pleasure of the City Manager.

§ 34.27 COMMAND AND CONTROL OF THE FIRE DEPARTMENT

Subject to general supervision by the City Manager who is designated in the City Charter as the city's chief administrator, the Chief of the Fire Department shall have command and control of the fire department. The Chief of the Fire Department shall be the commanding officer of the fire department.

§ 34.28 DUTIES OF THE FIRE CHIEF

In addition to any duties otherwise prescribed for the Chief of the Fire Department by the North Carolina General Statutes, it shall be the duty of the Asheboro Fire Chief to preserve and care for the city's fire suppression apparatus and infrastructure, to have charge of fighting and extinguishing fires, to have charge of training the fire department, and to make annual reports to the city council concerning these duties.

7. The requested R7.5 district allows a single-family residence and two-family residential uses.
8. The proposed land use designation of the property is for a City Activity Center. No changes were made to this property's designation during the recent 2014 Land Development Plan update.

The Planning Board concurred with the following analysis from the Community Development Division staff and recommended approval of the requested zoning.

"The property is designated by the proposed land use map as part of the City Activity Center, which is described as the historic core of Asheboro, with a mix of compatible commercial, office/institutional, and residential uses.

Specifically, the property is located in a transitional location, which includes a mix of residential uses alongside office/institutional and lighter commercial uses. In this case, the proposed R7.5 (Medium-Density Residential) district can be an appropriate designation by accommodating a long-standing residential use that abuts other established residential uses.

There being no comments and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Bell and seconded by Ms. Carter, council voted unanimously to approve the requested rezoning by adopting a multi-part motion that included the following actions:

1. Adopted and implemented the analysis of the Community Development Division staff and the Planning Board that recommended granting the requested rezoning; and
2. Adopted the following consistency statement, to state that the requested and approved R7.5 (Medium-Density Residential) district is an appropriate designation that allows a reasonable use of the property, ensures consistency with the Land Development Plan, accommodates the existing residential use and history of the property, and reflects the fact that no Land Development Plan goals/policies oppose the requested zoning designation.

Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

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

(b) Consideration of a request to extend the time allowed between preliminary and final plat subdivision reviews for Springwood Townhomes.

Mr. Nuttall presented a written request from Mr. Charlie Morgan of Charlie Morgan Surveying, PLLC on behalf of Mr. Larry McKenzie for an additional twelve month extension of the deadline to March 2017 to submit a final plat for review for Springwood Townhomes. A copy of the written request from Mr. Morgan is on file in the city's Community Development Division.

Upon motion by Mr. Moffitt and seconded by Mr. Burks, council voted unanimously to approve the requested twelve month extension. Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

(c) Public hearing to obtain citizen input on the identification of economic needs and desired economic development activities as part of the City of Asheboro's potential submission of a Community Development Block Grant application.

Mayor Smith opened the public hearing in order to obtain input on economic needs and development activities as part of the submission of a community development block grant application.

As part of the process for submitting an application for a Community Development Block Grant (CDBG), Mr. Nuttall highlighted that the purpose of the public hearing was to obtain citizen input on the possible submission of a Community Development Block Grant application for an economic development project designed to construct railroad spur tracks to serve a new Technimark facility on West Central Avenue in Asheboro. The project involves the construction of two rail spur tracks totaling approximately 1,384 linear feet to provide vital rail access to the company's 155,000 square foot manufacturing facility. The proposed grant application requests \$490,000 in CDBG funds.

The project is estimated to be completed within two years, including the construction and grant monitoring, and the project has an overall investment value of approximately \$25.9 million.

There being no comments from the public, Mayor Smith closed the public hearing. A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

No formal action was taken by the council on this agenda item.

(d) Consideration of an ordinance to enact, at the request of the North Carolina Department of Transportation, a speed limit change on Old N.C. 49 at the western city limits of Asheboro.

Mr. Nuttall presented and recommended adoption, by reference, of an ordinance authorizing a speed limit of 45 miles per hour on Old N.C. Highway 49 at the western city limits.

Upon motion by Mr. Bell and seconded by Mr. Swiers, council voted unanimously to adopt the following ordinance by reference. Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

ORDINANCE NUMBER _____ **04 ORD 3-16**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

ORDINANCE AUTHORIZING A SPEED LIMIT OF 45 MILES PER HOUR ON OLD NC HIGHWAY 49 AT THE WESTERN CITY LIMITS

WHEREAS, Section 160A-296 of the North Carolina General Statutes provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits; and

WHEREAS, Section 20-141(b) of the North Carolina General Statutes provides as follows:

Except as otherwise provided in this Chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.
- (2) Fifty-five miles per hour outside municipal corporate limits for all vehicles except school buses and school activity buses; and

WHEREAS, Section 20-141(f) of the North Carolina General Statutes provides as follows:

Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State highway system (except those highways designated as part of the interstate highway system or other controlled-access highway), said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit; and

WHEREAS, speed restrictions established by the Asheboro City Council by means of the adoption of an appropriate ordinance are to be recorded in Schedule 16 of Chapter 72 of the Code of Asheboro; and

WHEREAS, on the basis of engineering and traffic investigations undertaken by the North Carolina Department of Transportation (the "NCDOT") in response to inquiries directed to that agency concerning the correct speed limit on Old North Carolina Highway 49 ("Old NC Hwy 49") as it merges onto North Carolina Highway 49 ("NC Hwy 49") at the western city limits of the City of Asheboro, the NCDOT has proposed raising the 35 miles per hour ("MPH") segment along Old NC Hwy 49 to 45 MPH to match the speed limit on NC Hwy 49; and

WHEREAS, the Asheboro City Council concurs with the opinion submitted by NCDOT that the proposed change in the speed limit would provide a safer condition for motorists to merge from both roadways and then, upon merging, both lanes would begin the reduction to 35 MPH at the same point;

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

Section 1. The speed limit for cars and trucks on North Carolina Secondary Road 1193 (Old NC Hwy 49) shall be 45 MPH from a point 0.68 of a mile east of North Carolina Secondary Road 1160

(Jason Hoover Road) eastward to NC Hwy 49, the existing speed limit on NC Hwy 49 will remain unchanged.

Section 2. The speed limit declared by this Ordinance shall become effective upon adoption of a concurring ordinance by the NCDOT and the erection of signs giving notice of the authorized speed limit.

Section 3. The city clerk shall amend Schedule 16 of Chapter 72 of the Code of Asheboro to reflect the above-stated change in the speed limit.

Section 4. All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 10th day of March, 2016.

/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

(e) Announcement of the 2016 cycle of the Essential Single-Family Rehabilitation Loan Pool (ESFRLP16) offered by the North Carolina Housing Finance Agency and status report on the 2015 Urgent Repair Program.

Mr. Nuttall highlighted that the North Carolina Housing Finance Agency is currently accepting applications for the Essential Single-Family Rehabilitation Loan Pool (ESFRLP16) and that, the city is looking to partner with other agencies within Randolph County to apply for funds in order to assist citizens (residing within the county) in essential repairs to their homes. The Loan Pool would only be available to assist in the repairs to owner-occupied homes with low to moderate income. The households must meet certain income criteria (households with less than 80% annual median income).

The program is specifically targeted to assist the elderly, disabled citizens, veterans, and children who are exposed to lead hazards. Randolph County is one of 34 counties in the current cycle that is eligible to apply for funding beginning at \$175,000. Applications for funding will be submitted in May 2016.

Additionally, Mr. Nuttall updated the council on the 2015 Urgent Repair Program. Currently, the North Carolina Housing Finance Agency has awarded \$50,000 for the Urgent Repair Program, and the city has provided \$5,000 in order to assist eligible citizens residing within the city's corporate limits with certain home repairs. Currently, seven recipients have been selected using the city's adopted assistance policy. Bids have been received from contractors, and final terms have been negotiated on two homes. Work is expected to begin later in March 2016. The average home repair is approximately \$7,100 with the remainder of the funding allocated for program administration.

No formal action was taken by the council on this agenda item because this update of staff activities was on the agenda for informational purposes only. The visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

7. Public comment period.

Mayor Smith opened the floor for public comments.

Ms. Tammy O'Kelley presented comments in support of the N.C. Zoo and the Connect NC Bond.

Mr. Bill Ballentine presented comments in support of plans for a new building for the Asheboro Police Department. Mr. Ballentine asked the council to consider planning and budgeting for the new building soon. In response to Mr. Ballentine, Mayor Smith said that the council would take into consideration his comments and concerns.

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

8. Engineering Items:

- (a) **A petition received from Habitat for Humanity of Randolph County requesting the annexation of a parcel of land located at 832 Peachtree Street.**
 - (i) **Consideration of a resolution authorizing the investigation and potential certification of the petition requesting annexation.**

Mr. Leonard presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate the sufficiency of an annexation petition submitted by Habitat for Humanity for the voluntary annexation of approximately 0.63 of an acre of land located on Peachtree Street.

