

CODE OF ORDINANCES



Newton County, Georgia

Division II

*Prepared by
the
Northeast Georgia Regional Development Center*

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ARTICLE 2.1 **How Code Designated and Cited**

The provisions embraced in the following chapters and sections shall constitute and be designated "The Code of the Newton County, Georgia, 2001," and may be so cited.

ARTICLE 2.1 **Rules of Construction**

In the construction of this code and of all sections, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Board of Commissioners.

1. **General Rule.** All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
2. **Gender -- Singular and Plural.** Every word in any code provision or section importing the masculine gender shall extend to and be applied to females as well as males; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.
3. **Tenses.** The use of any verb in the present tense shall include the future when applicable.
4. **Joint Authority.** All words purporting to give a joint authority to three (3) or more county officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.
5. **Delegation of Authority.** Whenever a provision required the head of a department or other officer of the county to do some act or perform some duty, it shall be construed to authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
6. **Computation of Time.** The time within which an act is to be done as provided in any code provision or section or in any order issue pursuant to any section, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Saturday, Sunday or a legal holiday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from midnight to midnight, shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
7. **Overlapping Provisions.** Where any provision of this code imposes greater restrictions upon the subject matter than any general provisions imposed by this code, the provision imposing the greater restriction or regulation shall be applicable.

ARTICLE 2.1 **Definitions**

Words and phrases used in this code shall have the following meanings, unless otherwise specified.

1. **Advice and Consent.** Whenever the term "advice and consent" of the Board of Commissioners is used in this code it shall be construed to mean an affirmative vote of the majority of the entire Board of Commissioners.
2. **Board of Commissioners.** The term "Board of Commissioners" shall mean the Board of Commissioners of Newton County, Georgia.
3. **Chairman.** The word "Chairman" shall mean the Chairman of Newton County, Georgia.
4. **County.** The words "the county" or "this county" shall mean Newton County, Georgia.
5. **Court.** The word "court" shall mean the Newton County Superior Court.
6. **Governing Authority, Governing Body.** The words "governing authority" or "governing body" shall mean the Board of Commissioners of Newton County, Georgia.
7. **Judge or Recorder.** The words "judge" or "recorder" shall mean the Judge of the Newton County Superior Court..
8. **Misdemeanor.** The term "misdemeanor" shall mean a violation of the state criminal law punishable by a fine not in excess of one thousand dollars (\$1,000.00) or confinement in a county or other jail for a term not exceeding twelve (12) months, or by both such fine and imprisonment.
9. **Oath.** The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" or "sworn."
10. **Ordinance.** The word "ordinance" shall mean a legislative act of the governing body of a general and permanent nature.
11. **Owner.** The word "owner" when applied to a building or to land, shall include any part owner, joint owner, tenant in common, joint tenant by the entirety, of the whole or a part of such building or land.
12. **Person.** The word "person" shall include a corporation, firm, agency, partnership, association, organization, government, and any other group acting as a unit, as well as an individual.
13. **Personal Property.** The term "personal property" shall include every specie of property except real property, as hereinafter defined.
14. **Preceding, Following.** The words "preceding" and "following" shall mean next before and next after, respectively.
15. **Property.** The term "property" means anything of value, including but not limited to real estate, tangible and intangible personal property, contract rights, services, choses in action, and other interests in or claims to wealth admission or transportation tickets captured or domestic animals, food and drink, and electric or other power.
16. **Real Property.** The words "real property" shall include lands, tenements, and hereditaments.
17. **Reasonable Time or Notice.** Reasonable time or notice shall be deemed to mean only such time as may be necessary for the prompt performance or the act required.
18. **Resolution.** The word "resolution" shall mean a legislative act of the municipal governing body of a special or temporary character.
19. **Sidewalk.** The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of the pedestrians, but shall not include any unimproved areas between the curb line and improved walkways.
20. **Signature, Subscription.** The word "signature" or "subscription" shall include a mark intended as such when the person cannot write.
21. **State.** The words "state" or "this state" shall mean the State of Georgia.
22. **Street.** The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, viaduct or bridge, and the approach thereto, within the town.
23. **Tenant or Occupant.** The word "tenant" or "occupant," when applied to a building or to land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, either alone or with others.
24. **Week.** The word "week" shall mean seven (7) calendar days.
25. **Writing or Written.** The words "writing" and "written" shall include printing and any other mode of representing words and letters.

26. **Year.** The word "year" shall mean a calendar year.

ARTICLE 2.1 Section Headings

The underlined headings of the several sections and subsections of this code are intended as mere captions to indicate the contents of the section or subsection and shall not be deemed or taken to be titles of such sections, nor as any part of the section or subsection, nor unless so expressly provided, shall they be so deemed when any of such sections or subsections, including the headings, is amended or re-enacted.

ARTICLE 2.1 Effect of Repeal or Expiration of Code Section or Ordinance

1. The repeal of a code section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.
2. When any ordinance repealing a former code section, ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former code section, ordinance, clause, or provision, unless it shall be expressly so provided.

ARTICLE 2.1 Amending Code

1. All ordinances passed subsequent to this code which amend, repeal or in any way affect this code shall be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections, and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as the code and subsequent ordinances omitted are readopted as a new code by the Board of Commissioners.
2. Amendments to any of the provisions of this code may be made by specific reference to the section number of this code in the following language: "That section _____ of the Code of Ordinances, Newton County, Georgia 2001, is hereby amended to read as follows" The new provisions may then be set out in full as desired.
3. In the event a new section not heretofore existing in the code is to be added, the following language may be used. "The Code of Ordinances of the Newton County, Georgia 2001, is hereby amended by adding a section (or subsection chapter) to be numbered _____, which section reads as follows" The new provision shall then be set out in full as desired.
4. All sections, chapters, or provisions sought to be repealed must be specifically repealed by section, chapter, or provision number, as the case may be.

ARTICLE 2.1 Altering Code

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever, except by ordinance or resolution or other official act of the Board of Commissioners.

ARTICLE 2.1 Severability

The sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code.

ARTICLE 2.1 Penalty Where No Penalty Provided

1. Whenever in this code or in any ordinance of the county any act is prohibited or is declared to be unlawful, or whenever in such code or ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of such provision of this code or any ordinance shall subject the person committing the violation to a fine as provided by law.

2. The infliction of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of this code.

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ARTICLE 2. IN GENERAL

ARTICLE 2.1 Adoption of State Rules and Regulations

The rules and regulations promulgated by the State Election Board which pertain to elections, together with the provisions of the "Georgia Election Code" contained in Title 21 of the Official Code of Georgia Annotated, are hereby adopted as the rules, regulations, and provisions that shall govern the conduct of general and special elections in this county.

ARTICLE 2.1 Authority to Conduct Elections

The governing authority may conduct the election. In the event a municipality shall by ordinance authorize such county to conduct elections, such municipality may request such county to perform any or all of the functions enumerated in the contract. Such county shall have authority to conduct elections in any and all counties in which any part of such municipality may lie.

NOTE: County registrars follow O.C.G.A. §§ 21-2-211 through 21-2-214.

ARTICLE 2.1 **Expenses**

Such funds as are necessary for the conduct of elections and for the performance of the duties that are specified by this chapter shall be budgeted and appropriated annually, and from time to time.

ARTICLE 2. **REGISTRATION**

ARTICLE 2.1 **Registrars and Deputy Registrars**

1. **Board of Elections and Registration.** Pursuant to Code Section 21-2-40 of the *O.C.G.A.* there is created the Newton County Board of Elections and Registration. The board shall have the powers and duties of the election superintendent of Newton County with regard to the conduct of primaries and elections and shall have the powers and duties of the board of registrars relating to the registration of voters and absentee balloting procedures.

 A. The board shall be composed of five members, each of whom shall be an elector and resident of Newton County.

2. No person who holds public office, whether elective or appointive, shall be eligible for appointment to the board during the term of such office; and the position of any member shall be deemed vacant upon such member either qualifying as a candidate for elective public office or accepting appointive office.

3. The governing authority of Newton County shall appoint the initial members of the board in the following manner:

 A. Two members of the board shall be members of the political party which received the highest number of votes within the county for its candidate for Governor in the general election immediately preceding the appointment of the members. Each appointment may be made from a list of at least 5 but not more than thirty (30) candidates submitted by the county executive committee of such political party to the governing authority at least thirty (30) days before the beginning of the term of office or within thirty (30) days after the creation of a vacancy in the office. Anything in this paragraph to the contrary notwithstanding, nothing shall affect the right of the governing authority to appoint a member of the political party whose name is not contained on said list.

 B. Two members of the board shall be members of the political party which received the next highest number of votes within the county for its candidate for Governor in the general election immediately preceding the appointment of the members. Each appointment may be made from a list of at least 5 but not more than 30 candidates submitted by the county executive committee of such political party to the governing authority at least thirty (30) days before the beginning of the term of office or within thirty (30) days after the creation of a vacancy in the office. Anything in this paragraph to the contrary notwithstanding, nothing shall affect the right of the governing authority to appoint a member of the political party whose name is not contained on said list.

4. The remaining member of the board, who shall serve as the chairperson, shall be appointed by the county governing authority.

 A. The terms of office of the initial members of the board are as follows:

 (1) Two members shall be appointed for initial terms beginning July 1, 1998, and expiring December 31, 2001; and

 (2) Three members, including the chairperson, shall be appointed for initial terms beginning July 1, 1998, and expiring December 31, 1999.

 B. After the initial terms of office, successors to members whose terms are about to expire shall be appointed to take office on the first day of January immediately following the expiration of a term of office and shall serve for terms of four years each and until their successors are duly appointed and qualified. Each successor shall be appointed in the same manner as the member whose term is about to expire.

5. The appointment of each member shall be made by the county governing authority filing with the clerk of the Superior Court of Newton County, no later than fifteen (15) days preceding the date at which such member is to take office, an affidavit which states the name and residential address of the person appointed, and certifying that such member has been duly appointed as provided in this Act. That clerk of the superior court shall record each of such certification on the minutes of the court, and shall certify the name of each such member to the Secretary of State, and provide for the issuance of appropriate commissions to the members and chairperson within the same time and in the same manner as provided by law for registrars. If the county governing authority does not, in conformity with this Act, certify an appointment to the board no later than thirty (30) days after the beginning of a term of office or within thirty (30) days after the creation of a vacancy in that office, a vacancy shall be deemed to have been thereby created and the Governor, pursuant to Article V, Section II, Paragraph VIII(a) of the Constitution of the State of Georgia, shall fill that vacancy by making the appointment thereto and shall certify it as provided in this section. Any person appointed to fill a vacancy shall serve out the unexpired term of office.

6. Each appointed member of the board shall be eligible to succeed himself or herself without limitation and shall have the right to resign at any time by giving written notice of resignation to the county governing authority and to the clerk of the Superior Court of Newton County. Each member shall be subject to removal from the board by the county governing authority at any time, for cause, after notice of the right to have a timely hearing, in the same manner and by the same authority as is provided for the removal of registrars.

7. In the event a vacancy occurs in the office of any member of the board by removal, death, resignation, or otherwise, except by expiration of term, the county governing authority shall appoint a successor to serve the remainder of the unexpired term. The successor shall be appointed in the same manner as the member whose seat is vacant. The clerk of the Superior Court of Newton County shall be notified of interim appointments and shall record and certify such appointments and changes in the same manner as the regular appointments of members.

8. Before entering upon his or her duties, each member shall take substantially the same oath as required by law for registrars. Each member shall have the same privileges from arrest as registrars.

9. On July 1, 1998 the election superintendent and board of registrars of Newton County shall be relieved from all powers and duties to which the board succeeds by the provisions of this Act; and they shall deliver thereafter to the chairperson of the board, upon that person's written request, the custody of all equipment, supplies, materials, books, papers, records, and facilities of every kind pertaining to such powers and duties. At such time, the board of registrars and the office of chief registrar of Newton County shall be abolished; however, to the extent practicable, the existing staff positions of the current board of registrars shall be retained to serve the newly created board.

A. Notwithstanding the foregoing, the present election superintendent shall supervise and assist the actions of the initial board for a period of one hundred twenty (120) days from the date of their appointment.

10. The chairperson of the board shall be the chief executive officer of the board and shall generally supervise, direct, and control the administration of the affairs of the board pursuant to law and duly adopted resolutions of the board. The board shall fix and establish by appropriate resolution entered on its minutes directives governing the execution of matters within its jurisdiction.

11. The board shall be authorized to employ such full-time and part-time employees, including a full-time chief clerk, as the board shall deem necessary. The governing authority of Newton County shall have the right to approve the number and compensation of employees hired or retained by the board.

12. The board shall propose an annual budget to the county governing authority for approval detailing the expenditures necessary for the execution of its duties. With the consent of the governing authority of Newton County, the board of elections and registration shall be authorized to expend public funds for the purpose of distributing sample ballots, voter information booklets, and other material designed to inform and instruct adequately the electors of the county with regard to elections.

13. Compensation for the chairperson and other members of the board and for employees of the board shall be fixed by the board with the approval of the governing authority of Newton County. Such compensation shall be paid from county funds.

14. The governing authority of Newton County shall provide the board with proper and suitable offices.

15. The board shall have the authority to contract with any municipal corporation located within the county for the holding by the board of any primary or election to be conducted within the municipal corporation.

16. The words "election," "elector," "political party," "primary," "public office," "special election," and "special primary" shall have the same meaning ascribed to those words by Code Section 21-2-2 of the O.C.G.A. unless otherwise clearly apparent from the text of this Act; the term "board" means the Board of Elections and Registration of Newton County created by Section 1 of this Act; the term "county" means Newton County; and the term "superior court" means the Superior Court of Newton County.

17. This Act shall become effective on July 1, 1998, except that for the purpose of making appointments to the board, it shall become effective upon its approval by the Governor or upon its becoming law without such approval.

A. **Appointment.** The judge of the Newton County Superior Court or the Senior judge in time of service is the county has more than one judge, shall appoint quadrennially, upon the recommendation of the grand jury, not less than three (3) nor more than five (5) judicious, intelligent, and upright electors of Newton County as county registrars.

B. **Training.**

- (1) The election superintendent and at least one (1) registrar shall attend a minimum of twelve (12) hours training biennially as may be selected by the Secretary of State.
- (2) The basis for the minimum requirement of training shall be two (2) calendar years.
- (3) A waiver of the requirement of minimum training, either in whole or in part, may be granted by the Secretary of State, in his/her discretion, upon the presentation of evidence by the election superintendent or registrar that the individual was unable to complete such training due to medical disability, providential cause, or other reason deemed sufficient by the Secretary of State.
- (4) The cost of the training shall be borne by the governing authority from county funds.
- (5) The minimum training required under this section shall not apply to deputy registrars.

ARTICLE 2.1 **Elector Qualifications**

Any person desiring to vote in any, general, or special election must:

1. Register as an elector in the manner prescribed by law;
2. Be a citizen of the State of Georgia and of the United States;
3. Be at least eighteen (18) years of age;
4. Be a resident of this county; and
5. Be possessed of all other qualifications prescribed by law:
 - A. No person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.
 - B. No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.
 - C. Any person who possesses the qualifications of an elector except those concerning age shall be permitted to register to vote if such person will acquire such qualifications within six (6) months after the day of registration; provided, however, that such person shall not be permitted to vote in a primary or election until the acquisition of such qualifications.