Upon motion by Mr. Burks and seconded by Mr. Moffitt, Council voted unanimously to adopt the following resolution by reference. Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

RESOLUTION NUMBER _____ 04 RES 3-16

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE SUFFICIENCY OF AN ANNEXATION PETITION SUBMITTED BY HABITAT FOR HUMANITY OF RANDOLPH COUNTY

WHEREAS, Habitat for Humanity of Randolph County (hereinafter referred to as the "Petitioner") has submitted a petition requesting the annexation by the City of Asheboro of a parcel of land owned by the Petitioner and identified by Randolph County Parcel Identification Number 7751578743; and

WHEREAS, the territory for which annexation is requested is contiguous with the existing primary corporate limits of the City of Asheboro; and

WHEREAS, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

WHEREAS, in response to this petition, the Asheboro City Council has decided to proceed with the statutorily prescribed voluntary annexation proceedings;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the city clerk is directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the city's governing board the results of her investigation.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 10th day of March, 2016.

/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

With the adoption of the above-stated Resolution, the following certificate provided the basis for further action by the council:

CERTIFICATE OF SUFFICIENCY

(Petition from Habitat for Humanity of Randolph County to Annex a Parcel of Land Located beside Peachtree Street)

TO: The City Council of the City of Asheboro, North Carolina

I, Holly H. Doerr, CMC, NCCMC, City Clerk of the City of Asheboro, North Carolina, do hereby certify that, with the assistance of staff members in various city departments, I have investigated the petition that was executed by Ms. Wanda Pegg on behalf of Habitat for Humanity of Randolph County and submitted to the City of Asheboro for the purpose of requesting the annexation of a parcel of land owned by the non-

profit corporation and more specifically identified by Randolph County Parcel Identification Number 7751578743.

On the basis of the evidence obtained during the course of my investigation, I have concluded that all owners of real property lying in the area for which annexation has been requested have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the North Carolina General Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro, North Carolina in order to make this certification effective as of the 10th day of March, 2016.

(CITY SEAL)

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

(ii) Consideration of a resolution setting the date for a public hearing on the petition requesting annexation.

As a consequence of the receipt of written certification from the city clerk as to the sufficiency of said annexation petition, Mr. Leonard presented and recommended adoption, by reference, of a resolution setting the date for a public hearing on the question of annexation.

Upon motion by Mr. Burks and seconded by Mr. Moffitt, council voted unanimously to adopt the following resolution by reference. Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

RESOLUTION NUMBER 05 RES 3-16

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE QUESTION OF ANNEXING, AT THE REQUEST OF HABITAT FOR HUMANITY OF RANDOLPH COUNTY, A PARCEL OF LAND LOCATED ON PEACHTREE STREET

WHEREAS, Habitat for Humanity of Randolph County (the "Petitioner") properly submitted a petition requesting the annexation by the City of Asheboro of a parcel of land owned by the Petitioner and identified by Randolph County Parcel Identification Number 7751578743; and

WHEREAS, the Asheboro City Council directed, by resolution, the city clerk to investigate the sufficiency of the annexation petition submitted by the Petitioner; and

WHEREAS, on the basis of information gathered by city staff members during an investigation of the submitted petition, the city clerk certified to the city council the sufficiency of this petition as a basis for proceeding with setting the date for a public hearing on the question of annexation pursuant to Section 160A-31 of the North Carolina General Statutes;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina as follows:

Section 1. A public hearing on the question of annexing the area described herein will be held in the Council Chamber of Asheboro City Hall, which is located at 146 North Church Street, Asheboro, North Carolina 27203, during a regular meeting of the city council that will begin at 7:00 o'clock p.m. on the 7th day of April, 2016.

Section 2. The area proposed for annexation is described by metes and bounds as follows:
Asheboro Township, Randolph County, North Carolina:

BEGINNING on the existing primary city limits line for the City of Asheboro at a 5/8" new iron rod that is 6" up at the southeast corner of the Habitat for Humanity of Randolph County property described in Deed Book 2458, Page 1047, Randolph County Public Registry (this parcel of land is proposed for annexation and shall be hereinafter referred to as the "Annexation Parcel"), the said beginning point is South 70 degrees 42 minutes 48 seconds West 8.59 feet from a 1" existing iron pipe flush with the ground that is located by means of the North Carolina Coordinate System at the coordinates of North 717,785.87 feet and East 1,756,009.36 feet (NAD 83); thence from the said beginning point and following the existing primary city limits line by proceeding South 70 degrees 42 minutes 49 seconds West 56.44 feet along the southern boundary line for the Annexation Parcel to a 5/8" existing iron rod that is 1" up; thence continuing to follow

the existing primary city limits line and the southern boundary line of the Annexation Parcel the following courses and distances: South 70 degrees 42 minutes 57 seconds West 65.00 feet to a 5/8" existing iron rod 1" up; thence South 70 degrees 27 minutes 18 seconds West 39.70 feet to a 5/8" existing iron rod 1" down at the southwest corner of the Annexation Parcel; thence departing from the boundary line for the Annexation Parcel and proceeding along the existing primary city limits across the 60-foot public right-of-way for Peachtree Street (North Carolina Secondary Road 1484) the following course and distance: North 87 degrees 55 minutes 07 seconds West 60.00 feet to a point not set on the western margin of the public right-of-way for Peachtree Street; thence along the western margin of the public right-of-way for Peachtree Street, which is also the proposed new primary city limits line, the following course and distance: North 02 degrees 04 minutes 53 seconds East 151.60 feet to a point not set; thence along the proposed new primary city limits line and across the public right-of-way for Peachtree Street South 88 degrees 00 minutes 06 seconds East 60.00 feet to a 1/4" existing iron pipe 1" down in the eastern margin of the public right-of-way for Peachtree Street and located at the northwest corner of the Annexation Parcel (the said 1/4" existing iron pipe is located by means of the North Carolina Coordinate System at the coordinates of North 717,881.22 feet and East 1,755,854.73 feet (NAD 83)); thence proceeding along the northern boundary line of the Annexation Parcel, which is also the proposed new primary city limits line, the following course and distance: South 88 degrees 00 minutes 06 seconds East 149.94 feet to a 3/4" existing iron pipe flush with the ground at the northeast corner of the Annexation Parcel, this existing iron pipe is located by means of the North Carolina Coordinate System at the coordinates of North 717,875.99 feet and East 1,756,004.56 feet (NAD 83); thence continuing along the proposed new primary city limits line by following the shared boundary line between the Annexation Parcel and the Mary Frances Overman and Joseph Aaron Clark property described in Deed Book 2434, Page 887, Randolph County Public Registry the following courses and distances: South 01 degree 46 minutes 27 seconds West 61.94 feet to a 3/4" existing iron pipe 3" down; thence South 02 degrees 35 minutes 34 seconds West 31.09 feet to the point and place of BEGINNING, and containing a total of 27,452 square feet (0.63 of an acre) of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "ANNEXATION PLAT SURVEY FOR HABITAT FOR HUMANITY OF RANDOLPH COUNTY" that was drawn under the supervision of Charles E. Morgan, Jr., Professional Land Surveyor with Registration Number L-3945. The job number listed on the plat is 7474, and the said plat of survey's title block bears the date of February 25, 2016.

Section 3. Notice of the public hearing shall be published in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

This Resolution was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 10th day of March, 2016.

/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

(b) Consideration of a resolution requesting a legislative enactment to deannex certain property owned by Pamela Sue Vuncannon near Old N.C. Highway 49.

Mr. Leonard presented and recommended adoption, by reference, of a resolution requesting the removal of certain territory from the city limits by local act of the North Carolina General Assembly.

Upon motion by Mr. Bell and seconded by Mr. Swiers, council voted unanimously to adopt the following resolution by reference. Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

RESOLUTION NUMBER _____ **06 RES 3-16**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION REQUESTING THE REMOVAL OF CERTAIN TERRITORY FROM THE CITY LIMITS BY LOCAL ACT OF THE NORTH CAROLINA GENERAL ASSEMBLY

WHEREAS, Pamela Sue Vuncannon has requested of the Asheboro City Council the removal from the city limits of certain real property (approximately 19,861 square feet of land) that she obtained from Polyspray Corporation by means of a deed recorded in Deed Book 2341, Page 258, Randolph County Public Registry; and

WHEREAS, the real property that Ms. Vuncannon wishes to have removed from the city limits was annexed into the city in 1994 as part of a 51.72-acre annexation; and

WHEREAS, the expansion of municipal services to industry/manufacturing operations was the driving force behind the 51.72-acre annexation in 1994; and

WHEREAS, the sale of the property in question to a land owner that has no connection to the manufacturing operations in the area has removed the need for municipal services for this particular piece of property; and

WHEREAS, the Asheboro City Council supports Ms. Vuncannon in her effort to have the 19,861 square feet of land removed from Asheboro's city limits; and

WHEREAS, due to the fact that the city's governing board lacks the legal authority to deannex property, the Asheboro City Council has decided to request the assistance of the local legislative delegation to the North Carolina General Assembly with the introduction and passage of a local act to implement the deannexation requested by Ms. Vuncannon;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that a request is hereby respectfully submitted to the local legislative delegation to the North Carolina General Assembly for the introduction and support of a local act to remove from the city limits of the City of Asheboro the following territory that is described by metes and bounds:

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING on the existing primary city limits line for the City of Asheboro at a 3/4" existing iron pipe that is up 1" at the southeast corner of the Pamela Sue Vuncannon property described in Deed Book 2341, Page 258, Randolph County Public Registry (this tract of land is proposed for removal from the Asheboro City Limits and will be hereinafter referred to as the "Deannexation Tract"), the said beginning point is North 29 degrees 58 minutes 42 seconds West 679.77 feet from NCGS monument "Bingham" that is located by means of the North Carolina Coordinate System at the coordinates of North 703,571.16 feet and East 1,747,119.25 feet (NAD 83); thence from the said beginning point and following the proposed new primary city limits line South 86 degrees 25 minutes 02 seconds West 96.86 feet along the southern boundary line for the Deannexation Tract to a 1.5" existing iron rod that is up 2" at the southwest corner of the Deannexation Tract; thence departing from the southern boundary line of the Deannexation Tract and proceeding along the western boundary line of the territory to be removed from the city limits by following the shared boundary line between the Deannexation Tract and the Marcia H. Miller property described in Deed Book 1899, Page 2539 (Tracts 1 & 2), Randolph County Public Registry the following course and distance: North 00 degrees 11 minutes 13 seconds East 192.56 feet to a 1/2" existing iron pipe up 7" at the northwest corner of the Deannexation Tract; thence departing from the western boundary line for the Deannexation Tract and following the shared boundary line between the Deannexation Tract and the Pamela Sue Vuncannon property described in Deed Book 1618, Page 671, Randolph County Public Registry the following courses and distances: South 87 degrees 58 minutes 06 seconds East 46.61 feet to a computed point; thence North 36 degrees 01 minute 44 seconds East 84.59 feet to a 3/4" existing iron pipe up 2" at the northeast corner of the Deannexation Tract; thence departing from the northern boundary line of the Deannexation Tract and proceeding along the shared boundary line of the Deannexation Tract and the Dumont Bunker property described in Deed Book 1911, Page 2210, Randolph County Public Registry the following course and distance: South 00 degrees 03 minutes 56 seconds West 253.26 feet to the point and place of BEGINNING, and containing a total of 19,861 square feet (0.456 of an acre) of land, more or less, to be removed from the city limits of the City of Asheboro.

The above-listed description is in accordance with a plat of survey entitled "Plat of Proposed Deannexation of Certain Territory at the Request of the City of Asheboro(:) Property of Pamela Sue Vuncannon" that was drawn under the supervision of Thomas Scaramastra, Professional Land Surveyor with License Number L-4421. The job number listed on the plat is 16-004, and the said plat of survey's title block bears the date of February 9, 2016.

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro, North Carolina that city staff members are hereby authorized to undertake all administrative actions deemed necessary to implement the provisions of this Resolution, specifically including without limitation engaging in discussions and correspondence on behalf of the municipal corporation with members of the local delegation and the legislative bill drafting office, to facilitate timely consideration of the proposed removal of territory from the city limits of Asheboro.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 10th day of March, 2016.

_____/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

9. Discussion of support of an anti-tethering ordinance.

Ms. Lena Kellar, a volunteer with the Humane Society of Randolph County, offered comments in support of an anti-tethering ordinance. Ms. Kellar felt that the implementation of an anti-tethering ordinance would solve many animal control issues.

Ms. Kellar's written comments that were submitted to the council are on file in the city clerk's office.

10. Presentation of an ordinance to include anti-tethering provisions in the Code of Asheboro.

Mr. Russell Lataille, Jr., who is the Animal Control Supervisor, presented and recommended adoption, by reference, of an ordinance to strengthen the protection provided by the Code of Asheboro against the tethering of dogs.

During discussion, Mayor Smith allowed time for comments from the public in regards to the proposed anti-tethering provisions. Ms. Renee Bryant, Ms. Marlene Oxendine, Ms. Donna Hughes, and Mr. Bill Ballentine presented comments and concerns pertaining to the proposed provisions.

Upon motion by Mr. Bell and seconded by Ms. Carter, council voted unanimously to adopt the following ordinance by reference. With this motion, Mr. Bell asked that city staff consider strengthening the city's provisions on the seizure of animals as an enforcement mechanism in response to violations of the Animal Control Ordinance. With the general consensus of the council, city staff will research and explore certain provisions pertaining to the seizure of animals as an enforcement measure for consideration during a meeting to be held later in the year.

Council members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

ORDINANCE NUMBER _____ **05 ORD 3-16**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**ORDINANCE TO STRENGTHEN THE PROTECTION PROVIDED BY THE CODE OF ASHEBORO
AGAINST THE TETHERING OF DOGS**

WHEREAS, Section 160A-174(a) of the North Carolina General Statutes (references to the North Carolina General Statutes will be hereinafter cited with "G.S." in front of the relevant section or chapter/article number) authorizes the Asheboro City Council to utilize its ordinance making authority to exercise the general police power delegated to the city by the North Carolina General Assembly to define, prohibit, regulate, or abate acts, omissions, or conditions that are detrimental to the health, safety, or welfare of the city's inhabitants and the peace and dignity of the city; and

WHEREAS, G.S. 160A-182 specifically authorizes the Asheboro City Council, by means of the adoption of an ordinance, to exercise the delegated general police power to define and prohibit the abuse of animals; and

WHEREAS, G.S. 160A-186 specifically authorizes the Asheboro City Council, by means of the adoption of an ordinance, to exercise the delegated general police power to regulate, restrict, or prohibit the keeping, running, or going at large of any domestic animals, specifically including dogs and cats; and

WHEREAS, in furtherance of public safety and in order to improve the city's efforts to prevent the abuse of dogs, the Asheboro City Council has decided to amend the city's animal control regulations by strengthening the protection afforded to dogs against tethering;

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

Section 1. Chapter 91 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 91.01 PURPOSE AND TITLE

- (A) Pursuant to authority granted by the North Carolina General Assembly, this animal control chapter is enacted to regulate, restrict, or prohibit, if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild, or exotic animals; to make unlawful certain acts of animals that interfere with the enjoyment of property or the peace and safety of the city; to protect animals from abuse or conditions harmful to their well-being; and to carry out any other lawful duties authorized by state laws and applicable ordinances.
- (B) Animal control functions are to be performed by city personnel in partnership with the Randolph County Health Department which conducts animal control operations in accordance with the applicable federal and state laws and in accordance with the county animal control ordinance.
- (C) This chapter has been adopted in order to accomplish the above-stated purposes by enacting an animal control ordinance that is enforced by city personnel and is tailored to address the animal control issues that arise in the more densely populated urban setting of the city.
- (D) This chapter may be referred to as the "City of Asheboro Animal Control Ordinance."

§ 91.02 JURISDICTION

This chapter applies within the corporate limits of the City of Asheboro and upon and within all property owned by the city.

§ 91.03 DEFINITIONS

For the purposes of this chapter, the following words and phrases are defined and shall be construed as set out below, unless it is apparent from the context that a different meaning is intended:

- (1) *Abandon* means to intentionally, knowingly, recklessly, or negligently leave an animal at a location for more than 48 consecutive hours without providing for the animal's continued care;
- (2) *Adequate feed* means the provision at suitable intervals of a quantity of wholesome foodstuff that is suitable for the species and age of each animal and is sufficient to maintain a reasonable level of nutrition in each animal;
- (3) *Adequate shelter* means an enclosure sufficient to provide shelter from extremes of weather and a means to remain cool, dry, and comfortable;
- (4) *Adequate water* means the provision of, or ready access to, a supply of clean, fresh, potable water provided in a sanitary manner 24 hours a day;
- (5) *Animal* means every vertebrate nonhuman species of animal, wild or domestic, male or female, including, but not limited to, dogs, cats, livestock and other mammals, domestic fowl, birds, reptiles, amphibians, and fish;
- (6) *Animal control officer* means persons charged by the city with enforcing all sections of this chapter and applicable state laws pertaining to animal control;
- (7) *Animal control shelter* means any holding or other facility designated by the city manager, or designee, for the detention of animals;
- (8) *Animal under restraint* or *under restraint* means any animal confined within a vehicle; any animal confined by means of a secure enclosure or an electronic enclosure within the real property limits of its owner; or any animal secured by leash or lead, cage, bridle, or similar physical restraint sufficient to allow the animal to be controlled. Electronic leashes or training collars do not constitute restraint;
- (9) *At large* means any animal found off of the property of its owner and not under restraint; any animal previously determined to be dangerous or potentially dangerous that is not under restraint when off the property of its owner or is not confined to a secure enclosure while on the property of its owner; and any animal off the owner's property and on an electronic leash or training collar;
- (10) *Bite* means the act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh;
- (11) *Business days* means Monday through Friday, inclusive, and excluding local, state, and national legal holidays;

- (12) *Cats* means domestic felines;
- (13) *Chicken* means any of the common domestic birds or fowl of the species *Gallus gallus domesticus* whose eggs or flesh are used for food (also referred to as "poultry"). The female bird is called a "hen;"
- (14) *County animal control ordinance* means the ordinance entitled "An Ordinance Governing the General Control of Animals in Randolph County" that was adopted by the Randolph County Board of Commissioners on January 10, 2000, and subsequently amended on June 5, 2000, September 5, 2000, March 11, 2002, July 7, 2003, August 4, 2003, October 4, 2004, January 7, 2008, July 7, 2008, and July 11, 2011. Pursuant to G.S. § 153A-122 and Asheboro City Council Resolution Number 12 RES 3-12, the said county animal control ordinance, including any future amendments that may be made to the county ordinance by the Randolph County Board of Commissioners, is applicable within the corporate limits of the City of Asheboro;
- (15) *Dangerous dog* means any dog that, without provocation, has killed or inflicted severe injury on a person or killed or inflicted severe injury upon a domestic animal when not on the owner's real property, or approached a person when not on the owner's real property in a vicious or terrorizing manner in an apparent attitude of attack;
- (16) *Dog* means domestic canines;
- (17) *Domestic animal* means those species of animals that normally and customarily share human habitat in Randolph County and are normally dependent on humans for food and shelter in Randolph County, such as but not limited to cats, dogs, cattle, horses, swine, domestic fowl, sheep, and goats;
- (18) *Domestic fowl* shall include, but not be limited to, turkeys, geese, chickens, peacocks, guinea fowl, or ducks;
- (19) *Electronic enclosure* means underground electrical wire which, when used in connection with a pet collar or other device, keeps cats or dogs confined within the limits of the wire on private property. A sign giving notice that an electronic fence is in use must be posted in a manner that complies with the requirements of the city's sign ordinance at some location on the property that is visible from the public right-of-way;
- (20) *Exotic mammals* means all mammals designated by the Centers for Disease Control and Prevention, Department of Agriculture, or other federal or state public health protection agencies as embargoed or prohibited under legal protection orders. No reference or regulation in this chapter applies to exotic mammals under the control of the North Carolina Zoological Park;
- (21) *Exotic reptiles* means all reptiles not native to North Carolina. No reference or regulation in this chapter applies to exotic reptiles under the control of the North Carolina Zoological Park;
- (22) *Immediately* means at once, very close in time;
- (23) *Impoundment, Impound, Impounded, or Impounding* are all terms utilized in this chapter to mean the possession or seizure of an animal or animals by the animal control unit for placement in the animal control shelter or other appropriate facility;
- (24) *In estrus* means a female animal in what is commonly called "heat" or "in season;"
- (25) *Inoculation* means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator;
- (26) *Kennel, dealer, or breeder* means any person, partnership, limited liability company, corporation, or other type of legal entity engaged in buying, selling, breeding, or boarding animals;
- (27) *Livestock* shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine as set forth in G.S. Ch. 68, Art. 3;
- (28) *Nighttime* means the time each day from sunset until sunrise;
- (29) *Owner* means any person, group of persons, or any type of legal entity owning, keeping, harboring, possessing, or acting as keeper or custodian of an animal for 72 hours or more, unless the animal is boarded for a fee at a duly licensed facility;
- (30) *Owner's property* means any real property owned or leased by the owner of the animal, but does not include any public right-of-way or a common area of a condominium, cluster home, apartment complex, or townhouse development, nor does it include the common area of a subdivision or other housing project. A motor vehicle is not a part of the owner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle

that is physically located in or on any common areas as described above, or on any other public areas shall be treated as being off of the owner's property;

- (31) *Person* means and includes any individual or any legal entity, including nonprofit corporations;
- (32) *Provocation* does not include any actions on the part of an individual that pertain to reasonable efforts of self-defense, and provocation must be clearly established;
- (33) *Secure enclosure* means an enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. Neither a motor vehicle nor an electronic enclosure shall constitute a secure enclosure;
- (34) *Tethering* means the act of tying, chaining, or restraining a dog to a fixed object with a rope, chain, or other device in order to keep the dog confined;

~~(34)~~ (35) *Trespass* means that the victim has wrongfully invaded the property of the owner. The reason the individual is on the property and any other relevant circumstances shall be considered in order to determine whether or not a trespass has occurred. A child under the age of seven shall not be deemed to be a trespasser; and

~~(35)~~ (36) *Wild and dangerous animals* means animals of the cat, bear, and wolf species and nonhuman primates that are normally born and live in wild habitat, even though such species may be raised and kept in captivity. No reference or regulation in this chapter applies to wild and dangerous animals that are under the control of the North Carolina Zoological Park.

§ 91.04 ADMINISTRATION OF ANIMAL CONTROL SERVICES

- (A) The city police department is responsible for the enforcement of this chapter through the department's animal control unit (sometimes referred to as the "unit") and the nonsworn animal control officers employed therein. All of the police department's sworn officers and nonsworn animal control officers shall have all powers, responsibilities, and immunities granted by law and this chapter.
- (B) The chief of police ("chief") shall be the chief animal control officer charged with enforcing this chapter. The chief is authorized to initiate legal action to enforce this chapter. The chief may delegate any of the powers granted herein to any member of the animal control unit or the police department. Any act done by an animal control officer or a member of the police department that is within the scope of this chapter shall be considered the official act of the chief.
- (C) The nonsworn animal control officers referenced above in division (A) are not authorized to carry on their person any firearms, but they are authorized to store at the animal control unit offices, or carry in departmental vehicles, firearms approved for use when necessary to enforce the provisions of this chapter or other applicable laws for the control of wild, vicious, dangerous, or diseased animals. The nonsworn animal control officers are authorized to store drugs, chemicals, and equipment at the animal control unit offices as necessary to enforce the provisions of this chapter or other applicable laws for the control of wild, vicious, dangerous, or diseased animals. The nonsworn animal control officers shall not have the power of arrest, but shall have all rights, powers, and immunities as described in this chapter. Due to the fact that the nonsworn members of the unit only have that limited authority described in this chapter, these members of the police department shall not be considered police officers or sworn law enforcement officers for purposes of evaluating the animal control officers' eligibility for benefits provided to sworn law enforcement officers.

§ 91.05 GENERAL RESPONSIBILITIES OF ANIMAL CONTROL UNIT; PERSONAL LIABILITY OF MUNICIPAL OFFICERS, AGENTS, EMPLOYEES

- (A) The animal control unit is hereby authorized and directed to undertake and discharge the following responsibilities:
 - (1) Enforcing and carrying out within the city the provisions of this chapter, any other ordinance assigning animal control duties, and all relevant state laws in addition to coordinating and cooperating with the Randolph County Health Department and other law enforcement agencies in so doing;
 - (2) Canvassing the city, including dwellings, businesses, and institutions located within the city as necessary and practical, for the purpose of ascertaining that all dogs and cats in the city are adequately inoculated against rabies and for the purpose of ascertaining compliance with this chapter and state statutes;
 - (3) Investigating complaints with regard to animals covered by this chapter and protecting animals from abuse;

- (4) Seizing, relocating, and/or impounding, when necessary, any animals in the city involved in a violation of this chapter or any other ordinance or state law. In addition, employees may scan the animal and utilize any information that may be available through a microchip to locate the owner of the animal, if possible;
 - (5) Keeping, or causing to be kept, accurate records of seizures, relocations, impoundments, dispositions of animals coming into the custody of the animal control unit, violations, complaints, investigations, and monies collected; and
 - (6) Issuing citations and orders and assessing civil penalties for violations of this chapter and when otherwise authorized by law.
- (B) Except as may be otherwise provided by federal or state law, no officer, agent, or employee of the city charged with the duty of enforcing the provisions of this chapter or other applicable law shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties.

§ 91.06 INSPECTIONS AND PROHIBITION OF INTERFERENCE WITH ANIMAL CONTROL OFFICERS

- (A) Whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, or other applicable law, or whenever an animal control officer has reasonable cause to believe that there exists in any building or upon any premises any violation of this chapter or other applicable law, the animal control officer is empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon them by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or an administrative search warrant or criminal search warrant is obtained as follows:
- (1) If such property is occupied, the animal control officer shall first present credentials to the occupant and request entry, explaining the reasons for the request; or
 - (2) If such property is unoccupied, the animal control officer shall first make a reasonable effort to locate the owner or other persons having control of the property, present proper credentials, and request entry, explaining the reasons for the request; and
 - (3) If entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be found after due diligence, an animal control officer may obtain an appropriate warrant to conduct a search or inspection of the property or seizure on the property. Notwithstanding any other provision of this chapter, and so long as the animal control officer's actions are consistent with federal and state Constitutional and statutory protections afforded to persons and their property, an animal control officer shall have the authority to enter upon any land to enforce the provisions of this chapter, specifically including the seizure of animals running at large or to take enforcement action due to any other violation of an applicable animal control law if the violation of such a law is being committed in the presence of the officer and requires immediate action on the part of the officer to protect the health or safety of the animal or the public. In the case of animals at large, so long as the animal is within sight of the officer, this section shall not be interpreted to require that a warrant be obtained before seizing the animal.
- (B) It shall be unlawful for any person to interfere with, hinder, resist, or obstruct employees of the animal control unit while they are carrying out any duty created under this chapter or other applicable animal control law.
- (C) It shall be unlawful for any person to conceal from any employee of the animal control unit any animal for the purpose of evading the requirements of this chapter or any other applicable animal control law.
- (D) It shall be unlawful for any person to refuse to show, upon request, proof of a required rabies inoculation to any employee of the animal control unit.
- (E) It is unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the animal control unit, except as otherwise specifically provided in this chapter. An animal captured in a trap set by the animal control unit shall be deemed to be in the custody of the animal control unit.

§ 91.07 IMPOUNDMENT

- (A) In performing the duties assigned by this chapter, the chief may impound any seized animal. The chief may also impound any animals released by their owners to the city.
- (B) If an animal is impounded for any reason other than the voluntary release of the animal by the owner to the city, the chief will use all reasonable means to promptly notify the owner(s) of the impoundment of the animal.