ARTICLE 2.1 **Registration List and Records**

The county shall maintain its own registration system. The completed registration cards and other papers of the registrars shall be kept in the main office of the Board of Registrars in the Executive Office Building and shall be open to public inspection during usual business hours.

1. The registration cards for use by persons other than absentee applicants shall be in the following form only, but cards existing as of that date are not required to be changed. The form may be printed on cards or separate sheets, but for convenience, the card or sheets of paper shall be referred to as the "registration card."

REGISTRATION CARD
(Printed or Typed)

Name: (First) (Middle or Maiden Initial) (Last)

Precinct:

Residence Address:

(Town or City) (County) (State) (ZIP Code)

Place of Birth:

(Town or City) (County) (State) (ZIP Code)

Date of Birth: (Month) (Day) (Year) Sex:

Height: Race:

Social Security No.:
(If known at the time of application)

Mother's Maiden Name:

Father's Name:

Will assistance in voting be required in the manner permitted by Code Section 21-2-409
(Yes) (No)

Georgia, County.

I do swear (or affirm) that I am a citizen of the United States, the State of Georgia, and this county; that I am at least 18 years of age, or will be on the ___ day of _____, 20___; that I possess the qualifications of an elector required by the laws of this state; that I am not registered to vote in any other county, or I am registered in _____ County of the State of _____ and request cancellation of my registration; that I am not registered to vote under any other name; that I have correctly answered the questions appearing elsewhere on this card under the words: "Questions Propounded to Applicant"; and that the information contained on this card is true.

(Sign here)

Sworn to (or affirmed) and subscribed before me this ___ day of _____, 20___, at the following location: _____.

(Deputy) Registrar:

QUESTIONS PROPOUNDED TO APPLICANT

Have you ever been convicted in any court of competent jurisdiction of any felony involving moral turpitude, punishable by the laws of this state or any other state with imprisonment in the penitentiary? If so, what was the offense, the place, and court of conviction and the approximate date? If so, and if pardoned, what was the date of the pardon? If sentence has been completed, what was the date of completion?

ARTICLE 2.1 **Challenge of Registration List**

1. Any elector of the county may challenge the right of any other elector of the county, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the elector whose right to vote is being challenged voting at the elector's polling place or, if such elector cast an absentee ballot, prior to the close of the polls on the day of the election.
2. Upon the filing of such challenge, the county board of registrars shall immediately consider such challenge and determine whether probable cause exists to sustain such challenge. If the registrars do not find probable cause, the challenge shall be denied. If the registrars find probable cause, the registrars shall notify the poll officers of the challenged elector's precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the absentee ballot precinct and, if practical, notify the challenged elector and afford such elector an opportunity to answer.
3. If the challenged elector appears at the polling place to vote, such elector shall be given the opportunity to appear before the registrars and answer the grounds of the challenge.
4. If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and if the challenge is based on grounds other than the qualifications of the elector to remain on the list of electors, no further action by the registrars shall be required.
5. If the challenged elector cast an absentee ballot and it is not practical to conduct a hearing prior to the close of the polls and the challenge is based upon grounds other than the qualifications of the elector to remain on the list of electors, the absentee ballot shall be treated as a challenged ballot pursuant to *O.C.G.A. § 21-3-291*. No further action by the registrars shall be required.
6. If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and the challenge is based on the grounds that the elector is not qualified to remain on the list of electors, the board of registrars shall proceed to hear the challenge pursuant to *O.C.G.A. § 21-2-229*.
7. If the challenged elector cast an absentee ballot and the challenge is based upon grounds that the challenged elector is not qualified to remain on the list of electors, the board of registrars shall proceed to conduct a hearing on the challenge on an expedited basis prior to the certification of the consolidated returns of the election by the election superintendent. The election superintendent shall not certify such consolidated returns until such hearing is complete and the registrars have rendered their decision on the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in Subsection (e) of *O.C.G.A. § 21-2-229*.
8. If the challenged elector appears at the polls to vote and it is practical to conduct a hearing on the challenge prior to the close of the polls, the registrars shall conduct such hearing and determine the merits of the challenge. If the registrars deny the challenge, the elector shall be permitted to vote in the election notwithstanding the fact that the polls may have closed prior to the time the registrars render their decision and the elector can actually vote, provided that the elector proceeds to vote immediately after the decision of the registrars. If the registrars uphold the challenge, the challenged elector shall not be permitted to vote and, if the challenge is based upon the grounds that the elector is not qualified to remain on the list of electors, the challenged elector's name shall be removed from the list of electors.
9. If the challenged elector appears at the polls to vote and it is not practical to conduct a hearing prior to the close of the polls or if the registrars begin a hearing and subsequently find that a decision on the challenge cannot be rendered within a reasonable time, the challenged elector shall be permitted to vote by having the word "Challenged" and the elector's name written across the back of the elector's ballot notwithstanding the fact that the polls may have closed prior to the time the registrars make such a determination, provided that the elector proceeds to vote immediately after such determination of the

registrars. In such cases, if the challenge is based upon the grounds that the challenged elector is not qualified to remain on the list of electors, the registrars shall proceed to finish the hearing prior to the certification of the consolidated returns of the election by the election superintendent. If the challenge is based on other grounds, no further action shall be required by the registrars. The election superintendent shall not certify such consolidated returns until such hearing is complete and the registrars have rendered their decision on the challenge. If the registrars deny the challenge, the superintendent shall proceed to certify the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in Subsection (e) of *O.C.G.A.* § 21-2-229.

ARTICLE 2.1 **Permanency of Registration**

Registration of an elector will remain permanent if the elector votes in at least one (1) election every three (3) years. If such person does not vote in at least one (1) general or special election or primary in a three (3) year period and does not specifically request continuation of his registration, then the elector's name will be removed from the registration list and he shall be required to re-register in the manner provided for original registration.

ARTICLE 2.1 **Absentee Registration**

Not more than one hundred eighty (180) days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's office, an application to the board of registrars of the county of the elector's residence for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. In the case of an elector residing temporarily out of the county or a physically disabled elector residing within the county, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law, of the age of eighteen (18) or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; the name and relationship of the person requesting the ballot if other than the elector. Except in the case of physically disabled electors residing in the county, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out of county address. Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true. If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness; provided, however, that one timely and proper application for an absentee ballot for use in a primary shall be sufficient to require the mailing of the absentee ballot to an eligible absentee elector who lives outside the county in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen for such primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates. Further, such application for an absentee ballot to be used in any election shall be sufficient to require the mailing of an absentee ballot for any runoffs resulting from such election. In any event, a separate and distinct application for an absentee ballot shall be required for the presidential preference primary held pursuant to *O.C.G.A.* § 21-2-190 *et seq.* and for any special election or special primary.

ARTICLE 2.1 **Election Identification**

1. Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:
 - A. A valid Georgia driver's license;
 - B. A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;
 - C. A valid United States passport;

- D. A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;
- E. A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;
- F. A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;
- G. A valid Georgia hunting or fishing license;
- H. A valid Georgia license to carry a pistol or revolver;
- I. A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;
- J. A valid United States military identification card;
- K. A certified copy of the elector's birth certificate;
- L. A valid social security card;
- M. Certified naturalization documentation; or
- N. A certified copy of court records showing adoption, name, or sex change.

2. If an elector is unable to produce any of the items of identification listed above, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.

ARTICLE 2. CANDIDATES

ARTICLE 2.1 Notice of Candidacy, Name on Ballot

1. **Filing.** Each candidate desiring to have his name placed on the ballot for an office to be filled in a general or special election shall file personally, or by his agent, notice of his candidacy in the manner and accompanied by the documents and information required by the documents and information required below.

- A. Each candidate or a designee shall file a notice of candidacy in the office of the Board of Elections of such candidate's residency during the qualifying period. Each election superintendent shall designate the days of the qualifying period, which shall be no less than three (3) days and no more than five (5) days. Qualifying periods shall comply with the following:
 - B. In the case of a general election held in an odd-numbered year, the qualifying period shall commence no earlier than 8:30 a.m. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday.
 - C. In the case of a general election held in an even-numbered year, the qualifying period shall commence no earlier than 8:30 a.m. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday; and
 - D. In the case of a special election, the qualifying period shall commence no earlier than the date of the call and shall end no later than twenty-five (25) days prior to the election.
- The hours of qualifying each day shall be from 8:30 a.m. until 4:30 p.m. with one hour allowed for the lunch break; provided, however that Newton County which has normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for the county. If a runoff primary is held, each candidate nominated therein or a designee shall file a notice of candidacy with the election superintendent within three (3) days after the holding of such primary, irrespective of such three-day (3) period's exceeding a qualification deadline prescribed in this subsection. Notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two (2) weeks prior to the opening of the qualifying period.

1. **Designation of Office Sought.** In the event a candidate seeks one (1) of two (2) or more public offices of the county, each having the same title and to be filled at the same election by the vote of the same electors, charter or ordinance provisions shall govern whether such candidate shall designate the specific office he is seeking. If required to designate the specific office, the candidate shall name his incumbent or give other appropriate designation. Such designation shall be entered on the ballot and ballot labels in such manner that in the ensuing primary or election such candidate shall only oppose the other candidate or candidates, if any, designating the same specific office.

ARTICLE 2.1 **Notice of Candidacy, Write-in Vote**

1. No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was given no earlier than January 1 and no later than the Tuesday after the first Monday in September prior the election in the case of a general election or at least twenty (20) or more days prior to a special election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the subject election, as follows:

A. In a general or special election of county officers, to the superintendent of elections in the county in which he or she is to be a candidate and by publication in the official organ of the same county; or

B. **Reserved.**

2. In addition to the requirements contained in subsection 1. of this section, the person or persons giving notice of intention of candidacy for a write-in candidate shall also file, with the appropriate official specified in paragraph A. or B. of subsection 1. of this section, a copy of the notice as published with an affidavit stating that the notice has been published and including the name of the newspaper and the date of publication, not later than the fifth day after the deadline for filing and publishing such notice. The affidavit may be made by the person giving notice of intention of candidacy or by the publisher of the newspaper in which the notice was published or by an employee of the newspaper designated by the publisher.

3. No person shall be eligible as a write-in candidate in a special or general primary, a special or general primary runoff, or in a special or general election runoff.

4. No person shall be eligible as a write-in candidate in a general or special election if such person was a candidate for nomination or election to the same office in the immediately preceding primary.

5. The Secretary of State or appropriate county official shall certify to the election superintendent of each county affected at least ten (10) days prior to the general or special election the names of all persons who have filed notices of intention to be write-in candidates with the Secretary of State.

6. The governing authority of any county, not later than February 1 of any year in which a general primary, nonpartisan primary, or general election is to be held, and at least twenty (20) days prior to the special primary or election in the case of a special primary or special election, shall fix and publish a qualifying fee for each county office to be filled in the upcoming primary or election. Such fee shall be three percent (3%) of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office; provided, however, that for the offices of clerk of the superior court, judge of the probate court, sheriff, tax commissioner, and magistrate, the qualifying fee shall be three percent (3%) of the minimum salary provided by general law for the office, exclusive of cost-of-living increases and longevity increases. If not a salaried office, a reasonable fee shall be set by the governing authority of such county, such fee not to exceed three percent (3%) of the income derived from such office by the person holding the office for the preceding year.

7. **Qualification Fees.**

A. Qualification fees for party and public offices shall be fixed and published as follows:

- (1) The governing authority of any county, not later than February 1 of any year in which a general primary, nonpartisan primary, or general election is to be held, and at least twenty (20) days prior to the special primary or election in the case of a special primary or special election, shall fix and publish a qualifying fee for each county office to be filled in the upcoming primary or election. Such fee shall be three percent (3%) of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office. If not a salaried office, a reasonable fee shall be set by the county governing authority, such fee not to exceed three percent (3%) of the income derived from such office by the person holding the office for the preceding year;

- (2) Within the same time limitation as provided in 2-302(1)(A), the Secretary of State shall fix and publish a qualifying fee for any candidate qualifying by this method with a state political party and for any candidate qualifying with the Secretary of State for a nonpartisan primary and for any candidate filing with the Secretary of State his or her notice of candidacy for a general or special election. Such fee shall be three percent (3%) of the annual salary of the office if a salaried office, except that the fee for members of the General Assembly shall be four hundred dollars (\$400.00). If not a salaried office, a reasonable fee shall be set by the Secretary of State, such fee not to exceed three percent (3%) of the income derived from such office by the person holding the office for the preceding year;
 - (3) A reasonable qualifying fee may be set according to party rule for each political party office to be filled in a primary. Such fees shall be set and published by the county or state political party not later than February 1 of the year in which the primary is to be held for the filling of such party office.
- B. Qualifying fees shall be paid as follows:
- (1) The qualifying fee for a candidate in a primary shall be paid to the county or state political party at the time the candidate qualifies;
 - (2) The qualifying fee for all other candidates shall be paid to the superintendent or Secretary of State at the time the notice of candidacy is filed by the candidate.
- C. Qualifying fees shall be prorated and distributed as follows:
- (1) Fees paid to the county political party: fifty percent (50%) to be retained by the county political party with which the candidate qualified; fifty percent (50%) to be transmitted to the superintendent of the county with the party's certified list of candidates not later than 12:00 noon of the third day after the deadline for qualifying in the case of a general primary and by 12:00 noon of the day following the closing of qualifications in the case of a special primary. Such fees shall be transmitted as soon as practicable by the superintendent to the governing authority of the county, to be applied toward the cost of the primary and election;
 - (2) Fees paid to the state political party: seventy-five percent (75%) to be retained by the state political party; twenty-five percent (25%) to be transmitted to the Secretary of State with the party's certified list of candidates not later than 12:00 noon of the third day after the deadline for qualifying in the case of a general primary and by 12:00 noon of the day following the closing of qualifications in the case of a special primary. Such fees shall be transmitted as soon as practicable by the Secretary of State as follows: one-third (1/3) to the state treasury and two-thirds (2/3) divided among the governing authorities of the counties in the candidate's district in proportion to the population of each such county according to the last United States decennial census, such fees to be applied to the cost of holding the election;
 - (3) Qualification fees paid to the superintendent of the county:
 - (a) If the person qualifies as a candidate of a political body, fifty percent (50%) shall be transmitted to the state executive committee of the appropriate political body and fifty percent (50%) shall be retained by the superintendent of the county; and
 - (b) If the person qualifies as an independent or nonpartisan candidate, the superintendent of the county shall retain the entire amount of the fees.Such fees shall be transmitted as soon as practicable by the superintendent to the governing authority of the county, to be applied toward the cost of holding the election.