- (C) The processing, release, and euthanasia, if necessary, of impounded animals delivered to the animal shelter shall be conducted in strict compliance with the county animal control ordinance and any regulations established by the Randolph County Health Director.

§ 91.08 BIRD SANCTUARY CREATED

- (A) The territory embraced within the corporate limits of the city and all lands owned by the city outside of the corporate limits are hereby designated as a bird sanctuary.
- (B) Within the bird sanctuary established by division (A) of this section, it shall be unlawful for any person to intentionally hunt, kill, trap, or otherwise take any native wild birds.
- (C) Notwithstanding the provisions of divisions (A) and (B) of this section, the protection afforded to native wild birds within the established sanctuary does not extend to the following situations:
- (1) No bird classed as a pest under G.S. Ch. 113, Art. 22A and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971 is protected;
 - (2) A person may hunt, kill, trap, or otherwise take any bird pursuant to a permit issued by the North Carolina Wildlife Resources Commission under G.S. § 113-274(c)(1a) or under any other license or permit of the Wildlife Resources Commission specifically made valid for use in taking birds within the city limits; and
 - (3) The use of a firearm for hunting ducks and dark geese (includes Canada geese and white-fronted geese) is permitted at Lake Reese when such hunting is undertaken in compliance with § 91.10 of the Code of Asheboro.

§ 91.09 SIGNS ERECTED BY BIRD CLUBS

Bird clubs in the city are hereby granted permission to erect artistic signs, giving notice of the regulations provided in this chapter, at such places and of such design as may be approved by the Public Works Director.

§ 91.10 USE OF FIREARMS AT LAKE REESE

- (A) In its discretion, the city council may approve specific date(s) and time(s) each year when the hunting of ducks and dark geese (including Canada geese and white-fronted geese) is allowed upon the waters of Lake Reese.
- (B) During the date(s) and time(s) of the hunting season authorized by the city council in accordance with division (A) of this section, the use of a gun for the limited purpose of hunting ducks and dark geese (including Canada geese and white-fronted geese) upon the waters of Lake Reese is permitted. Any guns and ammunition used for such hunting shall comply with all applicable state and federal regulations.

§ 91.11 HUNTING PROHIBITED ON PROPERTY BEYOND THE CITY LIMITS

- (A) No person shall intentionally hunt, trap, or snare, with or without firearms, animals on any city-owned property that is located outside the city limits.
- (B) Notwithstanding division (A) of this section, the following activities are permitted on city-owned property located outside the city limits:
- (1) Fishing that is conducted in accordance with all applicable federal, state, and local statutes, ordinances, and regulations, specifically including without limitation the regulations adopted by the city's recreation services department, is permitted upon the waters of Lake Reese and Lake Lucas;
 - (2) Duck and dark geese (including Canada geese and white-fronted geese) hunting is permitted upon the waters of Lake Reese only during the date(s) and time(s) established by the City Council prior to the season opening each year; and
 - (3) City employees and/or contractors may hunt, trap, or snare animals in compliance with the adopted rules and regulations of the North Carolina Wildlife Resources Commission when such action is deemed necessary by the city manager in order to ensure the safe and efficient operation of city-owned infrastructure.

§ 91.12 ABANDONED ANIMALS

- (A) It shall be unlawful for any person owning, possessing, or harboring an animal to abandon that animal.

- (B) If the animal control unit finds that an animal has been abandoned, the animal may be impounded. If the animal has been abandoned in a house or within a fenced area, the unit must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal owner, then the unit shall secure permission to remove the animal from the person who occupies the property. If the person who occupies the property is the animal owner and cannot be located or refuses to give permission to remove the animal, the animal control officer shall secure an appropriate warrant to seize the animal.
- (C) An animal seized pursuant to this section shall be impounded as provided in § 91.07.

§ 91.13 WILD AND DANGEROUS ANIMALS

- (A) It is unlawful for any person to possess or harbor a wild and dangerous animal or their hybrids.
- (B) Wild and dangerous animals privately owned and maintained within the city limits on or before April 1, 2012 may remain in the city, but such wild and dangerous animals must be registered with the animal control section of the Randolph County Health Department. Furthermore, at the time of registration, owners must submit a recapture plan in the event their animal escapes. Breeding or allowing the reproduction of wild and dangerous animals is prohibited.
- (C) Escapes of wild and dangerous animals must be immediately reported to 911 emergency communications.
- (D) Owners are liable for costs to agencies associated with the recapture of an escaped wild and dangerous animal.
- (E) In order for the owner of a wild and dangerous animal registered in compliance with division (B) of this section to lawfully house such an animal within the city, strict compliance must be maintained at all times with the following requirements:
 - (1) The enclosure housing the animal must securely contain the animal, including secondary containment from escape;
 - (2) The enclosure housing the animal must be adequately ventilated, cooled, heated, lighted, and constructed so that it may be kept in a clean and sanitary condition;
 - (3) The enclosure housing the animal must be compliant with the Asheboro Zoning Ordinance;
 - (4) The physical and psychological health and well-being of the animal must not be endangered by the manner of confinement;
 - (5) The keeper/caregiver must have adequate knowledge of the nutritional, physical, and behavioral needs of the species in his or her care; and
 - (6) The owner/caregiver must be able to identify the veterinarian providing medical care for the animal.

§ 91.14 EXOTIC REPTILES

- (A) Individuals must be greater than 18 years of age to own a venomous exotic reptile or an exotic reptile weighing in excess of 40 pounds.
- (B) Owners are required to report to 911 emergency communications any escapes of venomous exotic reptiles and exotic reptiles weighing in excess of 40 pounds.
- (C) It is unlawful for exotic reptiles to run loose unsupervised.
- (D) Owners are required to register venomous exotic reptiles with the animal control section of the Randolph County Health Department which notifies 911 emergency communications of the location of venomous reptiles in order to protect rescue workers and the public during any emergency situations.
- (E) Owners are liable for costs to agencies associated with the recapture of an escaped exotic reptile.

§ 91.15 EXOTIC MAMMALS

- (A) It is unlawful for any person to possess, sell, or harbor an exotic mammal or their hybrids.
- (B) Exotic mammals privately owned prior to any embargo or protection orders may remain in the city if so allowed by the order, but such animals must be registered with the animal control section of the Randolph County Health Department.
- (C) Breeding or allowing the reproduction of exotic mammals is prohibited.

§ 91.16 ANIMAL BITE AND NOTIFICATION; RABIES CONTROL

- (A) It is unlawful for an animal to bite a human being who does not ordinarily reside on the premises of the animal unless the animal has been subject to provocation or unless the victim has been trespassing.
- (B) It is unlawful for a person to fail to report to the animal control unit as soon as possible that an animal has bitten a person.
- (C) It is unlawful for any person to fail to inform the animal control unit of the location to which an animal that has bitten a human being has been taken if the owner has given the animal away, or caused in any way the animal to be taken from the owner's premises.
- (D) The animal control unit shall ensure that all bite notifications are forwarded to the Randolph County Health Department and shall fully cooperate, assist, and strictly comply with all of the rabies control measures required by all applicable state laws and regulations, the county animal control ordinance, specifically including without limitation the county ordinance's quarantine and confinement/destruction measures, and any orders issued by the Randolph County Health Director.
- (E) In furtherance of the prevention component of rabies control, the following prevention measures are required. It is unlawful for an owner to fail to comply with the following requirements:
 - (1) In accordance with state law, the owner of every dog, cat, and ferret over four months of age shall have the animal vaccinated against rabies. The time or times of vaccination shall be established by the North Carolina Commission for Health Services, or any successor entity to this Commission;
 - (2) As required by G.S. 130A-190(a), dogs and cats shall wear rabies vaccination tags at all times. The rabies vaccination tag shall show the year issued, a vaccination number, the words "North Carolina" or the initials "N.C.," and the words "rabies vaccine;" and
 - (3) Ferrets are not required to wear the rabies inoculation tags, but the owner of a ferret shall maintain the tag or the rabies vaccination certificate as written evidence to prove the ferret has a current rabies inoculation and shall produce such tag or certificate as requested by animal control and as otherwise required by law.

§ 91.17 DANGEROUS DOGS

- (A) In order to fully and effectively implement the provisions of G.S. Ch. 67, Art. 1A pertaining to dangerous dogs, the Randolph County Health Director is hereby designated as the person responsible for determining within the city when a dog is dangerous or potentially dangerous. The appeals board to hear any appeal from such a decision by the Randolph County Health Director is the appeals board established pursuant to and in accordance with the county animal control ordinance.
- (B) Any and all additional requirements established in the county animal control ordinance for dangerous and potentially dangerous dogs are to be fully implemented within the city.
- (C) The chief is to provide full cooperation and assistance to the Randolph County Health Director with implementing G.S. Ch. 67, Art. 1A and the county animal control ordinance in relation to dangerous dogs and potentially dangerous dogs.