ARTICLE 2.1 **Campaign Financing Disclosure**

Every elected official shall file with the county clerk of the county of election or, if there is no clerk, with the chief executive officer of such county, not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer shall file with the county clerk of the county of election or, if there is no clerk, with the chief executive officer of such county, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

A public officer shall not, however, be required to file such a financial disclosure statement for the preceding calendar year in a year in which there occurs qualifying for election to succeed such public officer, if such public officer does not qualify for nomination for election to succeed himself or herself or for election to any other public office subject to this chapter. For purposes of this subsection, a public officer shall not be deemed to hold office in a year in which the public officer holds office for less than fifteen (15) days.

ARTICLE 2. VOTING

ARTICLE 2.1 Election Officials

1. **Appointment.** The following election officials shall be appointed by the Board of Elections and shall receive such compensation as is provided by same:
 - A. Election Superintendent
 - B. Chief Manager
 - C. Two (2) Assistant Managers
 - D. Clerks, as necessary
2. **Qualifications and Powers.** The Election Superintendent and all poll officers shall meet such qualifications and exercise all such powers and duties as are provided in Title 21 of the *O.C.G.A.*

ARTICLE 2.1 Election Districts

Each election district shall constitute a separate precinct. The governing authority of the county in which precincts are located may divide or redivide any precinct so as to suit the convenience of the electors and to promote the public interests. All voting precincts which are established or altered after April 15, 1994 must conform with the requirements.

1. All voting precincts established or altered on or after April 15, 1994, shall consist of areas which are bounded on all sides only by:
 - A. Visible features which are readily distinguishable upon the ground (such as streets, railroad tracks, streams, lakes, and ridges) and which are indicated upon official Department of Transportation maps, current census maps, city or county planning maps, official county maps, or any combination of such maps;
 - (1) The boundaries of public parks;
 - (2) The boundaries of public school grounds;
 - (3) The boundaries of churches; or
2. The boundaries of counties and incorporated municipalities.
 - A. The governing authority shall notify the board of registrars within ten (10) days after such changes are adopted.
 - B. The governing authority shall file with the Secretary of State:
 - (1) A map reflecting any changes in precincts within twenty (20) days after the changes are made
 - (2) A copy of any communications to or from the United States Department of Justice relating to any precincts within twenty (20) days after such communication is sent or received;
 - (3) A copy of any pleading initiating a court action potentially affecting any precincts within thirty (30) days after it is filed;
 - (4) A copy of any court order affecting any precincts within twenty (20) days after it is entered; and
 - (5) Any other documentation necessary to allow the Secretary of State to maintain a current listing of all precincts in the state.

ARTICLE 2.1 Polling Places

The polling places within Newton County shall be designated by the Board of Elections.

ARTICLE 2.1 Date of Election

All general elections to fill county offices shall be held on the Tuesday next following the first Monday in November and on such day biennially thereafter.

ARTICLE 2.1 Write-in Votes

In elections, electors shall be permitted to cast write-in votes, but no write-in votes may be cast in a run-off primary or run-off election. The design of the ballot card shall be permit the managers, in counting the write-in votes, to determine readily wether an elector has cast any writ-in vote not authorized by law. The Secretary of State, in specifying the form of the ballot, and the State Election Board, in promulgating rules and regulations respecting the conduct of elections, shall provide for ballot secrecy in connection with write-in votes.

ARTICLE 2.1 Absentee Ballots

Absentee ballots shall be used in all county elections, and such use shall be governed by the provisions of Chapter 21 of the *O.C.G.A.*

ARTICLE 2.1 Vote Required for Election

Candidates for nomination for any public county office in any primary, and candidates for any public county office in any election shall be nominated or elected by a plurality of the votes cast to fill such nomination or public office.

Where the county charter does not provide for nomination or election by plurality and no candidate receives a majority of the votes cast, a runoff primary or election shall be held between the candidates receiving the two highest numbers of votes. In the case of a general primary or general election, such runoff shall be held on the twenty-first (21st) day after the day of holding the first primary or election, unless such runoff date is postponed by court order. In the case of a special primary or special election, such runoff shall be held not earlier than the fourteenth (14th) day and not later than the twenty-first (21st) day after the holding of the first special primary or special election, on a date specified by ordinance or resolution, unless such runoff date is postponed by court order.

ARTICLE 2.1 Contested Elections

1. **Petition of Contest.** Any person wishing to contest the results of a primary or election shall file a petition with the Superintendent of Elections.

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ARTICLE 2. IN GENERAL

ARTICLE 2.1 Exercise of Governmental Authority

In addition to the other powers which it may have, the governing body shall have the following powers, under this chapter, relating to the administration of county government:

1. The power to establish county offices, agencies, and employments;
2. The power to define, regulate, and alter the powers, duties, qualifications, compensation, and tenure of all officers, agents, and employees, provided that the members of the governing body shall not have the right to fix or change their own terms or the terms of their successors, nor to alter their own salaries or compensation, except pursuant to the authority of *O.C.G.A. § 36-35-4*, nor to alter such duties or responsibilities as are specifically given to a particular elective official by charter;
3. The power to authorize any of the offices, agents, and employees of the county to serve, in any manner prescribed by applicable law; any process, summons, notice, or order on all persons, as defined in *O.C.G.A. § 1-3-3* therein named, when:
 - A. The paper to be served rises out of or relates to an activity or condition conducted or maintained by such person within the territorial jurisdiction of the county in violation of an applicable law or ordinance; and
 - B. The paper to be served originates in or is issued under the authority of the department or branch of government employing such officer, agent, or employee.

Where any such paper names one or more persons who reside outside the territorial jurisdiction of the county, the several sheriffs, marshals, and constables of the several counties of this state are authorized and directed to serve any such paper and make appropriate return of such service by them, as other process is served and returned, on such named persons residing in their respective jurisdictions, upon receipt of a written request to make such service, for the fees allowed for service of process issued by the superior courts of this state;

1. The power to establish merit systems, retirement systems, and insurance plans for all county employees and to establish insurance plans for school employees and to provide the method or methods of financing such systems and plans;
2. The power to contract with any state department or agency or any other political subdivision for joint services or the exchange of services; to contract with such agencies or subdivisions for the joint use of facilities or equipment; and to contract with any state agency or political subdivision to perform any service or execute any project for such agency or subdivision in which the county corporation has an interest;
3. The power to legislate, regulate, and administer all matters pertaining to absentee voting in elections; and

4. The power to grant franchises to or make contracts with railroads, street railways, or urban transportation companies, electric light or power companies, gas companies, steam-heat companies, telephone and telegraph companies, water companies, and other public utilities for the use and occupancy of the streets of the county, for the purpose of rendering utility services, upon such conditions and for such time as the governing authority may deem wise and subject to the Constitution and the general laws of this state.

ARTICLE 2.1 **Code of Ethics**

1. **Prohibited Conduct.** Public officials and employees of the county shall treat all citizens with courtesy, impartiality, fairness, and equality under the law, and shall avoid both actual potential conflicts between their private self-interest and the public interest. Prohibited conduct of each such official and employee shall include, but not be limited to, the following:

- A. Granting or making available to any person any special consideration, treatment, advantage, or favor beyond that which it is the general practice to grant or make available to the public large;
- B. Requesting, using, or permitting the use of any publicly-owned or publicly-supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of himself or any other person, except as otherwise allowed by law;
- C. Participating in the deliberation of or voting on any matter involving his financial or personal interest;
- D. Engaging in private employment with, or rendering services for, any private person who has business transactions with the county, unless he has made full public disclosure of the nature and extent of such employment or services;
- E. Appearing on behalf of any private persons, other than himself, before any public body in the county;
- F. Accepting any gift, whether in the form of money, thing, favor, loan, or promise, that would not be offered or given to him if he were not an official or employee;
- G. Disclosing any confidential information concerning any official or employee, or any other person, or any property or governmental affairs of the county, without prior formal authorization of the governing body;
- H. Using or permitting the use of confidential information to advance the financial or personal interest of himself or any other person; or
- I. Appointing or voting for the appointment of any person related to him by blood or marriage to fill an office, position, employment, or duty, when the salary, wages, pay, or compensation is to be paid out of public funds.

2. **Hearings and Determinations.** Upon the sworn complaint of any person alleging facts which if true would constitute a violation of this section, the Board of Commissioners shall conduct a public hearing at which the accused shall be given an opportunity to be heard, either personally or through Board of Commissioners. At the conclusion of said hearing, the Board of Commissioners shall, in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct of the official or employee in question.

ARTICLE 2.1 **Administrative Policy and Procedures**

1. **Officers.** Each officer shall perform all duties required of his office by state law, the charter, and this code, and such other duties not in conflict therewith as may be required by the Board of Commissioners.

2. **Department Heads.** All department heads shall:

- A. Be immediately responsible to the Board of Commissioners for the effective administration of their respective department and all activities assigned thereto;
- B. Keep informed as to the latest practices in their particular field and inaugurate, with the approval of the Board of Commissioners, such new practices as appear to be of benefit to the service and to the public;
- C. Submit quarterly and annual reports of the activities of their respective department to the Board of Commissioners
- D. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the Board of Commissioners;

- E. Have power, when authorized by the Board of Commissioners, to appoint and remove, subject to personnel regulations, all subordinates under him; and
 - F. Be responsible for the proper maintenance of all county property and equipment used in their respective departments.
3. **Departments.** Each department shall cooperate with every other department and shall furnish, upon the direction of the Mayor, any other department such service, labor, and materials as may be requisitioned by the head of each department, as its own facilities permit.
4. **Records.** All records, except those which by order of a state court or by law are prohibited from being open to public inspection, shall be open for personal inspection by any citizen of Georgia during the hours of operation of the administrative service herein below prescribed.
5. **Operation of Administrative Service.** All units in the administrative service shall:
- A. **Reserved.**
 - B. **Make Daily Deposit.** Made a daily deposit with the County Treasurer of any monies received directly from the public.
 - C. **Payment of Monies.** Pay out monies belonging to the county only in the manner prescribed herein.

ARTICLE 2.1 **Oaths**

1. All officers and employees required by charter or some other provision of law to take an oath shall, before entering upon the discharge of their respective duties, take and subscribe the required oath before an officer authorized by law to administer oaths.

A. **Official Oath of County Commissioner.**

I, (Name) , do swear (or affirm) that I will well and truly discharge the duties of Commissioner for Newton County, in all matters which require my official action, to the best of my knowledge and skill, and I will so set as in my judgement will be most conducive to the welfare and best interests of the entire county.

I do further solemnly swear (or affirm) that I am not the holder of any unaccounted for public money due this State, or any foreign state which I am prohibited from holding by the laws of the State of Georgia; and that I am otherwise qualified to hold said office, according to the Constitution of the United States and Laws of Georgia; and that I will support the Constitutions of the United States and of this State.

A. **Oath of Department Supervisor of Code Enforcement for Ordinances and Zoning.**

I, (Name) , do swear that I will faithfully execute the duties of my office, serve all papers and processes directed to me by the lawful authority of Newton County, and in all things well and truly, without partiality or malice, perform all the duties of Code Enforcement Officer during my continuance therein and take only my lawful fees. So help me god.

I do further swear that I am not the holder of any public money due this State unaccounted for; that I am not the holder of any office or trust under the government of the United States, nor either of the several states, nor any foreign state, and that I am otherwise qualified to hold said office according to the Constitution and Laws of Georgia, and I will support the Constitution of the United States and of Georgia.

1. In addition to the above oath all officers and employees shall take the following oath:
- A. Take the oath of office;
 - B. Take any oath prescribed by the Constitution of Georgia;
 - C. Swear that he or she is not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof;

D. Swear that he or she is not the holder of any office of trust under the government of the United States, any other state, or any foreign state which he or she is by the laws of the State of Georgia prohibited from holding;

E. Swear that he or she is otherwise qualified to hold said office according to the Constitution and laws of Georgia;

F. Swear that he or she will support the Constitution of the United States and of this state; and

G. If elected by any circuit or district, swear that he or she has been a resident thereof for the time required by the Constitution and laws of this state.

ARTICLE 2.1 Bonds

Except as otherwise provided by law, the Board of Commissioners may require any department head, county official, or employee, before entering upon the discharge of his duties to give good and sufficient bond in any amount decided by the Board of Commissioners. Said bond shall be payable to Newton County for the faithful performance of said duties and to secure against corruption, malfeasance, misappropriation, or unlawful expenditures in office. Said surety bonds shall be obtained from a surety company licensed to do business in the State of Georgia and approved by the Board of Commissioners. The premiums thereon shall be paid by the county.

ARTICLE 2.1 Compensation

Each officer and employee of the county shall receive such compensation as be provided from time to time by resolution, or in the case of constitutional officers, by Legislative Act.

ARTICLE 2.1 Drug Free Policy

The United States Congress enacted the Drug Free Workplace Act of 1988. The purpose of this law is to ensure that work done under federal grants is performed in a drug free work environment.

Newton County prohibits employees from engaging in the unlawful manufacture, distribution, dispensation, possession or use of illegal drugs in the workplace. Such activity clearly affects an employee's ability to perform public duties and may cause an increased risk of accidents and injuries to county employees and others; therefore, Newton County adopts the following as its drug free policy.

No employee of Newton County shall illegal engage in the manufacture, distribution, dispensation, possession or use of a controlled substance at the workplace. No employee of Newton County shall use or consume illegal drugs or alcohol outside the workplace so that their ability to perform their duties is impaired in any way. Such activity will be considered a sufficient ground for a serious adverse personnel action up to and including dismissal from employment.

If an employee is convicted of violating any criminal drug stature, regardless of whether the alleged violation occurred at the workplace or elsewhere, the employee must notify the Personnel Department in writing of each conviction within five (5) calendar days of the conviction.

Failure to comply with any part of this policy will result in serious adverse personnel action up to and including dismissal from employment. Any questions concerning this policy should be directed to the Personnel Department.

(Adopted 12/19/89)

ARTICLE 2.1 Records Management Program

The Newton County Board of Commissioners does adopts the Georgia Records Act and such rules and regulations established pursuant to said Act as a basis for establishing a Records Management Program. The Board of Commissioners is responsible for the administration of the Records Management Program and the County Clerk is designated as Records Management Officer for Newton County. He will act for and in behalf of the County in directing and coordinating all records management matters.

There is hereby created a Records Committee consisting of the Probate Court Judge, District Attorney, Clerk of Superior Court, and the Records Management Officer (or their designees). It is the duty of the Records

Committee to review and recommend approval, disapproval or modification of records retention schedules to the County Governing Body. Review of records retention schedules will be based upon legal, fiscal, administrative and historical retention requirements. The Records Management Officer shall serve as chairman of this Committee, and final approval authority shall be the Governing Body of the County. An archival depository will be selected to store those records determined to have permanent historical value.

A Centralized Records Center shall be established and all records not required for day-to-day office operation shall be transferred to the Records Center until destroyed in accordance with the approved Records Retention Schedule. No record shall be altered or destroyed except in accordance with provisions of this resolution.

(Adopted 12/20/83)

ARTICLE 2.1 Authorization of Officers, Agents, and Employees of the County to Serve Summons

O.C.G.A. Section 36-5-26 specifies that a county governing authority shall have the power to authorize certain officers, agents, and employees of the county to serve, in any manner prescribed by applicable law, any process, summons, notice, or order on all persons, as defined in O.C.G.A. Section 1-3-3 therein named.