§ 91.18 NUISANCE ANIMALS

- (A) It is unlawful for any person to own, keep, possess, harbor, or maintain an animal or group of animals in such a manner as to unreasonably annoy humans, endanger the life or health of other persons or animals, or substantially interfere with the rights of other citizens to the enjoyment of life or property. By way of example and not of limitation, the following activities are hereby declared to be a public nuisance and are, therefore, unlawful:
 - (1) Allowing an animal to get into or turn over waste or garbage containers;
 - (2) Allowing an animal to repeatedly walk on or sleep on the automobile of another;
 - (3) Allowing an animal to damage the real or personal property of anyone other than its owner;
 - (4) Allowing an animal to repeatedly be or run at large;
 - (5) Maintaining an animal in an unsanitary condition so as to render the animal noxious or offensive to sight or smell;
 - (6) Not confining an animal to a building or secure enclosure while the animal is in estrus;

- (7) Maintaining an animal that is vicious or failing to effectively prevent an animal from chasing, snapping at, attacking, or otherwise molesting others, including pedestrians, bicyclists, motor vehicle passengers, or domestic animals;
 - (8) Allowing or permitting an animal or group of animals to make frequent or long continued sounds, including barking, whining, screeching, calling, howling, or yowling in an excessive, continuous, habitual, or untimely fashion; or to make other noise in such a manner and at such intervals so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises (such sounds shall be collectively referred to as "annoying sound"). For illustrative purposes and without limitation, any such sound made by cats or dogs for more than 15 minutes during any 30 minute period shall be deemed to be an annoying sound. The normal clucking of chickens that are otherwise kept in accordance with the provisions of the Code of Asheboro shall not constitute an annoying sound. Any person owning, using, or possessing premises affected by an annoying sound ("person annoyed by sounds") shall follow the procedures specified in division (E) below;
 - (9) Housing or restraining an animal less than five feet from a public street, road, or sidewalk such that the animal, without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right of way, or the location of the animal poses a threat to the general safety, health, and welfare of the general public;
 - (10) Keeping an animal that is diseased and creating a threat to the public health; and
 - (11) Keeping or maintaining an animal or group of animals in such a manner as to attract excessive insects, pests, rodents, raccoons, snakes, or other wild animals.
- (B) Upon the initiative of an animal control officer or upon receipt of a detailed complaint made to the animal control unit by any of the city's residents that any person is maintaining a nuisance animal or animals, the animal control unit may cause the owner of the animal or animals in question to be notified that a complaint has been received and may cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating animal control officer. Notwithstanding any other provision in this section, any person other than an animal control officer who wants to initiate a complaint pertaining to a nuisance animal or group of animals engaged in the activity described in division (A)(8) above shall follow the procedures specified in division (E) below.
- (C) If the written findings of the investigating animal control officer indicate that the complaint is justified, then the chief or designee shall cause the owner or keeper of the animal or animals in question to be so notified in writing, served by personal delivery or by certified mail, return receipt requested, and ordered to abate such nuisance within a reasonable time that is not to exceed 7 days after notification. A citation may, in the discretion of the animal control unit, be issued at the same time for a violation of this chapter or any other animal control law. The chief may specify the particular abatement measures that must be taken, which measures may include, but are not limited to, a requirement that the animal be penned or that a secure enclosure be erected or improved. In the event the owner of the animal is unknown and cannot be ascertained, the notice and order, along with a general description of the animal, shall be published in a local newspaper.
- (D) If any person actually or constructively receiving notice in the manner herein described shall fail or refuse to abate the nuisance upon order of the chief within the specified time, the chief may cause any of the remedies and enforcement measures authorized by this chapter to be utilized in order to bring about an abatement of the nuisance.
- (E) If a complaint pertains to annoying sound, the person annoyed by the sound shall follow the procedures specified below:
- (1) Upon receipt of a detailed written and signed complaint by the person annoyed by the sound, the animal control unit shall provide written notice to the owner or possessor of the premises on which the animal(s) making an annoying sound is maintained ("animal owner") that a complaint has been received about the animal's (animals') annoying sound. The notice shall detail the complaint and may make suggestions on ways to correct the situation;
 - (2) Upon receipt of such notice of complaint, the animal owner shall cure the violation. If the violation is not cured, or if a second complaint is made to the animal control unit about the same animal(s) within any 6 month period, the animal control unit shall cause the animal owner to be served with an order to abate the annoying sound within a reasonable period of time, not to exceed 7 days ("Abatement Order"). Such notice shall be served by personal delivery or by certified mail, return receipt requested; and
 - (3) If the original complainant, or any other affected person notifies the animal control unit that the animal owner has failed or refuses to abate the annoying sound as provided in the

Abatement Order, the animal control unit shall investigate and may utilize any of the remedies and enforcement measures authorized by this chapter to bring about an abatement of the nuisance.

- (F) Nothing in this section shall prevent a private citizen from bringing an action at any time against an animal owner.

§ 91.19 DISPOSAL OF CARCASSES

The bodies of dead animals, or the parts of any dead animals, shall be removed from the city immediately or no later than 24 hours of known death and shall be disposed of by incineration, burial, or transportation to a rendering plant. If a carcass is buried, it shall be buried at a depth of not less than 3 feet below the surface of the ground and shall not be buried within 300 feet of a stream or body of water.

§ 91.20 ANIMAL ABUSE PROHIBITED

- (A) All animals shall be kept and treated under sanitary and humane conditions, and it shall be unlawful for any owner to engage in one or more of the following acts:

- (1) Failing to provide adequate feed, water, and shelter for an animal;
- (2) Confining an animal in a storage room, shed, or other building without proper ventilation and access to natural light;
- (3) Failing to keep an animal under sanitary and humane conditions that promote the animal's health and general welfare and which maintain a condition of good order and cleanliness that reduces the possibility of the transmission of disease;
- (4) Failing or refusing to provide adequate medical attention for any sick, diseased, or injured animal;
- (5) Poisoning or exposing a domestic animal to any known poisonous substance or mixing a poisonous substance with food so that it will likely be eaten by a domestic animal. This prohibition does not include attempts or acts of persons to lawfully rid their own property of mice or rats or other vermin, nor does it include other acts permitted by the North Carolina Wildlife Resources Commission;
- (6) Allowing a collar, rope, or chain to become embedded in or cause injury to an animal's neck, or allowing a choke or pinch collar to be used as a primary collar on an unsupervised animal;
- (7) Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably, or having access to adequate food, water, and shelter; and
- (8) Placing or confining an animal or allowing an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability, or death.

(B) Subject to the following divisions that contain limitations and clarifications of the general prohibition found in this subsection, the tethering of one or more dogs as a method of keeping the dog(s) on the owner's or owners' property is unlawful:

- (1) The owner(s) may tether a dog or dogs for a reasonable period of time to allow for waste elimination;**
- (2) The owner(s) may tether a dog or dogs on a runner for a reasonable period of time to allow the dog(s) to exercise;**
- (3) The owner(s) may tether a dog or dogs during an emergency situation when such a situation is found by the animal control unit to have been caused by unique circumstances triggering an isolated occurrence as opposed to a repeat occurrence that provides evidence of a pattern of non-compliance with the city's anti-tethering regulations; and**
- (4) Notwithstanding any other provision in this Chapter and without exception, the tethering of a dog on a 24-hour a day basis is unlawful. For the sole and limited purpose of evaluating the validity of the assessment a civil penalty pursuant to the provisions found in this Chapter, the observation by an animal control officer of a tethered dog or dogs on the same property during the same approximate time of day (a variation in the time of day of no more than one hour shall be regarded as the same approximate time of day, e.g. observing a dog at 10:30 a.m. on one day and at 11:15 a.m. on the next day is considered to be the**

same approximate time of day) on consecutive calendar days shall be prima facie evidence that the observed dog(s) have been unlawfully tethered for 24 hours.

~~(B)~~(C) Nothing in this section shall be deemed to prohibit the following activities:

- (1) The humane transportation of horses, cattle, sheep, poultry, or other livestock in trailers or other vehicles designed, constructed, and adequate for the size and number of animals being transported;
- (2) Nothing in this section shall be construed to prohibit the animal control unit, law enforcement officers, employees of the Randolph County Health Department, or veterinarians from euthanizing dangerous, unwanted, injured, or diseased animals in a humane manner; and
- (3) Nothing in this section shall be construed to prohibit slaughterhouses or medical facilities from the proper, humane, and lawful carrying out of their activities or duties.

~~(C)~~(D) The animal control unit shall have the authority to conduct inspections of pet shops, kennels, dealers, or breeders, to the extent not preempted by state law, in order to determine if there is any abuse of animals. It shall be unlawful for any owner or employee of any pet shop or kennel or any dealers or breeders to violate this section.

§ 91.21 PROHIBITION OF DOMESTIC ANIMALS AT LARGE

It is unlawful for the owner of any domestic animal to allow such animal to be or run at large in the city or on any city property.

§ 91.22 CONFINEMENT OF FEMALE DOGS AND CATS IN ESTRUS

Every female dog and cat, while in estrus, shall be confined in a building or secure enclosure in such manner that she will not be in contact with another dog or cat, as the case may be, nor create a nuisance by attracting other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal being bred.

§ 91.23 RESPONSIBILITY FOR ANIMALS ON PUBLIC PROPERTY AND THE PROPERTY OF OTHERS

It shall be unlawful for the owner or custodian of an animal to fail to remove feces deposited by the animal on either of the following types of property:

- (A) Any public street, sidewalk, gutter, park, or other publicly owned property; or
- (B) Any property owned or legally controlled by another person or entity that has not given permission for entry onto the property by the animal that defecated on the property.

§ 91.24 MAXIMUM NUMBER OF DOGS ON PREMISES

- (A) It shall be unlawful for any person to keep or maintain more than 3 dogs per household on any parcel of land or zoning lot having less than 30,000 square feet, and an additional 7,000 square feet shall be required for each additional dog. A total of no more than 5 dogs per household shall be allowed on any parcel of land or zoning lot within the city limits regardless of square footage.
- (B) The limitation prescribed by this Section on the number of dogs per household on a single parcel of land or zoning lot shall not apply to dogs that are less than 6 months of age.
- (C) Notwithstanding the preceding provisions, and subject to the limitation that, on or after April 1, 2012, no new or additional dogs that would increase or perpetuate the noncompliance of a household with this Section may be kept or maintained in a household, any dog lawfully kept or maintained as part of a household located within the corporate limits of the City of Asheboro prior to April 1, 2012 may continue to be kept or maintained as part of the same household for the remainder of the dog's life.

§ 91.25 MAXIMUM NUMBER OF CATS ON PREMISES

- (A) It shall be unlawful for any person to keep or maintain more than 3 cats per household on any parcel of land or zoning lot having less than 30,000 square feet, and an additional 7,000 square feet shall be required for each additional cat. A total of no more than 5 cats per household shall be allowed on any parcel of land or zoning lot within the city limits regardless of square footage.
- (B) The limitation prescribed by this Section on the number of cats per household on a single parcel of land or zoning lot shall not apply to cats that are less than 6 months of age.
- (C) Notwithstanding the preceding provisions, and subject to the limitation that, on or after April 1, 2012,

no new or additional cats that would increase or perpetuate the noncompliance of a household with this Section may be kept or maintained in a household, any cat lawfully kept or maintained as part of a household located within the corporate limits of the City of Asheboro prior to April 1, 2012 may continue to be kept or maintained as part of the same household for the remainder of the cat's life.

§ 91.26 KEEPING SWINE

- (A) Except as provided in division (B) of this section, it shall be unlawful for any person to keep any hogs, pigs, or swine within the city limits.
- (B) A person may have or keep no more than 2 miniature or potbellied pigs per household within the corporate limits of the city if the following conditions are satisfied:
 - (1) The miniature or potbellied pig(s) must be provided with adequate shelter to protect the pig(s) from the elements.
 - (2) Any and all miniature or potbellied pigs kept or maintained in the City of Asheboro must be spayed or neutered.
 - (3) The owner of the miniature or potbellied pig(s) shall provide the pig(s) with access to food and clean water. Active measures shall be taken to limit the availability of this food and water to rodents, wild birds, and predators.
 - (4) If an outdoor pen or enclosure is utilized, the dimensions of such a pen or enclosure must be no less than 10 feet by 12 feet for 1 pig or no less than 16 feet by 16 feet for 2 pigs.
 - (5) No outdoor pen or enclosure, including without limitation fencing, used for sheltering or confining a miniature or potbellied pig is permitted within 30 feet of any property line or public street right-of-way line, and no such outdoor pen or enclosure may be located within 100 feet of a hospital, school, eating establishment, or dwelling other than the dwelling of the owner of the miniature or potbellied pig. These separation requirements are in addition to and not in lieu of the land use regulations prescribed by the Asheboro Zoning Ordinance. No provision in this chapter shall be construed or interpreted in any manner that preempts or impacts the application of the land use regulations found in the Asheboro Zoning Ordinance.
 - (6) A pen or enclosure used for sheltering or confining a miniature or potbellied pig shall be kept clean, sanitary, and free from accumulations of animal excrement that cause an objectionable odor. Such a pen or enclosure shall be cleaned at least twice each week. All waste material removed from a pen or enclosure used to shelter the miniature or potbellied pig shall be disposed of in a manner that is lawful, does not attract flies, and prevents any detectable odor at the property or street right-of-way line.
 - (7) All food kept for feeding the miniature or potbellied pig(s) shall be kept and stored in rat-free and rat proof containers, compartments, or rooms unless kept in a rat proof building.

§ 91.27 KEEPING OF DOMESTIC FOWL

- (A) Up to 2 chicken hens or other fowl may be kept by a household within the corporate limits of the City of Asheboro so long as the fowl do not, by reason of noise, odor, or attraction of flies, become a nuisance or health hazard.
- (B) Between 3 and 8 chicken hens or other fowl may be kept on any single lot or parcel in the city if the following conditions are satisfied:
 - (1) The fowl shall not be permitted to run at large and must be maintained in a coop or enclosure of suitable construction and size for the number of fowl maintained in the enclosure.
 - (2) The fowl must be provided with adequate shelter for protection from the elements.
 - (3) The owner of the fowl shall provide the animal with access to food and clean water. Active measures shall be taken to limit the availability of this food and water to rodents, wild birds, and predators.
 - (4) No outdoor coop or enclosure used for keeping fowl is permitted within 30 feet of any property line or public street right-of-way line, and no such outdoor coop or enclosure may be located within 100 feet of a hospital, school, eating establishment, or dwelling other than the dwelling of the owner of the fowl. These separation requirements are in addition to and not in lieu of the land use regulations prescribed by the Asheboro Zoning Ordinance. No provision in this chapter shall be construed or interpreted in any manner that preempts or impacts the application of the land use regulations found in the Asheboro Zoning Ordinance.

- (5) A coop or enclosure used for keeping fowl shall be kept clean, sanitary, and free from accumulations of animal excrement that cause an objectionable odor. Such a pen or enclosure shall be cleaned at least twice each week. All waste material removed from a pen or enclosure used for keeping fowl shall be disposed of in a manner that is lawful, does not attract flies, and prevents any detectable odor at the property or street right-of-way line.
 - (6) All food kept for feeding the fowl shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-proof building.
- (C) Due to the excessive noise created by the following animals, the keeping of roosters and geese is prohibited within the corporate limits of the City of Asheboro.

§ 91.28 KEEPING OF HORSES, MULES, DONKEYS, COWS, AND GOATS REGULATED

It shall be unlawful for any person who owns, operates, or maintains a stable or enclosure in the city, in which horses, mules, donkeys, cows, or goats are kept, to keep such stable in an unclean or unsanitary condition. The person who owns, operates, or maintains such a stable or enclosure shall be responsible for providing for use within the stable or enclosure a bin or pit which shall be watertight and so arranged that it is fly-proof, or, alternatively, shall provide a watertight barrel with a close-fitting lid. Manure accumulating in such stable shall be placed in the bin, pit, or barrel each day and shall be removed from the premises of the owner at least every 5 days. Effective fly control methods such as the use of approved insecticide shall be practiced during the fly-breeding period from April 15 to November 1 of each year. All food kept for feeding the livestock shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-proof building.

§ 91.29 LOCATION OF STABLES; TETHERING OF HORSES, MULES, DONKEYS, COWS, OR GOATS

No person shall locate or maintain upon any lot within the city any horse, mule, donkey, cow, or goat stable nearer than 150 feet to any hospital, school, eating establishment, or dwelling; nor shall any person tether or permit to graze or stand any horse, mule, donkey, cow, or goat within 50 feet of any such place.

§ 91.30 ANIMALS PROHIBITED AT RANDOLPH ARTS GUILD'S ANNUAL FALL FESTIVAL

- (A) It is unlawful for any person to possess any animal(s) within the public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival, and it is also unlawful for any person with an animal within the public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival to fail to obey the command of a law enforcement officer or an animal control officer to remove such an animal from the area in which animals are prohibited by this section. Furthermore, except as provided by this section, it shall be unlawful for any person to actively encourage or facilitate the entry or continued presence of any animal(s) within the public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival.
- (B) Notwithstanding any other provision to the contrary, the prohibition of animals by this section is not applicable to the following animals:
 - (1) Any assistance animal that is trained and/or may be used to assist a person with a disability, specifically including without limitation a "handicapped person" as defined in G.S. 168-1. The term "assistance animal" is not limited to a dog and includes any animal trained to assist a person with a disability.
 - (2) Any law enforcement/public safety agency animal that is trained and may be used to assist a law enforcement/public safety officer in the performance of the officer's official duties.
- (C) The "public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival" are the streets, sidewalks, and public vehicular areas that fall within the perimeter demarcated by the closure, upon order of the city council, of Fayetteville Street from Salisbury Street to Kivett Street; North Street at Salisbury Street; Sunset Avenue at Church Street; Worth Street, Scarboro Street, East Academy Street, and Cranford Street at Cox Street; and West Academy Street at the entrance to the city parking lot.
- (D) The prohibition of animals from public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival is only in effect during those times when the Fall Festival is scheduled to be in actual operation.
- (E) The City Manager shall cause notices of the prohibition of animals from public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival to be prominently posted at the location of the street closures listed in division (C) above.