The Newton County Board of Commissioners is the governing authority of the county and has the responsibility to develop and enforce laws and ordinances relating to public housing, building, electrical, plumbing, heating, ventilating, air-conditioning, air and water pollution control, solid waste management, and other technical or environmental codes; county business, occupation, and professional license tax ordinances; county privilege licenses or permit ordinances; or ordinances providing for the protection of facilities for the treatment or wholesale or retail distribution of water from tampering or theft which may arise either from a single isolated act or omission or from an activity or condition.

The paper to be served arises out of or relates to an activity or condition conducted or maintained by such person within the territorial jurisdiction of the county in violation of an above described law or ordinance.

The paper to be served originates in or is issued under the authority of the department or branch of county government employing such officer, agent, or employee.

Each and every day the condition is maintained or the activity is conducted is made a separate county offense by applicable law or ordinance.

Where any such paper names one or more persons who reside outside the territorial jurisdiction of Newton County, the several sheriffs, marshals, and constables of the several counties of this state are authorized and directed to serve any such paper and make appropriate return of such service by them, as other process is served and returned, on such named persons residing in their respective jurisdictions, upon receipt of written request to make such service, for the fees allowed for service of process issued by the superior courts of this state.

Certain Newton County Officers, agents and employees as approved by the Newton County Commission are empowered to act under this resolution.

(Approved and Adopted 2/5/97)

ARTICLE 2. THE BOARD OF COMMISSIONERS GENERALLY

ARTICLE 2.1 Election

See §§ 3-102 and 130, Division I.

ARTICLE 2.1 **Qualifications for Office**

Any person who is at least twenty-one (21) year of age, has been a resident of the State at least one (1) year, and a resident of the district for at least six (6) months immediately preceding the date of the election shall be eligible for the Board of Commissioners. Should any member of the Board of Commissioners cease to maintain his principal place of residence within the county during his term of office, his office shall thereby become vacant.

ARTICLE 2.1 **Vacancies**

Vacancies in the office shall be filled in accordance with 1-111 of Division I of this code.

ARTICLE 2.1 **Meetings**

1. **Meetings.** The Board of Commissioners shall hold regular meetings on the first and third Tuesday of each month at 7:00 p.m. at the Executive Office Boardroom, unless otherwise ordered by the Board of Commissioners; provided, that the Chair may convene the Board of Commissioners whenever in his opinion the public business requires it, and he shall do so upon the application of three (3) members of the Board of Commissioners. All meetings at which official actions are to be taken shall be open to the public.

A. **Notice.** The Board of Commissioners shall prescribe the time, place, and dates of regular meetings of the Board of Commissioners. Such information shall be available to the general public and a notice containing such information shall be posted and maintained in a conspicuous place available to the public at the regular meeting place of the agency. Meetings shall be held in accordance with a regular schedule, but nothing in this subsection shall preclude an agency from canceling or postponing any regularly scheduled meeting. Whenever any meeting required to be open to the public is to be held at a time or place other than at the time and place prescribed for regular meeting, the Board of Commissioners shall give due notice thereof. "Due notice shall be the posting of a written notice for at least twenty-four (24) hours at the place of regular meetings and giving of written or oral notice at least twenty-four (24) hours in advance of the meeting to the legal organ in which notices of sheriff's sales are published in the county where regular meetings are held or at the option of the Board of Commissioners to a newspaper having a general circulation in said county at least equal to that of the legal organ; provided, however, that in counties where the legal organ is published less often than four times weekly "due notice" shall be the posting of a written notice for at least twenty-four (24) hours at the place of regular meetings and, upon written request from any local broadcast or print media outlet whose place of business and physical facilities are located in the county, notice by telephone or facsimile to that requesting media outlet at least twenty-four (24) hours in advance of the called meeting. When special circumstances occur and are so declared by the Board of Commissioners, the Board of Commissioners may hold a meeting with less than twenty-four (24) hours' notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under the circumstances including notice to said county legal organ or a newspaper having a general circulation in the county at least equal to that of the legal organ, in which event the reason for holding the meeting within twenty-four (24) hours and the nature of the notice shall be recorded in the minutes. Whenever notice is given to a legal organ or other newspaper, that publication shall immediately make the information available upon inquiry to any member of the public. Any oral notice required or permitted by this subsection may be given by telephone. (Notice provided as required by O.C.G.A. § 50-14-1 et.seq.)

B. **Agenda Item Deadline.** All items to be included in the next agenda shall be submitted to the County Clerk by the Friday immediately preceding the next Board of Commissioners meeting.

C. **Agenda and Minutes.** Prior to any meeting, the agency holding such meeting must make available an agenda of all matters expected to come before the agency at such meeting. The agenda must be available upon request and must be posted at the meeting site, as far in advance of the meeting as reasonably possible, but not more than two weeks prior to the meeting. Failure to include on the agenda an item which becomes necessary to address during the course of a meeting does not preclude considering and acting upon such item.

An agenda of the subjects acted on and those members present at a meeting of the Board of Commissioners shall be written and made available to the public for inspection within two (2) business days of the adjournment of a meeting of the Board of Commissioners. The minutes

of a meeting of the Board of Commissioners shall be promptly recorded and such records shall be open to public inspection once approved as official by the agency, but in no case later than immediately following the next regular meeting of the Board of Commissioners; provided, however, nothing contained in this chapter shall prohibit the earlier release of minutes, whether approved by the Board of Commissioners or not. Said minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, and a record of all votes. In the case of a roll-call vote, the name of each person voting for or against a proposal shall be recorded and in all other cases it shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining.

All attachments to the official minutes of the Newton County Board of Commissioners, including but not limited to resolutions, ordinances and contracts, shall be physically attached to the minutes or kept in numbered files which are incorporated in the minutes by reference and expressly made a part thereof. The numbered files shall be kept in the office of the Newton Board of Commissioners in a fire proof safe with the minute book. Said files shall be an integral part of the minutes and shall be considered an extension of the minute book. The county clerk shall be the official custodian of the files, and access to the files shall be limited to the clerk and her authorized designees. Agenda, summary, and minutes shall be prepared as required by O.C.G.A. § 15-14-1 et.seq.

(Adopted 6/15/19)

NOTE: "Meeting" means the gathering of a quorum of the members of the governing body of an agency or of any committee of its members created by such governing body, whether standing or special, pursuant to schedule, call, or notice of or from such governing body or committee or an authorized member, at a designated time and place at which any public matter, official business or policy of the agency is to be discussed or presented or at which official action is to be taken or, in the case of a committee, recommendations on any public matter, official business or policy to the governing body are to be formulated or discussed. The assembling together of a quorum of the members of a governing body or committee for the purpose of making inspections of physical facilities under the jurisdiction of such agency or for the purposes of meeting with the governing bodies, officers, agents, or employees of other agencies at places outside the geographical jurisdiction of an agency and at which no final official action is to be taken shall not be deemed a "meeting."

A. Closed Meetings.

- (1) When any meeting of the Board of Commissioners is closed to the public pursuant to Georgia Law, the specific reasons for such closure shall be entered upon the official minutes, the meeting shall not be closed to the public except by a majority vote of a quorum present for the meeting, the minutes shall reflect the names of the members present and the names of those voting for closure, and that part of the minutes shall be made available to the public as any other minutes. Where a meeting of the Board of Commissioners is devoted in part to matters within the exceptions provided by law, any portion of the meeting not subject to any such exception, privilege, or confidentiality shall be open to the public, and the minutes of such portions not subject to any such exception shall be taken, recorded, and open to public inspection as provided in Georgia Law.
- (2) When any meeting of the Board of Commissioners is closed to the public pursuant to subsection (1) of this section, the chairperson or other person presiding over such meeting shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

2. Duty to Attend. It shall be the duty of each member of the Board of Commissioners to attend each meeting of the Board of Commissioners, unless he or she is prevented by some unavoidable circumstance.

ARTICLE 2.1 **Reserved**

ARTICLE 2.1 **Rules for the Conduct of Business**

Except as otherwise provided in this section, Roberts' Rules of Order shall govern the conduct of Board of Commissioners meetings.

1. **Call to Order.** All meetings of the Board of Commissioners shall be open to the public. The Chair, or in his absence, the Chair pro tempore, shall take the chair at the hour appointed for any regular, temporarily adjourned, special, or called meeting; and shall immediately call the Board of Commissioners meeting to order.
2. **Roll Call.** Before proceeding with the business of the Board of Commissioners, the County Clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.
3. **Quorum.** A majority of all the members elected to the Board of Commissioners shall constitute a quorum at any regular or special meeting of the Board of Commissioners and an affirmative vote of a majority of such number shall be sufficient to permit the conduct of all business except that for which a larger vote has been mandated by this code.
4. **Order of Business.** The business of the Board of Commissioners shall be taken up for consideration and disposition in the following order:
 - A. call to order by presiding officer
 - B. roll call
 - C. approval of minutes of previous meeting
 - D. contracts and resolutions
 - E. unfinished business
 - F. new business
 - G. adjournment
5. **Reading of Minutes.** Unless a reading of the minutes of a Board of Commissioners meeting is requested by a member of the Board of Commissioners, such minutes may be approved without a reading if the Board of Commissioners has previously furnished each member with a copy thereof.
6. **Reports By Committees.** Any business coming before the Board of Commissioners concerning the subject matter of which any standing or special committee has jurisdiction, may be referred to the proper committee for investigation and report. It shall be the duty of each standing or special committee, whenever required by the Chair or by the Board of Commissioners, or any member of the Board of Commissioners, to examine any matter referred to such committee, and make a report thereof at the next regular meeting of the Board of Commissioners, or show good cause why no report is made, such reports shall not be in writing unless so directed by the presiding officer.

Any standing committee shall examine the matters within its jurisdiction, and make such reports and recommendations from time to time as may be necessary.

1. **Manner of Addressing the Board of Commissioners.** No member, while the Board of Commissioners is in session, shall speak on any subject unless recognized by the presiding officer. Every speaker shall address the chair, and no member shall interrupt anyone who is speaking, except to call him to order or for explanation.
2. **Limitations on Addressing Board of Commissioners.** Any person not a member of Board of Commissioners who desires to address the Board of Commissioners shall first secure the permission of the presiding officer, and then shall step up in front of the rail, give his name and address in an audible tone of voice for the record, and direct his remarks to the Board of Commissioners as a body rather than to any particular member, limiting such remarks to five (5) minutes unless additional time is granted by Board of Commissioners.
3. **Ordinances, Resolutions, Regulations, Contracts and Inter-local Agreements.** Unless otherwise provided in this code, all ordinances, resolutions, contracts, and inter-local agreements of the county shall be prepared, approved, introduced, and adopted in the following manner:
 - A. **Preparation.** All ordinances shall be prepared by the County Attorney. No ordinance shall be prepared for presentation to the Board of Commissioners unless ordered by a majority vote of the Board of Commissioners, or requested in writing by the Chair, or prepared by the County Attorney on his own initiative.

B. Administrative Staff Approval. All ordinances, resolutions, and contract documents shall, before presentation to the Board of Commissioners, have been approved as to form and legality by the County Attorney or his authorized representative, and shall have been examined and approved for administration by the Chair or his authorized representative where there are substantive matters of administration involved. All such instruments shall have first been referred to the head of the department under whose jurisdiction the administration of the subject matter of the ordinance, resolution, or contract document would involve and be approved by said department head; provided, however, that if approval is not given, then the same shall be returned to the Chair with a written memorandum of the reasons why such approval is withheld. In the event the questioned instrument is not redrafted to meet a department head objection, or objection is not withdrawn and approval in writing given, then the Chair shall so advise the Board of Commissioners and give the reasons advanced by the department head for withholding approval.

C. Introduction and Adoption.

- (1) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "the Board of Commissioners of Newton County hereby ordains.. ..." and every ordinance shall so begin.
- (2) An ordinance may be introduced by any member of the Board of Commissioners and be read at a regular or special meeting of the Board of Commissioners. Upon introduction of any ordinance, the Board of Commissioners shall, as soon as possible, distribute a copy to the Chair and to each member of the Board of Commissioners and shall file a reasonable number of copies in the office of the county clerk and at such other public places as the Board of Commissioners may designate.
- (3) No ordinance shall relate to more than one (1) subject, which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed, and when practicable all ordinances shall be introduced as amendments to this code.
- (4) An ordinance, resolution, or contract shall be deemed, adopted, or rejected by the Board of Commissioners in accordance with the rules which the Board of Commissioners shall establish. Such ordinances adopted by the Board of Commissioners shall have the full force and effect of law.

D. Effective Date. All ordinances shall be made effective upon adoption.

E. Emergencies. To meet a public emergency affecting life, health, property, or public peace, the Board of Commissioners may convene on call of the Chair or three (3) members of the Board of Commissioners and may promptly adopt an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within thirty (30) days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least three (3) members of the Board of Commissioners shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed thirty (30) days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency continues to exist. An emergency ordinance shall also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4. **Recording Vote.** Whenever any member shall request it the yeas and nays of the members present shall be recorded on the minutes on any question taken.

5. **Questions of Order.** The presiding officer shall decide all questions of order, but any Commissioner who is dissatisfied with the decision may appeal to the Board of Commissioners in the manner provided by Roberts' Rules of Order for appealing from decisions of presiding officers.

6. **Elections.** All elections by the Board of Commissioners shall be by ballot, and a majority vote of the whole Board of Commissioners shall be necessary to an election.

7. **Executive Session.** The Board of Commissioners may, at any time, upon call therefore by the presiding officer or upon motion duly carried by a Commissioner, meet in executive session. Attendance at such sessions shall be limited to the Chair and members of Board of Commissioners and such invites as shall be invited with the unanimous consent of the Chair and Board of Commissioners.

ARTICLE 2.1 **Legislative Authority Generally**

The Board of Commissioners shall exercise the legislative functions of the county, and may pass any ordinance or resolution that deems best for the government of the county in the manner set forth in this chapter; provided, that same is not in conflict with the legislative act of the county, the Constitution or laws of the State of Georgia, or the Constitution or laws of the United States.

ARTICLE 2. **THE BOARD OF COMMISSIONERS**

(See Division I of this Code)

ARTICLE 2. **THE COUNTY CLERK**

(See Position Classification Pay Plan)

ARTICLE 2. **RESERVED**

ARTICLE 2. **OFFICERS AND EMPLOYEES**

ARTICLE 2.1 **The County Attorney**

1. **Appointment and Qualifications.** The Board of Commissioners shall elect a County Attorney by affirmative vote of three (3) members of the Board and he shall serve at the pleasure of the Board. No person shall be so appointed unless he is a member in good standing of the State Bar of Georgia and has been actively engaged in the practice of law for at least three (3) years preceding his appointment.

2. **Oath.** Before entering upon the duties of his office, the County Attorney shall take the oath prescribed by this code for county officers.