§ 91.31 EXCEPTIONS

- (A) This chapter shall not apply to the lawful taking of animals under the jurisdiction and regulation of the North Carolina Wildlife Resources Commission; lawful activities of agencies conducting or sponsoring biomedical research or training; lawful activities of any law enforcement canine team in the performance of their duties; or the lawful destruction of any animal for the purpose of protecting domestic animals or humans.
- (B) Veterinary clinics and retail pet stores are not subject to the supplemental animal control regulations prescribed in §§ 91.24 through 91.28 of this chapter. The inapplicability of the supplemental regulations found in this chapter to these businesses does not impair or impact to any degree the applicability to these businesses of any other provision within this chapter or any other federal, state, or local law, ordinance, or regulation, including by way of illustration and not limitation the county animal control ordinance and the Asheboro Zoning Ordinance.

§ 91.32 REMEDIES AND PENALTIES

- (A) The animal control unit must have ample authority to impose preventive measures, seize, and impound animals. Escalating fees and other sanctions authorized within this section are measures that have been adopted to protect the citizens of Asheboro and to declare that the ownership of animals entails publicly related responsibilities. When there is a violation of this chapter, the chief may take one or more of the courses of action set forth in this section. The chief may cause a complaint to be filed or any action to be brought on behalf of the city. Any such action shall be cumulative and shall not be deemed to be a bar to or a waiver of the right to institute any other civil or criminal proceeding for a violation of this chapter.
- (B) Any person who violates the provisions of this chapter is guilty of a misdemeanor as provided by G.S. § 14-4 and shall be fined not more than \$500. Payment of a fine imposed in a criminal proceeding initiated pursuant to this chapter does not relieve a person of his or her liability for fees imposed by this chapter or any other law or ordinance, specifically including without limitation fees imposed by the county animal control ordinance as a consequence of the impoundment of an animal at the animal shelter.
- (C) Pursuant to and consistent with G.S. 160A-175, enforcement of the provisions found in this chapter may include any appropriate equitable remedy, injunction, or order of abatement issuing from a court of competent jurisdiction.
- (D) In addition to or in lieu of any criminal penalties and other sanctions provided in this chapter and any other applicable law, ordinance, or regulation, a violation of the provisions found in this chapter may also subject the offender to the civil penalties hereinafter set forth:
 - (1) An animal control officer may issue to the owner or possessor of any animal, or any other violator of this chapter, a written warning or a civil penalty citation giving notice of the alleged violation(s). Written warnings or civil penalty citations so issued may be served on the person charged with a violation by means of personal delivery by the animal control officer or mailed by certified or registered mail, return receipt requested, to the last known address of the person charged;
 - (2) Civil penalties shall be paid in full to the Asheboro Police Department within 15 business days of the receipt of the civil penalty citation that gives notice of the penalty that is due and payable. The civil penalty is in addition to any other costs or fees imposed by this chapter or any other law or ordinance, specifically including without limitation fees imposed by the county animal control ordinance as a consequence of the impoundment of an animal at the animal shelter;
 - (3) In the event that the owner or possessor of an animal or other violator of this chapter does not pay the applicable civil penalty within the prescribed time period, a civil action may be commenced to recover the penalty and costs associated with the collection of the penalty. The chief, or the chief's designee, is expressly authorized to initiate and prosecute small claims actions in District Court to collect civil penalties and fees owed to the city as a consequence of violation(s) of this chapter. The chief may call on the city attorney for assistance as needed. In lieu of pursuing a civil action to collect the civil penalty, a criminal summons may be issued against the violator for violating this chapter, and, upon conviction, the violator shall be punished in accordance with state law for the misdemeanor offense of violating this chapter; and
 - (4) In order to encourage responsible conduct, an owner shall be subject to escalating penalties for each violation of this chapter by the owner, regardless of whether the animal is the same animal, a different animal, or various animals belonging to the same owner. Each violation of this Chapter within a rolling 12-month period shall subject the owner to the following escalating civil penalties:

<i>Offense</i>	<i>Civil Penalty Amount</i>
1 st	\$35.00
2 nd	\$50.00
3 rd	\$100.00
4 th and Subsequent Offenses	\$150.00

- (E) Each violation of a specific provision of this chapter is considered a separate offense for purposes of this section.
- (F) Each day that a specific violation occurs is considered a separate offense for purposes of this section.
- (G) In addition to the above-listed remedies, domestic animals may be seized and impounded when found at large or as otherwise provided in this chapter. Furthermore, if conditions pose an immediate threat to the health or safety of the animal or the public, the animal control unit is authorized to seize and impound an animal. When an animal is seized, the following steps, at a minimum, must be taken:
- (1) The animal control unit, or some other person designated by the chief, shall enter into a seized animal registry maintained by the police department a description of the animal that includes at least the breed, color, and sex of such animal and whether the animal was impounded or processed in some other manner; and
 - (2) Upon seizing an animal, a notice of seizure shall be left with the owner or affixed to the premises. If an animal is not from a particular premises but has an identification tag, the animal control officer shall cause a prompt and reasonable effort to be made to locate and notify the animal's owner.
- (H) Notwithstanding any other provision of this chapter, an animal that cannot be reasonably seized, retrieved, humanely trapped, or tranquilized may be humanely destroyed in the field upon the authorization of the chief; provided, however, an animal attacking a human being or pet may be summarily destroyed if, in the opinion of animal control, such destruction is necessary for the protection of life or property or for the public health and safety.
- (I) Nothing in this chapter shall be construed to prevent law enforcement officers of any kind from enforcing any of the provisions of this chapter or from exercising their authority as law enforcement officers.
- (J) Nothing in this chapter shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss, or injury to the private citizen or his or her property resulting from an animal being a nuisance.

§ 91.33 APPEALS

- (A) Any person, owner, or possessor affected by an action taken by the animal control unit may request a review of such action by filing a request for appeal with the city manager. The only exceptions to this right of appeal to the city manager are attempts to appeal an action taken by the animal control unit in compliance with a court order or to appeal an action that is pending in the criminal courts. Any appeal pertaining to a criminal case or an order from a judicial official must be addressed in accordance with laws and rules applicable to the court with jurisdiction to consider the matter for which judicial review is sought.
- (B) Unless otherwise provided by law, a request for appeal must be made in writing and filed with the city manager, with a copy to the chief, within 10 business days of the action or decision complained of and must state with particularity the grounds for the appeal. An appeal hearing shall be scheduled and conducted by the city manager as soon as is practicable. Written notice of the date, time, and location of such a hearing will be mailed to the last known address of the person who filed the appeal.
- (C) After conducting the hearing and considering the available evidence, the city manager may reverse or affirm, in whole or in part, the action taken by the animal control unit. The city manager may also modify the action(s) taken by the animal control officer. The city manager's decision is final, and there shall be no appeal from the decision of the city manager to the city council. The manager shall render a decision within 5 business days of the conclusion of the hearing. The decision shall be mailed to the person requesting the appeal and to the chief.
- (D) If the manager's decision is against the person requesting the appeal, the animal control unit shall implement the action(s) upheld by the manager.
- (E) If the decision is against the animal control unit, efforts to implement the action(s) under appeal shall immediately cease.

(F) A decision rendered by the manager applies only to the particular action(s) appealed, and such a decision does not preclude the animal control unit from taking enforcement action in response to a subsequent violation of the same provision or any other provision of this chapter.

Section 2. On the effective date stated in Section 3 of this Ordinance, all ordinances and clauses of ordinances in conflict with this Ordinance shall be repealed.

Section 3. The provisions in this Ordinance pertaining to strengthening the protections for dogs against tethering, specifically newly enacted Sections 91.03(34) and 91.20(B) of the Code of Asheboro, shall take effect and be in force from and after January 1, 2017. The remaining sections and provisions of Chapter 91 of the Code of Asheboro that were not specifically amended by the enactments found within this Ordinance remain in full force and effect on and after the date of adoption of this Ordinance, which is March 10, 2016.

Section 4. No action or proceeding of any nature (whether civil or criminal, administrative, or otherwise) pending at the effective date of this Ordinance shall be abated or otherwise affected by the adoption of this Ordinance.

Section 5. If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision, and such a holding shall not affect the validity of the remaining portions thereof.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 10th day of March, 2016.

/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

11. Report on the recent Department of Labor safety inspection for the Public Works and Public Utilities Divisions.

Mr. Steve Paye, who is the city's Safety Coordinator, updated the council on the recent Department of Labor safety inspection for the Public Works and Public Utilities Divisions. On January 12, 2016, the N.C. Department of Labor conducted an inspection at the Public Works Facility and cited the city for three serious violations. The fines for the violations totaled approximately \$9,750.00. All violations have been corrected, and the assessed fines have been paid.

No formal action was taken by the council regarding this agenda item.

12. Update on All America City Award.

Mr. Nuttall highlighted that an application has been submitted for the All America City designation for the City of Asheboro. A written copy of the application was submitted to the council, and a copy is on file in the city clerk's office.

No formal action was taken by the council on this agenda item.

13. Update on renovations at city hall.

Mr. Leonard addressed the council in regards to certain renovations at city hall. Currently, renovations are being made to the city manager's office. Renovations are expected to be completed soon.

No formal action was taken by the council on this agenda item.

14. Mayor Smith and Mr. Ogburn announced the following upcoming events:

- The Human Race on March 19, 2016
- St. Patrick's Day Celebration at 3:00 p.m. in Bicentennial Park on March 19, 2016
- City Hall will be closed on March 25, 2016 for Good Friday
- Public Information Meeting Regarding the Church Street Project is scheduled for March 28, 2016 at 4:30 at the City of Asheboro Public Works Facility.