3. **Powers and Duties.** The County Attorney shall be the legal advisor and representative of the county and in such capacity shall:

A. Advise the Board of Commissioners or its committees or any county officer, when thereto requested, upon all legal questions arising in the conduct of county business;

B. Prepare or revise ordinances when so requested by the Board of Commissioners or any committee thereof, and keep the code of ordinances of the county up-to-date and properly indexed;

C. Give his opinion upon any legal matter or question submitted to him by the Board of Commissioners, or any of its committees, or by any county officer;

D. Attend all meetings of the Board of Commissioners as directed for the purpose of giving the Board of Commissioners any legal advice requested by its members;

E. Prepare for execution all contracts and instruments to which the county is a party and approve, as to form, all bonds required to be submitted to the county;

F. Prepare, when authorized by the Board of Commissioners, all charges and complaints against, and appear in the Newton County Supreme Court in the prosecution of every person charged with a violation of this code or county legislative act, and see to the full enforcement of all judgments or decrees rendered or entered in favor of the county;

G. Represent and defend any and all suits and actions at law or equity brought against the county, unless otherwise directed by the Board of Commissioners;

H. Make immediate reports to the Chair and Board of Commissioners of the outcome of any litigation in which the county has an interest;

I. Make an annual report to the Chair and Board of Commissioners of all pending litigation in which the county has an interest and the status thereof;

J. Have the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes, and matters in favor of or against the county or in which the county is concerned as debtor or creditor, now existing or which may hereafter arise not involving or requiring payment to exceed an amount as determined by the Board of Commissioners.

K. Keep complete and accurate records of the following, which records shall forever remain the property of the county:

- (1) all suits in which the county had or has an interest, giving the names of the parties, the nature of the action, the disposition of the case or its status, if pending, and the briefs of counsel; and
- (2) all written opinions prepared by the County Attorney and all certificates or abstracts of titles furnished by him to the county, or any department or official thereof.

L. Render such other legal services as may be required by the Board of Commissioners.

4. **Compensation.** The County Attorney shall submit to the Board of Commissioners a monthly bill for his services, itemizing the type of work performed for the county and the number of hours engaged in each type of work during the month.

ARTICLE 2.1 **The County Engineer**

1. **Appointment.** The County Engineer shall be appointed by the Board of Commissioners, by and with the advice and consent of the Board of Commissioners, and shall serve until a successor is appointed and has qualified.

2. **Oath.** Before entering upon the duties of his office, the County Engineer shall take the oath prescribed by this code for county officers.

3. **Duties.** The County Engineer shall advise the Board of Commissioners and county officials on all engineering matters referred to him and shall, from time to time as required by the Board of Commissioners, make reports regarding public improvement, repairs of streets, bridges, and sidewalks, and prepare such other reports as the Board of Commissioners may request. He shall keep accurate maps, plats, and records of all public works, lands, or property owned by the county Board of Commissioners, and perform such other duties as may be imposed upon him by the Board of Commissioners.

4. **Compensation.** The County Engineer shall submit to the Board of Commissioners a monthly bill for his services, itemizing the type of work performed for the county and the number of hours engaged in each type of work during the month.

ARTICLE 2.1 **Public Officers and Employees - Labor Practices; Strikes by Public Employees Prohibited**

1. As used in this section, the term:

A. **Public Employee.** Any person holding a position by appointment or employment in the government of this state or any person holding a position which provides essential public services without which the public health, safety, welfare, or morals would be, by appointment or employment in the government of a county, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.

B. **Public Employment.** The appointment or employment in the government of this state or the government of a county, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.

C. **Strike.** The failure to report for duty, the willful absence from one's position, the stoppage or deliberate slowing down of work, or the withholding in whole or in part of the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing change in the conditions, compensation, rights, privileges, or obligations of public employment; provided, however, that nothing in this article shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of public employment so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

2. No public employee shall promote, encourage, or participate in any strike. Provided, however, that no right to collective bargaining currently recognized by law is abridged by this act.

3. No person exercising any authority, supervision, or direction over any public employee shall have the power to authorize, approve, or consent to a strike by one or more public employees; and such person shall not authorize, approve, or consent to such strike.

4. Any public employee who violates Code Section 45-19-2 shall be deemed to have terminated his or her employment; shall forfeit his or her civil service status, job rights, seniority, and emoluments, if any; and subsequent to such violation shall not be eligible for appointment or reappointment or employment or preemployment in public employment for a period of three (3) years after such violation except upon the following conditions:

A. His or her direct or indirect compensation shall in no event exceed that received by him or her immediately prior to the time of such violation;

B. His or her direct or indirect compensation shall not be increased for three (3) years after such subsequent appointment or reappointment or employment or preemployment; and

C. He or she shall be on probation for period of five (5) years following such appointment or reappointment or employment or preemployment, during which period he or she shall serve without tenure and at the pleasure of the appointing or employing officer of body.

5. Any person who is not a public employee and who shall knowingly incite, agitate, influence, coerce, persuade, or picket to urge a public employee to strike shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to exceed one year, or by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or both.

ARTICLE 2.1 **Personnel Policy**

ARTICLE 2. **BOARDS, AGENCIES, AND COMMISSIONS**

ARTICLE 2.1 **Northeast Georgia Regional Development Center**

Newton County shall be a member of the Northeast Georgia Regional Development Center. (See Ga. L. 1989 p. 1317).

ARTICLE 2.1 **Newton County Planning Commission**

1. **Membership.** The Newton County Planning Commission shall consist of ten (10) members, appointed by the Commissioner of Newton County, and shall be residents of Newton County. The terms of the members shall be for four (4) years, except that in the appointment of the first Newton County Planning Commission under the terms of this resolution five (5) of the county-appointed members shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of three (3) years and two (2) members shall be appointed for a term of four (4) years. Any vacancy in membership shall be filled for the unexpired term by the Commissioner which shall also have the authority to remove any member for cause, on written charges, after a public hearing. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties.

2. **Organization, Rules, Staff and Finances.** The Newton County Planning Commission shall elect its Chairman from among its members. The term of Chairman shall be one (1) year with eligibility for reelection. The Planning Commission shall appoint a Secretary who may be an officer or employee of the County. The Planning Commission shall make its own rules of procedure and determine its time of meeting. All meetings of the Planning Commission at which official action is taken shall be open to the public and all records of the Planning Commission shall be a public record. The Planning Commission may appoint such employees and staff as it may deem necessary for its work and may contract with the State Planning Agency and other consultants for such services as it may require. The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Commissioner.

3. **Powers and Duties.** From and after the time when the Planning Commission shall have organized and selected its officers, and shall have adopted its rules of procedure, then said Planning Commission shall have all the powers, duties and responsibilities set forth in the General Planning and Zoning Enabling Act of 1957. (Act No. 358 as amended).

Powers may be expanded or modified by the Newton County Board of Commissioners by ordinance and resolution pursuant to the authority granted under Article IX, Section 4, paragraph 2 of the 1976 Georgia Constitution.

(Adopted 9/7/65)

ARTICLE 2.1 **Clean and Beautiful**

1. **Creation, Duties, Powers.**

A. **Creation.** There is hereby created an organization to be known as the "Covington/Newton County Clean Community Commission" (hereinafter referred to as the "Commission").

B. **Duties.** The duties of the Commission shall be:

- (1) To promote public interest in the general improvement of the environment of the Covington/Newton County area;
- (2) To initiate, plan, direct, and coordinate programs for litter control in conjunction with and in cooperation with citizens, government, businesses and industries within the geographic boundaries of Covington and Newton County on a sustainable basis;
- (3) To implement and maintain a KEEP AMERICA BEAUTIFUL SYSTEM and to study, investigate and develop plans for improving the health, sanitation, safety and cleanliness of Covington and Newton County by beautifying the streets, highways, alleys, stream banks, lots, yards and other similar places;
- (4) To aid in the removal and elimination of trash and other debris from the streets, highways, alleys, lots, yards and other similar places;
- (5) To encourage the placing, planting and/or preservation of trees, flowers, plants, shrubs, and other objects or ornamentations in said area;
- (6) To advise and recommend plans to departments of the two jurisdictions for the beautification of Covington and Newton County; and
- (7) Otherwise to promote public interest in the general improvement of Covington and Newton County.

Provided, however, that nothing herein shall be construed to abridge or change the powers and duties of other commissions, departments, boards, and like agencies of Covington and Newton County.

A. **Powers.** In order to perform the duties enumerated in § 3-703(2), the commission shall have the following authority:

- (1) To adopt bylaws to facilitate the attainment of its purpose and functions.
- (2) To plan, initiate, direct and coordinate community-wide efforts to achieve its goals.
- (3) To solicit and accept donations and appropriations of money, services, products, property, and facilities for expenditure and use by the Commission for the accomplishment of its objectives.
- (4) To make recommendations to the County Board of Commissioners and the City Council as well as to the private sector regarding measures which it deems necessary to accomplish its objectives.

2. **Members, Committees.**

A. **Structure.** The Commission shall be composed of thirty (30) plus members who will serve without remuneration, to wit: a Chairman, a Vice-Chairman and the Chairman and members of the Standing Committees. Also, a Treasurer and a Secretary will be elected from the full Commission with a Vice-Chairman to be elected from the Executive Board.

B. **How Appointed.** The Chairman and all members of the Executive Committee of the Commission shall be appointed by the Board of Commissioners and City Council. The Chairman of the Commission together with the Chairmen of the Standing Committees and an Executive Coordinator, who shall be an Ex-Officio member, shall comprise the Executive Committee of the Commission. After appointment, the Executive Committee shall by majority vote select the remaining members.

C. **Committees.** The Standing Committees of the Commission shall be comprised of individuals named from the following segments of the community:

- (1) Business and Industry
- (2) Community Organizations
- (3) Government Operations
- (4) Education (Schools and Education)
- (5) Recycling
- (6) Communications

Each Committee shall be composed of a Chairman, a Vice-Chairman and other members as needed to achieve the objectives of the Committee.

A. **Other Committees.** In addition to the Standing Committee, the Executive Committee of the Commission may establish any other committees which in its discretion is necessary for the purposes of the Commission.

B. **Voting Rights.** All members of the Commission, shall have one vote, equal in weight. The Chairman shall vote only to break a tie. All voting shall be by voice vote; provided, however, the Chairman of the Commission may, at his discretion, call for a roll call vote or a secret ballot.

2. Meetings.

A. **Regular Meetings.** Meetings shall be held every three (3) months excluding June, July, and August. The designated time as set forth shall be the 3rd Monday, 11:30-1:00. Should such a meeting fall upon a legal holiday, then that meeting shall be held at the date and time specified by the Commission.

B. **Special Meetings.** Special meetings of the Commission will be held when called by the Chairman of the Commission or by any five (5) Commission members. For such special meetings, at least three (3) days notice must be given to each Commission member.

C. **Open Meetings.** All meetings shall be open to the public, however, the Executive Committee may elect to meet in Executive Session by two-thirds (2/3) vote of those present provided a quorum is established.

D. **Quorum.** Two-fifths (2/5) of the number of Commission members shall constitute a quorum for the transaction of business, provided that at least four (4) of the Standing Committees are represented at the meeting.

E. **Transaction of Business.** Every act or decision done or made by a majority of the Commission members present at a duly held meeting at which a quorum is present shall be regarded as the act of the entire Commission.

F. **Time Duration.** Meetings shall commence promptly at the time designated by the Commission members. A meeting shall not last longer than two (2) hours from the time it commences, unless a majority of those Commission members present at the duly held meeting vote to allow such meeting to continue for longer than the two-hour (2) time duration.

G. **Roberts' Rules of Order.** All meetings shall be conducted according to Roberts Rules of Order, Current Edition. It shall be the responsibility of each Commission member, and the Parliamentarian, if appointed, to observe that these rules are followed and the meeting conducted in accordance therewith.

3. Terms, Resignation and Removal.

A. **Tenure.** All members shall be appointed for two (2) year terms, and shall not be reappointed for more than one (1) term.

B. **Special Appointments.** The Commission may elect such others as the affairs of the Commission may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Commission may determine.

C. **Resignation and Removal.** Any member may be removed from office with or without cause by the Commission by the Affirmative vote of two-thirds (2/3) of the entire Commission. Any member may resign at any time by giving written notice to the Chairman. Such resignation will take effect on the date of receipt of such notice or at any time later specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

D. **Vacancies.** A vacancy on the Commission shall be filled in the following manner: vacancies in the office of Chairman, on the Executive Committee, and in the Standing Committees shall be filled by majority vote of Commission provided a quorum is present. The member appointed to such vacancy shall serve for the remainder of the term of the member replaced, and shall thereafter be eligible to appointment for one (1) further term.

E. **Duties.** The duties are as follows:

- (1) **Chairman.** The Chairman and/or Co-Chairman shall serve as the Chief Executive Officer(s) of the Commission; shall act as public spokesman for the Commission at public functions; shall serve as Ex-officio member of all committees; shall delegate the duties of the Executive Coordinator as he deems necessary; shall prepare an annual report; shall appoint the Chairman and Vice-Chairman of all Standing Committees upon the advice and consent of the Commission; shall appoint Ad Hoc Committees upon the direction of the Commission; may appoint a Parliamentarian, and shall perform all other

duties as the Commission elects. The Chairman shall be appointed for a two-year (2) term.

- (2) **Vice-Chairman.** A Vice-Chairman will act in the place of the Chairman in the event of his absence, inability, or refusal, to act, and shall exercise and discharge such other duties as may be required of him by the Commission.
- (3) **Treasurer.** The Treasurer will keep an accurate record of the funds, debits, expenses and donations of the Commission.
- (4) **Committee Chairman.** The Committee Chairman will perform such duties as may be required by the Commission.
- (5) **Executive Coordinator.** The Executive Coordinator shall be the control of the whole Commission. He shall perform the duties usually performed by the business manager of a nonprofit corporation. He shall present reports to the Commission, the individual members of the Commission, and to the County of Newton and the City of Covington as the business of the Commission may require.
- (6) **Secretary.** The Secretary will take accurate minutes of all Commission and Executive Board meetings.

4. **Funds.**

A. **Management of Funds.** The Commission will have the power to receive and disburse funds within the limitations of appropriations, gifts and grants, and in connection with projects or undertaking and will include as part of its report a statement of its receipts and disbursements from whatever source and to whatever object for the preceding twelve (12) months. Additionally, and in due time, the Commission will present its proposed budget to become effective July 1, indicating its anticipated revenues and expenditures, and the source of its anticipated revenues. The Commission shall keep such records as will enable it to make such reports and accountings and the same will be subject to verification and examination by the City and County treasurers and/or auditors of the City and County.

All expenditures will be approved by the treasurer and/or co-chairmen. Any and all donations will be held in a special account to be administered by the treasurer upon the recommendation of the Executive Committee.

A. **Amendments.** These bylaws may be amended by a two-thirds (2/3) vote of the Commission members present at any regular meeting provided; (1) A quorum is present, two-thirds(2/3) vote of the Commission members present; and, (2) Notice was presented in writing at the previous Commission meeting.

2. **Voting.**

A. **Conflicts.** In the case of any conflict between an Ordinance and these bylaws, the Ordinance will control.

B. **Majority.** As used in the bylaws, the term "majority" shall mean those votes totaling more than fifty percent (50%) of the total vote of members or the groups designated. Unless otherwise stated all decisions will be by a majority vote.

(Adopted 11/20/79)

ARTICLE 2.1 **Solid Waste Management Authority**

1. **Activated.** There is hereby activated within the County the public body corporate and politic known as the "Newton County Solid Waste Management Authority" (the "Authority") which was created by the Regional Solid Waste Management Authorities Act which shall be and is hereby fully activated.

2. **How Appointed.** There are hereby appointed as members of the first Board of Directors of the Newton County Solid Waste Management Authority (the "Board") six (6) persons, each of whom is a resident of the County. Each Commissioner appointed one director, who is a resident of said Commissioner's district. The remaining director shall be the Chair of the commissioners, serving ex-officio. A Commissioner may appoint himself as a director so long as the appointment will not cause the members of the Commission to hold a majority of the Board of Director's positions.

3. **Terms of Office.** Commencing with the date hereof, each of the persons named as a director shall serve, at the pleasure of the Commission, in such capacity for four years, except that the term of office for each director shall end upon the end of the appointing Commissioner's term of elected office. Directors of the Authority shall be appointed, and may be reappointed, by each Commissioner for terms of four (4)

years, to serve at the pleasure of the Commission, subject to the limitation that the term of office for each director shall end upon the end of the appointing Commissioner's term of elected office.

4. **Duties, Powers.** The Board shall organize itself, carry out its duties and responsibilities and exercise its powers and prerogatives in accordance with the terms and provisions of the Regional Solid Waste Management Authorities Act as it now exists and as it may hereafter be amended or modified.

5. **Conflicts.** The action taken by the Commission as herein specified is not intended in any way to affect any public corporation, industrial development or other authority previously created by legislative act or a constitutional amendment including, without limitation, its existence, purpose, organization, powers or function.

(Adopted and Effective 10/17/95, Amended 12/5/95)

ARTICLE 2.1 Solid Waste Planning Committee

The purpose of the committee is threefold.

1. **Assessment.** The Committee will assess current waste management procedures.
2. **Recommendation.** The Committee will recommend changes in current waste management procedures and/ or propose improved waste management technologies where necessary.
3. **Education.** The Committee will educate the general public to improve waste management practices through community gathering and a comprehensive media campaign. Each County Commissioner will appoint one citizen from their district to serve on the Committee, additional members shall be comprised of persons of the community who have a particular interest in solid waste disposal.

(Approved 2/21/89)

ARTICLE 2.1 Authority to Be Known as Newton County and Jasper County

1. **Activation.** An authority, to be known as the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County, is created and activated. Said authority, herein called the Authority, shall transfer business pursuant to, and exercise the powers provided by the provisions of the Development Authorities Law, codified in the Official Code of Georgia Annotated title 36, Chapter 62, as the same now exists and as it may be hereafter amended.

2. **Joint Authority.** This Authority is created and activated by this proper resolution of the governing body of Newton County as a joint authority pursuant to the provisions of Ga. L. 1981, p. 1419, as amended, and the Official Code of Georgia Annotated § 36-62-5.1.

3. **Board of Directors.**

A. The Authority shall be controlled by a Board of Directors (the "Board") consisting of eight (8) members. Each member appointed to the Board shall be taxpayer residing within the County making the appointment to the Board. Two members of the Board shall be appointed by the Board of Commissioners for each country. One member of the Board from each county shall be an ex-officio member of the Board of Commissioners of that county. The other member of the Board from each county may be any taxpayer residing within that county who is not a member of the Board of Commissioners.

B. The initial eight members of the Authority are to be appointed by the Boards of Commissioners of each participating county at the first open meeting of such body following its adoption of this resolution, for terms beginning on the date of the first meeting of the Authority following the adoption of this resolution and extending the number of years indicated below opposite each position.

Position	Initial Terms Of Office	County Making Appointment
1	2 years	Jasper
2	2 years	Morgan
3	2 years	Newton
4	2 years	Walton

5	4 years	Jasper
6	4 years	Morgan
7	4 years	Newton
8	4 years	Walton

After the initial term, the terms of all directors shall be for four years. If at the end of any term of any member, a successor to such member has not been appointed, the member whose term of office has expired shall continue to hold office until his successor is appointed.

- A. The members shall receive no compensation for their services, but shall be reimbursed for their actual expenses incurred in the performance of their duties. A majority of the members of the Authority shall constitute a quorum, but no action may be taken by the Authority without the affirmative vote of a majority of the full membership of the Authority. The members of the Authority shall meet at least quarterly and shall develop an operational business plan for the Authority.
- 2. **Officers.** The directors shall elect one (1) of their members as chairman and another as vice chairman and shall also elect a secretary and a treasurer or a secretary-treasurer, either of whom may, but need not be, a director.
- 3. **Audited Financial Statements.** The Authority shall provide to the fiscal officer of a participating county an audited financial statement if such audit has been required by the participating county within six months of the end of the previous fiscal year.
- 4. **Filing with Secretary of State.** A copy of this resolution shall be filed with the Secretary of State of Georgia.
- 5. **Effective Date.** This joint and concurrent resolution shall become effective on the date of its adoption by the governing body last adopting the same.

(Adopted 3/2/99)

ARTICLE 2.1 Newton County Public Facilities, Inc.

- 1. **Directors.**
 - A. **Number.** The affairs of the Corporation shall be controlled and administered by a Board of Directors consisting of six (6) members; provided, however, that such number shall be increased or decreased in the event that the total number of seats on the Board of Commissioners of Newton County is increased or decreased, and such number shall correspond to such increased or decreased number of seats on the Board of Commissioners.
 - B. **Composition: Appointment.** The Board of Commissioners of Newton County (the "Commissioners") shall, except for the initial Directors, appoint the members of the Board of Directors of the Corporation, acting at such time as the Commissioners so decide. Each Commissioner shall appoint one director, who shall be a resident of such Commissioner's district. The remaining director shall be the Chair of the Commissioners, serving ex officio. A Commissioner may appoint himself as a director so long as the appointment will not cause the members of the Commission to hold a majority of the Board of Director's positions.
 - C. **Term.** The term of all Directors appointed by the Commissioners shall be three (3) years; provided, however, that in exercising its power to appoint the first Board of Directors, the Commissioners shall designate two (2) Directors to serve for one (1) year, two (2) directors to serve for two (2) years and two (2) to serve for three (3) years. Thereafter, and as each Director completes his or her designated term, all appointments shall be for a three-year (3) term so that the Directors shall serve staggered terms.
 - D. **Qualifications of Directors.** In addition to the qualifications otherwise stated herein, a Director of the Corporation shall be any natural person of the age of eighteen (18) years or older who is a resident of Newton County, Georgia (the "County").
 - E. **Resignation.** A Director may resign at any time by giving written notice to the Chairman or Secretary of the Board of Directors. Such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein.
 - F. **Disqualification and Removal.** If any Director fails to attend three (3) consecutive meetings of the Board of Directors without an adequate reason for his or her absence, his or her seat may be

declared vacant by the Commissioners. Directors may be removed for any other reason only by the Commissioners.

G. **Vacancy.** Any vacancy or vacancies arising in the Board of Directors because of death, resignation, removal, disqualification, an increase in the number of Directors, or any other reason, shall be filled as provided in § 3-707(1)(B), and each person so appointed shall be a Director to serve for the balance of the unexpired term.

H. **Compensation.** Directors, as such, shall not receive any stated salary for their services, but they shall be entitled to reimbursement of reasonable expenses, if any, incurred by them as Directors.

I. **Committees of Directors.** The Board of Directors, by resolution adopted by the majority of the entire membership, may designate from among its members one or more committees, including an Executive Committee which shall have the full power and authority of the Board of Directors except as limited in these Bylaws; each such committee to consist of two (2) or more Directors, and each of which, to the extent provided herein or in such resolution, shall have the authority of the Board of Directors. However, no such committee shall have the authority as to any of the following matters:

- (1) The dissolution, merger, or consolidation of the Corporation;
- (2) The amendment of the Articles of Incorporation, or the sale, lease or exchange of all or substantially all of the property of the Corporation;
- (3) The designation of any such committee or changing the number of Directors on the Board of Directors or the filling of vacancies in any committee;
- (4) The amendment or repeal of the Bylaws or the adoption of new Bylaws; or
- (5) The amendment or repeal of any resolution of the Board of Directors which by its terms cannot be amended or repealed except by action of the Board of Directors.

J. **Fiscal Agent: Investment Advisor.** The Directors of the Corporation may, by a majority vote and in their discretion, appoint any bank or trust company having its principal office in the United States and having a capital and surplus of not less than ten million dollars (\$10,000,000.00) as fiscal agent of the Corporation and delegate to such bank or trust company the custody and routine management of the Corporation's funds, subject to the direction and supervision of the Directors. The Directors may likewise delegate to such a bank or trust company or to an investment manager or advisor the powers and duties to invest and reinvest the Corporation's funds subject to the direction and supervision of the Directors.

2. **Meetings.**

A. **Place.** Meetings of the Board of Directors and any committees thereof may be held at such place, within or without the State of Georgia, as the Chairman of the Board or committee, as the case may be, may from time to time determine.

B. **Time.** The Board of Directors shall meet annually at a time, date, and place which shall be fixed by the Chairman, and such meeting shall be called the Annual Meeting. Special meetings may be called by the Chairman or upon the written request of any member of the Board of Directors.

C. **Notice.** Written notice of the time and place of each Annual Meeting shall be mailed to all Directors at least two (2) weeks in advance of the meeting. Notice of the time, place and purpose of each special meeting of the board shall be mailed to each Director at least five (5) days in advance of such meeting or conveyed personally or by telephone, telegraph or telex at least forty-eight (48) hours in advance of the meeting. The notice of a meeting pursuant to the written request of one of the members of the Board shall specify the object or objects for which the meeting is called, and the Board of Directors shall be restricted at such meeting to the transactions of the business specified in the notice.

D. **Notice: What Constitutes.** Whenever written notice is required to be given to any Director under the provisions of these Bylaws, it may be given to such person, either personally or by sending a copy thereto by first class mail, postage prepaid, or by telegraph or telex, charges prepaid, to the address of record supplied to the Corporation for the purposes of notice. If the notice is sent by mail or by telegraph, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a telegraph office for transmission to such person. A notice of meeting shall specify the place, day and hour of the meeting and any other information required by law or these Bylaws. When a meeting is adjourned, each Director shall be given at least one day's notice in person or by telegraph or telex of the time and place of the resumption of the adjourned meeting.

E. **Waiver of Notice.** Whenever any written notice is required to be given, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of a meeting need be specified in the waiver of notice of such meeting. Attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting, by written notice delivered to the Secretary at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

F. **Quorum: Action Without Meeting.** A majority of the Directors in office shall be present at each meeting in order to constitute a quorum for the transaction of business. Every Director shall be entitled to one vote. Except as otherwise specified in the Articles or these Bylaws or provided by statute, the acts of a majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. In the absence of a quorum, a majority of the Directors present and voting may adjourn the meeting from time to time until a quorum is present. The directors shall act only as a Board and the individual Directors shall not have power as such, except that any action which may be taken at a meeting of the Board of Directors or any committee thereof may be taken without a meeting, if a consent or consents in writing setting forth the action so taken shall be signed by all of the Directors then serving on the Board of Directors or committee, as the case may be, and filed with the Secretary of the Corporation.

G. **Telephonic Meeting.** Members of the Board of Directors or any committee thereof may participate in any meeting of the Board of Directors or any committee thereof by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

3. **Officers.**

A. **Officers: Election.** The Board of Directors shall elect from among its members a Chairman of the Board, who shall also serve as President. The Board of Directors shall also elect a Secretary and a Treasurer, and may elect one (1) or more Vice Presidents or assistant officers. Two (2) or more offices may be held by the same person, except the offices of President and Secretary.

B. **Chairman of the Board.** The Chairman of the Board shall preside at all meetings of the Board of Directors; provided, however, that in the event of the absence of the Chairman, a Vice Chairman may be appointed to preside, and he or she shall have the power to delegate the authority to preside at such meetings to any other person.

C. **President.** The President shall be responsible for the administration of the corporation, including general supervision of the policies of the Corporation and general and active management of the financial affairs of the Corporation. He or she shall have the authority to execute the bonds, mortgages or other contracts, and agreements or instruments under the seal of the Corporation; provided, however, that all such bonds, mortgages, contracts, agreements or instruments must also be attested or countersigned by the Secretary of the Corporation. The President shall have the authority to institute or defend legal proceedings when the Directors are deadlocked.

D. **Secretary.** The Secretary shall keep minutes of all meetings of the Board of Directors and have charge of the minute books and seal of the Corporation, shall have the authority to certify as to the corporate books and records, and shall perform such other duties and have such other powers as may from time to time be delegated to him or her by the President of the Board of Directors.

E. **Treasurer.** The Treasurer shall be charged with the management of the financial affairs of the Corporation. He or she shall, in general, perform all of the duties incident to the Office of Treasurer and such other duties as from time to time may be assigned to him by the President or the Board of Directors.

F. **Vice President.** The Vice President, if any, shall perform such duties and exercise such powers as the President or the Board of Directors shall request or delegate and, unless the Board of Directors otherwise provides, shall perform such other duties as are generally performed by vice presidents with equivalent restrictions, if any, on title. In the absence of the President or in the event of his death or inability to act, the Vice President shall perform the duties of the President, and when so acting, shall have the powers of and be subject to all the restrictions upon the President; provided, however, that if there is more than one Vice President, any Vice President shall have the authority to execute bonds, mortgages or other contracts or agreements under the seal of the Corporation, subject to all the restrictions upon the President relating to such functions, including the restrictions of paragraph C herein, but all other duties of the President shall be performed by the Vice President designated at the time of his election, or in the absence of any designation, then in the order of

election (or if more than one Vice President is elected at the same meeting, in the order in which they are listed in the resolution electing them), and when so acting shall have all the powers of and be subject to all the restrictions upon the President.

G. **Appointment of Agents.** The Board of Directors of the President may appoint one (1) or more agents, as the Board of Directors or the President may determine. Any such agent so appointed shall perform such duties as the action appointing him provides.

H. **Removal of Officers and Agents.** Any officer, assistant officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby. Any agent appointed by the President may be removed by the President or by the Board of Directors whenever in his or its judgment the best interests of the Corporation will be served thereby.

I. **Vacancies.** Any vacancy, however occurring, in any office may be filled by the Board of Directors.

J. **Compensation.** The officers of the Corporation shall not receive compensation for their services, but they shall be entitled to the reimbursement of reasonable expenses, if any, incurred by them as officers, pursuant to Corporation business. The compensation of other employees, if any, of the Corporation shall be fixed by the Board of Directors, and the compensation of any agent or consultant shall either be so fixed or shall be fixed by the President or other officer of the Corporation.

4. **Seal.**

A. The seal of the Corporation shall be in such form as the Board of Directors may from time to time determine. In the event it is inconvenient to use such a seal at any time, the signature of the Corporation following the word "Seal" enclosed in parentheses or scroll, shall be deemed the seal of the Corporation. The seal shall be in the custody of the Secretary and affixed by him or her on such papers as may be directed by law, by these Bylaws or by the Board of Directors.

5. **Indemnification and Insurance.**

A. **Indemnification.** The Corporation may, by resolution, indemnify and hold harmless each person who shall serve at any time hereafter as a Director, officer or agent of the Corporation from and against any and all claims and liabilities to which such person shall become subject by reason of his or her having heretofore or hereafter been a Director, officer, employee or agent, and shall reimburse such person for all legal and other expenses reasonably incurred by him or her in connection with any such claim or liability; provided, however, that no such person shall be indemnified against, or be reimbursed for, any expense incurred in connection with any claim or liability arising out of his or her own gross negligence or willful misconduct. Further, to the extent permitted by law, the County may, by resolution of its Commissioners, indemnify and hold harmless any such Director, officer or agent of the Corporation from and against any such claims and liabilities, subject to such reservations as are expressed above.

The right accruing to any person under the foregoing provisions of this article shall not exclude any other right to which he or she may be lawfully entitled, nor shall anything herein contained restrict the right of the Corporation to indemnify or reimburse such person in any proper case even though not specifically herein provided for. The Corporation, its Directors, officers, employees, and agents shall be fully protected in taking any action or making any payment under this article or in refusing to do so in reliance upon the advice of counsel to the Corporation.

A. **Insurance.** The Corporation may purchase liability insurance on behalf of the directors, officers and agents of the Corporation against any liability for acts committed or omitted to which such persons are subject by reason of their positions or duties for the Corporation.

2. **Amendment.**

A. The Board of Directors shall have the power by a majority vote of the Directors then in office to alter, amend or repeal the Bylaws or adopt new bylaws, provided that the Bylaws at no time shall contain any provision inconsistent with law or the Articles of Incorporation.

(Adopted 11/21/95, as Amended 12/5/95)

ARTICLE 2.1 **Newton County Partnership for Children and Families**

There is hereby created and established the Newton County Partnership for Children and Families for the purpose of serving as the county's official planning body for services to children and families and as a

coordinating body for the various organizations and agencies which provide services to children and families in the county.

1. Said Partnership shall have a governing board consisting of the following members or their designees:
 - A. The Superintendent of the Newton County Public Schools
 - B. The Judge of the Newton County Juvenile Court
 - C. The Director of the Newton County Department of Family and Children Services
 - D. The District Director of the Department of Children and Youth Services
 - E. The Director of the Newton Mental Health Center
 - F. The Administrator of the Newton County Health Department
 - G. The Chairperson of the Newton County Advisory Board of the United Fund
 - H. The Sheriff of Newton County
 - I. The District Attorney of Newton County
 - J. The Administrator of Newton General Hospital
 - K. The Director of Newton County Extension Service
 - L. One representative of the Newton County Board of Commissioners
 - M. One representative of the City of Covington City Council
 - N. One representative of the Department of Labor
 - O. One representative of the Housing Authority
 - P. The Chief of the Covington Police Department
 - Q. The Director of Choices for Children, a child advocacy group
 - R. The Director of Project Adventure, a private provider
 - S. Two representatives of the organized faith community
 - T. The chairpersons of the Board of Commissioners

1. The following will be selected by the Board of Directors:
 - A. Two representatives of the business and industrial community.
 - B. Five at-large community representatives.
 - C. Three consumers who are recipients of services from partnership member agencies.

Said Partnership shall have the authority to adopt such bylaws as it considers necessary and appropriate for its operation.

Said Partnership shall submit an annual report to the Board of Commissioners and the City Council regarding its activities and recommendations in relation to services for children, youth and families in the county.

(Adopted 3/19/96)

ARTICLE 2.1 Board of Tax Assessors

The Newton County Board of Tax Assessors is a five (5) member board appointed at-large by the Chairman of the Newton County Board of Commissioners with the consent of the Board of Commissioners.

The terms of office of members of the Board of Assessors of Newton County will be for a term of six years expiring on December 31 of the final year. In the case of a vacancy on the Board at any time, whether caused by death, resignation, removal, or otherwise, the vacancy shall be filled by appointment by the county governing authority only to serve for the remainder of the unexpired term of office of the created vacancy.

(Adopted and Approved 3/4/97)

ARTICLE 2.1 Newton County Animal Control Board

There is hereby created a Newton County Animal Control Board, which members shall serve at the pleasure of the Newton County Board of Commissioners and shall carry out the duties and responsibilities of an animal control board, as outlined in the Georgia Dangerous Dog Control Law (O.C.G.A. § 4-8-20), as the same shall be amended from time to time.

(Adopted 6/19/90)

ARTICLE 2.1 **Recreation Commission**

There is hereby established a recreation commission, to be known as the “Newton County Recreation Commission”.

1. **Powers.**

A. The Recreation Commission shall provide, maintain, conduct and supervise public parks and playgrounds, athletic fields, recreation centers, swimming pools and other recreational facilities and activities on any of the properties owned, controlled or leased by the County or on other properties with the consent of the owners, and such authorities thereof.

B. The Recreation Commission shall have the power to maintain and equip parks, playgrounds, recreation centers and the buildings thereon; to develop, maintain, and operate all types of recreation facilities; and to operate and conduct facilities on properties controlled by other authorities.

C. The Recreation Commission is authorized to develop a program of recreational or cultural activities and services designated to meet the various leisure time interests of all people in a constructive manner.

D. The Commission shall have the power to adopt by-laws, rules and regulations for the proper conduct of public recreation in Newton County.

2. **Commission Membership.**

A. The Commission shall be composed of five to nine persons who shall be appointed by the Newton County Commission Chairman. With the exception of the initial commission, a list of recommendations for new commission members will be submitted by the current Recreation Commission.

 The Newton County Commission will furnish one liaison member and the City of Covington will furnish one member to serve on the Recreation Commission, and those individuals will be voting members.

A. The terms of office of the members of the Recreation Commission shall be five (5) years or until their successors are appointed and qualified, except that the initial members of such commission shall be appointed for such terms that the term of no more than two (2) members shall expire annually thereafter.

B. Vacancies in the Recreation Commission occurring otherwise than by expiration of term shall be filled by the Newton County Commission Chairman only for the unexpired term.

C. The officers of the Recreation Commission shall be Chairman, Vice-Chairman and Treasurer.

D. The Chairman shall preside at the meetings of the Recreation Commission and shall appoint committees and perform all other duties generally pertaining to the office of Chairman.

A. The Vice-chairman shall perform the duties of Chairman in the absence of the Chairman. Section 3-811(3).

2. **Budget.**

A. Annually, the Recreation Commission shall submit a budget to the County Commission for their approval.

B. The Recreation Commission may solicit or accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation, the principal or income of which is to be applied for either temporary or permanent use for playgrounds or other recreation purposes. However, if the acceptance thereof for such purposes will subject the County to additional expense for improvements, maintenance, or renewal, the acceptance of any grant or devise of real estate shall be subject to the approval of the County Commission.

3. **Reports.** The Recreation Commission shall submit monthly updates to the county liaison to report to the County Commissioners. A full and complete annual report shall be submitted, and any other reports shall be submitted as requested.

4. **Personnel.** It is recognized that employees of the City of Covington are currently employed by the Recreation Commission. The retention and compensation of said employees shall be in accordance with Section 3-811(2).

Notwithstanding the foregoing sections, the Recreation Commission shall have the power to appoint or designate someone who is trained and properly qualified for the work to act as director and may employ playleaders, playground or community center directors, supervisors, recreation superintendents, or other such officers or employees as it deems are needed, and whose compensation is fixed by the Commission.

1. **Meetings.**

A. Regular meetings of the Recreation Commission shall be the fourth Monday night of each month at such time as set by the Commission. The meetings shall be held at the Recreation Office. Special meetings of the Recreation Commission may be held at any time at the call of the Director of Recreation, or by a majority of the members of the Recreation Commission.

B. Any four (4) members of the Recreation Commission shall constitute a quorum for the transaction of business.

C. The absence of three (3) consecutive meetings or a total of five (5) meetings in any calendar year of any member of the Recreation Commission, without due and acceptable excuse, may constitute a vacancy on the Recreation Commission, and the Recreation Commission will recommend a person to Newton County to fill the vacant position on the Commission.

(Adopted 6/15/1999)

ARTICLE 2.1 **Library System**

The Board of Commissioners shall appoint six (6) individuals to 3-year terms to the Newton County Library System. Each commissioner shall appoint a representative from his district.

ARTICLE 2. **LOCAL GOVERNMENT AUTHORITIES**

ARTICLE 2.1 **Registration of Local Government Authorities**

1. This Code Section shall be known and may be cited as the "Local Government Authorities Registration Act."

2. The General Assembly finds that there is a need for the state to create and maintain a record of all local government authorities. Such a record can best be maintained through annual registration of all local government authorities.

3. The purpose of this Code section is to prescribe a registration process for all local government authorities authorized to operate in the State of Georgia by general statute, local law, or local constitutional amendment.

4. As used in this Code section, the term:

A. **Debt.** Includes all long-term or short-term credit obligations including, but not limited to, mortgages, bonds, loans, notes, interest bearing warrants, and advances. For the purposes of this Code section, debt shall also include lease-purchase obligations.

B. **Local Government Authority.** Includes without limitation instrumentalities of one or more local governments created to fulfill a specialized public purpose or any other legally created organization that has authority to issue debt for a public purpose independent of a county or municipality, not to include state authorities. Local government authorities include joint authorities, regional authorities, hospital authorities, housing authorities, residential care facilities for the elderly authorities, resource recovery development authorities, solid waste management authorities, downtown development authorities, airport authorities, industrial, payroll and other development authorities, transit authorities, water and sewer authorities, parking authorities, recreation authorities, stadium and coliseum authorities, building authorities, public service authorities, or any other local government authority regardless of name. Such local government authorities may have been created by local constitutional amendment, general statute, or local law.

5. All local government authorities authorized to operate in the State of Georgia must register annually with the Department of Community Affairs.

6. Any local government authority which fails to register with the Department of Community Affairs shall not incur any debt or credit obligations until such time as it meets the registration requirement. Failure to register shall not have any adverse affect on any outstanding debt or credit obligation.

7. The Department of Community Affairs shall establish registration and reporting procedures for local government authorities. Such procedures shall include, but are not limited to, information on the authority's legal name, function, date and means of creation, contact person, address, and telephone number.

8. The Department of Community Affairs shall establish reasonable fees for the work related to administration and enforcement of this Code section; provided, however, no fee shall be charged or allowed for the annual registration as required in this Code section.

9. The Department of Community Affairs shall maintain a certified list of registered local government authorities, available on request. The department shall forward annually to the judge of the probate court in any affected county the registration information for all authorities operating in that county.

10. Local government authorities shall initially register on or before January 1, 1996, and shall register on or before January 1 of each year thereafter.

ARTICLE 2. COUNTY PROPERTY

ARTICLE 2.1 Motor Vehicles

Every motor vehicle which is owned or leased by any county, regional development center, county or independent school system commission, board, or public authority or which has been purchased or leased by any public official or public employee with public funds shall have affixed to the front door on each side of such vehicle a clearly visible decal or seal containing the name of or otherwise identifying such governmental entity. The requirements of *O.C.G.A.* § 36-89-1 shall not apply to: (1) any vehicle used for law enforcement or prosecution purposes; or (2) any vehicle owned or leased by a county expressly excepted from the provisions of *O.C.G.A.* § 36-89-1 by a resolution or ordinance adopted by the governing authority of a county following a public hearing on the subauthority of a county or municipality following a public hearing on the subject held no more than fourteen (14) days prior to the adoption of the ordinance or resolution.

ARTICLE 2.1 Computer Use Policy

1. Purpose.

A. Newton County relies on its computer network and standalone PC's to conduct its business. To ensure that its computer resources are used properly by its employees, independent contractors, agents, and other computer users, the Newton County Board of Commissioners has adopted this Computer Use Policy.

B. The rules and obligations in this Policy apply to all users of the County's computer network, wherever they may be located. Violations will be taken very seriously and may result in disciplinary action, including possible termination, and civil and criminal liability.

C. It is every employee's duty to use the County's computer resources responsibly, professionally, ethically and lawfully.

2. Definitions. From time to time in this policy, terms are referred to that require definitions:

A. The term Computer resources refers to the County's entire computer network. Specifically, Computer resources includes, but are not limited to: host computers, file servers, application servers, communication servers, mail servers, fax servers, Web servers, workstations, stand-alone computers, laptops, software, data files, and all internal and external computer and communications networks (for example, Internet, commercial online services, value-added networks, e-mail systems) that may be accessed directly or indirectly from our computer network.

B. The term Users refers to all employees, independent contractors, consultants, temporary workers, and other persons or entities who use our Computer resources.

C. The Computer resources are the property of Newton County and may be used only for legitimate county business purposes. Users are permitted access to the Computer resources to assist them in performance of their jobs. Use of the computer system is a privilege that may be revoked at any time.

D. In accessing our Computer resources, users must comply with the following provisions.

(1) No Expectation of Privacy.

(a) **No Expectation of Privacy.** The computers and computer accounts given to users are to assist them in the performance of their jobs. Users should not have an expectation of privacy in anything they create, store, send, or receive on the computer system. The computer system belongs to the County and may be used only for County business purposes.

(b) **Waiver of Privacy Rights.** Users expressly waive any right of privacy in anything they create, store, send, or receive on the computer or through the Internet or any other computer network. Users consent to allowing authorized

personnel of the county to access and review all materials users create, store, send, or receive on the computer or through the Internet or any other computer network that is county owned. Users understand that the "County" may use human or automated means to monitor use of its Computer resources.

- (2) **Prohibited Activities.**
 - (a) **Inappropriate or Unlawful Material.** Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful or inappropriate may not be sent by e-mail or other form of electronic communication (such as bulletin board systems, newsgroups, chat groups) or displayed on or stored in the county's computers. Users encountering or receiving this kind of material should immediately report the incident to their supervisors.
 - (b) **Prohibited Uses.** Without prior written permission from the Information Systems Director, the county's computer resources may not be used for dissemination or storage of commercial or personal advertisements, solicitations, promotions, destructive programs (that is, viruses or self-replicating code), political material, or any other unauthorized use.
 - (c) **Waste of Computer Resources.** Users may not deliberately perform acts that waste Computer resources or unfairly monopolize resources to the exclusion of others. These acts include, but are not limited to, sending mass mailings or chain letters, spending excessive amounts of time on the Internet, playing games, engaging in online chat groups, printing multiple copies of documents, or otherwise creating unnecessary network traffic.
 - (d) **Misuse of Software.** Without prior written authorization from the Information Systems Director, users may not do any of the following:
 - (i) Copy software for use on their home computers.
 - (ii) Provide copies of software to any independent contractors or agents of the County or to any third person.
 - (iii) Install software on any of the county's workstations, servers or standalone pc's.
 - (iv) Download any software from the Internet or other online service to any of the county's workstations, servers or standalone pc's.
 - (v) Modify, revise, transform recast, or adapt any software.
 - (vi) Reverse-engineer disassemble, or decompile any software. Users who become aware of any misuse of software or violation of copyright law should immediately report the incident to their supervisors.
 - (vii) Communication of protected information. Unless expressly authorized by the Information Systems Director, sending, transmitting, or otherwise disseminating proprietary data or other confidential information of the county is strictly prohibited. Unauthorized dissemination of this information may result in substantial civil liability as well as severe criminal penalties.
- (3) **Passwords.**
 - (a) **Responsibility for Passwords.** Users are responsible for safeguarding their passwords for access to the computer system. Individual passwords should not be printed, stored online, or given to others. Users are responsible for all transactions made using their passwords. No User may access the computer system with another user's password or account. All passwords must be provided to the department head or designee.
 - (b) **Passwords Do Not Imply Privacy.** Use of passwords to gain access to the computer system or to encode particular files or messages does not imply that users have an expectation of privacy in the material they create or receive on the computer system. The County has global passwords that permit it access to all material stored on its computer system-regardless of whether that material has been encoded with a particular user's password.
- (4) **Security.**
 - (a) **Accessing Other User's Files.** Users may not alter or copy a file belonging to another user without first obtaining permission from the owner of the file. Ability to read, alter, or copy a file belonging to another user does not imply permission to read, alter or copy that file. Users may not use the computer system to 'snoop'

- or pry into the affairs of other users by unnecessarily reviewing their files and e-mail.
- (b) **Accessing Other Computers and Networks.** A user's ability to connect to other computer systems through the network or by a modem does not imply a right to connect to those systems or to make use of those systems unless specifically authorized by the operators of those systems.
 - (c) **Computer Security.** Each user is responsible for ensuring that use of outside computers and networks, such as the Internet, does not compromise the security of the county's computer resources. This duty includes taking reasonable precautions to prevent intruders from accessing the company's network without authorization and to prevent introduction and spread of viruses.
- (5) **Viruses.**
- (a) **Virus Detection.** Viruses can cause substantial damage to computer systems. Each user is responsible for taking reasonable precautions to ensure he or she does not introduce viruses into the county's network. To that end, all material received on floppy disk or other magnetic or optical medium and all material download from the Internet or from computers or networks that do not belong to the county **MUST** be scanned for viruses and other destructive programs before being placed onto the computer system. Users should understand that their home computer and laptops may contain viruses. All disks transferred from these computers to the county's network **MUST** be scanned for viruses.
 - (b) **Accessing the Internet.** To ensure security and avoid the spread of viruses, users accessing the Internet through a computer attached to the county's network must do so through an approved Internet firewall. Accessing the Internet directly, by modem, is strictly prohibited unless the computer you are using is not connected to the county's network.
- (6) **Encryption Software.** Use of encryption software. Users may not install or use encryption software on any of the county's computers without first obtaining written permission from the Information Systems Director. Users may not use passwords or encryption keys that are unknown to their supervisors.
- (7) **Miscellaneous.**
- (a) **Compliance with Applicable Laws and Licenses.** In their use of Computer resources, Users must comply with all software licenses; copyrights; and all other state, federal, and international laws governing intellectual property and online activities.
 - (b) **Other Policies Applicable.** In their use of Computer resources, Users must observe and comply with all other policies and guidelines of the county.
 - (c) **Amendments and Revisions.** This Policy may be amended or revised from time to time as the need arises. User will be provided with copies of all amendments and revisions.
 - (d) **No Additional Rights.** This Policy is not intended to, and does not grant users any contractual rights.

CHAPTER 4: **REVENUE AND FINANCE**

CHAPTER 5:

CHAPTER 6:

Section

ARTICLE I. TAXES

4-101	Ad Valorem Tax
4-102	Malt Beverage Excise Tax
4-103	Financial Institutions
4-104	Reserved
4-105	Reserved
4-106	Reserved
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4-108	Gross Direct Premiums Tax
4-109	Street Tax Light Districts
4-110	Hotel-Motel Excise Tax
4-111	Freeport Tax
4-112	Local Option Sales Tax
4-113	Reserved
4-114	County Tax Sales
4-115	Reserved
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ARTICLE 2. TAXES

ARTICLE 2.1 Ad Valorem Tax

1. **Rate of Levy.** There is hereby set and levied to meet the ordinary current expenses of the Newton County an annual ad valorem tax as determined by the Board of Commissioners upon all real and personal property within the county. There is also hereby set and levied, for the payment of principal and interest on general obligation bonds, an annual ad valorem tax as determined by the Board of Commissioners upon all real and personal property within the county. Such levies shall be shown separately on all tax bills.
2. **Assessment and Fair Market Value.** All property subject to ad valorem taxation shall be assessed at forty percent (40%) of its fair market value. The basis for fair market value shall be one hundred percent (100%) of the fair market value determined for the property by the county for county ad valorem tax purposes.
3. **Appeal of Assessment.** Any taxpayer may appeal from an assessment by the county Board of Tax Assessors to the county Board of Equalization as to matters of taxability, uniformity of assessment, and value. The taxpayer or the county Board of Tax Assessors may appeal to the Newton County Superior Court from a decision of the county Board of Equalization. All such appeals shall be made in the manner provided in *O.C.G.A.* § 48-5-311.
4. **When Taxes Due and Payable.** Ad valorem taxes shall become due on the first day of 20th day of September each year and shall be deemed delinquent if not paid within by December 20th. Tax bills showing the assessed valuations, amount of taxes due, tax due dates, and information as to delinquency dates and penalties shall be sent to all taxpayers at least thirty (30) days prior to the due date, but failure to send a tax bill shall not invalidate any tax. Any taxes willfully not paid within ninety (90) days of the due date shall be delinquent. Delinquent taxes shall bear an interest at one percent (1%) per month from the date the tax is due in addition to a penalty of ten percent (10%) of the amount of revenue held in trust and not paid on or before the time prescribed by law. (See *O.C.G.A.*, § 48-2-44).
5. **Failure to Pay Tax.** The county shall forthwith issue an execution against any person who has defaulted in the payment of any ad valorem tax to be paid. The execution thus issued shall be a lien on all the property of such person, both real and personal, and shall be placed in the hands of the county officer responsible for collection by levy and sale.

The Tax Commissioner or other person authorized to collect the taxes due to the county may attach the property of the delinquent taxpayer on any ground provided by *O.C.G.A.* § 18-3-1 or on the ground that the taxpayer is liquidating his property in an effort to avoid payment of the tax. The Tax Commissioner may use garnishment to collect the tax pursuant to *O.C.G.A.* § 48-3-1 et seq., or may levy upon all property and rights to property belonging to the taxpayer not otherwise exempt, for the payment of the amount due, together with any interest on the amount, any penalty for non-payment, and such further amount as shall be sufficient for the fees, costs, and expenses of the levy. Judicial sales shall be conducted pursuant to *O.C.G.A.* § 48-2-55.

The Tax Commissioner or other person authorized to collect taxes shall enter on the execution the name of the person garnished and shall return the execution to the court. The subsequent proceedings on the garnishment shall be the same as on garnishments in cases when judgment has been obtained.

1. **Against Whom Charged.** Taxes are to be charged against the owner of the property, if known, or against the specific property itself if the owner is not known. Life tenants and those who enjoy the use of the property are chargeable with the tax thereon.
2. **Exempted Property.** The following property shall be exempt from ad valorem taxation:
 - A. All public property;
 - B. All places of religious worship and places of burial;
 - C. All property owned by religious groups and used only for single family residences when no income is derived from the property;
 - D. All public charities;
 - E. All nonprofit hospitals; and
 - F. All buildings used as a college, university, or other seminary of learning.

NOTE: See O.C.G.A. § 48-5-41 for a complete list of exempted property.

ARTICLE 2.1 **Malt Beverage Excise Tax**

1. There is imposed and levied a specific excise tax upon all retail dealers in malt beverages and/or wine within the limits of Newton County, as follows:
 - A. **Upon all malt beverages.**
 - Five (.05) cents per bottle or container of not over fourteen (14) ounces;
 - Seven (.07) cents per bottle or container of not less than fifteen (15) ounces or more than sixteen (16) ounces;
 - Ten (.10) cents per bottle or container of not less than seventeen (17) ounces nor more than thirty-two (32) ounces;
 - One dollar and twenty cents (\$1.20) per two and one-half (2½) gallon container;
 - Four dollars and fifty cents (\$4.50) per one-fourth (1/4) barrel (25-1/4 gallons).
 - A. **Upon Wine.**
 - Seven (.07) cents on each one-half (½) pint bottle;
 - Fourteen (.14) cents on each pint bottle;
 - Twenty-one (.21) cents on each four-fifths (4/5) quart bottle;
 - Twenty-eight (.28) cents on each quart bottle;
 - Fifty-five (.55) cents on each one-half (½) gallon bottle;
 - One dollar and ten cents (\$1.10) on each gallon bottle.
1. Said taxes shall be in addition to all other taxes and/or license fees heretofore or hereafter imposed upon such retail dealers.
2. No wholesale or retail dealer in malt beverages and/or wine in the County of Newton shall offer for sale or for gift any malt beverages and/or wine unless the excise tax levied herein has been paid on the item sold or given away, or otherwise transferred.
3. In addition to all penalties otherwise provided, any malt beverages and/or wine found on the premises of any retail dealer shall be confiscated if it appears that the County of Newton excise tax has not been paid.

(Approved 4/2/91)

ARTICLE 2.1 **Financial Institutions**

1. **Financial Institutions Business License Tax.** In accordance with *O.C.G.A. § 48-6-93*, there is hereby levied for the year 1984, and for each thereafter, an annual business license tax upon all depository financial institutions located within Newton County at a rate of 0.25 percent of the gross receipts of said depository financial institutions. Gross receipts shall mean gross receipts as defined in *O.C.G.A. § 48-6-93*. Depository financial institutions shall mean state and national banks, state building and loan associations, and federal savings and loan associations.
2. **Minimum Business License Tax.** The minimum annual amount of business license tax due from any depository financial institution pursuant to Paragraph 1 of this section shall be one thousand dollars (\$1,000.00).

3. **Filing of Return.** Pursuant to *O.C.G.A.* § 48-6-93(c), each depository financial institution subject to this tax shall file a return of its gross receipts with the Tax Commissioner of Newton County on March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and in the form prescribed by the Commissioner of the Department of Revenue based on the allocation method set forth in subsection (d) on *O.C.G.A.* § 48-6-93. The Tax Commissioner of Newton County shall assess and collect the tax levied pursuant to this resolution based upon the information provided in said return.

4. **Due Date of Taxes.** Taxes levied pursuant to this resolution shall be due on or before December 20 of the year in which the return required by Paragraph 3 of this section is filed unless extended by the Board of Commissioners.

5. **Administrative Provisions.** The Clerk of Newton County is hereby directed to forward a copy of this resolution to each depository financial institution in Newton County and to the home office of each such depository financial institution if located outside the county.

ARTICLE 2.1 **Reserved**

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ARTICLE 2.1 Gross Direct Premiums Tax

1. **Rate of Levy on Life, Accident, and Sickness Insurers.** There is hereby set and levied for the year 1982 and for each calendar year thereafter upon each company authorized to write life, accident, and sickness insurance and to write life, accident, and sickness insurance and which is doing business within the county an annual tax equal to one percent (1%) of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the county.

The term "gross direct premiums" as used in this section shall have the same meaning as that used in *O.C.G.A.* § 33-8-4. The tax levied by this subsection is in addition to any license fee imposed by this code.

1. **Rate of Levy on All Other Insurers.** There is hereby set and levied for the calendar year 1984, and for each calendar year thereafter, upon each insurance company not taxed under the provisions of the preceding subsection (1) and which is doing business within the county, an annual tax equal to two and one-half percent (2.5%) of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the county. The tax levied by this subsection is in addition to any license fee imposed by this code.

2. **Due Date and Required Report.** The gross direct premiums tax levied herein shall be due and payable upon the effective date of this code and then on the first (1st) day of January in each calendar year. Payment shall be made to the County Clerk/Treasurer and shall be accompanied by a report showing the names and addresses of the agents representing the insurance company in the county, the classes of insurance written, the premiums received for each class, and such other reasonable information as may be required. The required report shall be made on forms prescribed by the County Clerk and made out over affidavit of an officer of the company. Payments shall be deemed delinquent if not received within forty-five (45) calendar days from the due date.

3. **False Information.** It is hereby declared to be a violation of this section for any person, firm, corporation, or agents thereof to knowingly give false or incomplete information on any report herein required to be filed.

4. **Confidentiality of Information.** All reports required to be filed under this section shall be confidential and the information contained therein shall be used solely by the officers of the county responsible for the administration of this section.

5. **Enforcement.** The taxes levied by this section may be enforced by execution in the same manner as other taxes of this county.

ARTICLE 2.1 Street Tax Light Districts

1. **Establishment of Districts.**
 - A. Street Light Districts may be established within the county upon a petition presented to the Board of Commissioners by any or all of the following:
 - (1) Owners whose cumulative holdings total fifty-one percent (51%) or more of the property affected within the proposed street light district.
 - (2) Fifty-one (51%) of the owners of property affected within the proposed street light district.
 - (3) The developer of any new subdivision or any additional unit or phase of an existing large subdivision which has been approved for development in units or phases.
 - B. The petition shall be accompanied by a map or drawing showing thereon the streets of the county which petitioner desires lighted within the proposed street light district. The petition shall also be accompanied by appropriate forms, to be promulgated by the county, which shall at least list thereon the number of the proposed Street Light District, the house number(s), owner(s), district, land lot, block and/or lot of each parcel or tract of land affected by the proposed Street Light District.
 - C. Approval of the petition shall be by majority vote of the Board of Commissioners. If approved, the Board shall establish, by appropriate Resolution, the particular Street Light District for which the petition has been submitted. The establishing resolution shall state the charge or fee for such street light service, as well as, the basis for computation and adjustment of the charge or fee.
 - D. Approval of the petition shall be subject to the following guidelines:
 - (1) Developers of new subdivisions shall be given the opportunity to have the entire subdivision included in the street light district and shall submit a request for consideration with the preliminary plat of the subdivision. Each phase or unit of a large subdivision may be a • separate street light district. Approval of a phase or unit of a large subdivision as a separate light district will be subject to approval of final plats by the county planning commission.
 - (2) Entire existing subdivisions should be included as one street light district.
 - (3) In the event that an existing large subdivision has been developed in units or phases, each unit or phase may be an individual street light district.
 - (4) Only in extreme and unusual circumstances will a single street or part of a subdivision unit be considered for establishment as a street light district. Such extreme or unusual circumstances must be set forth in the petition for establishment of street light district.
2. **Determination and Collection of Charges and Fees Incident to the Establishment of Street Light Districts.**
 - A. At the time of the approval of the petition by the Board of Commissioners, a copy of the resolution establishing a street light district shall be transmitted to the County Tax Commissioner. The Tax Commissioner shall be responsible for the collection of any and all charges and fees which are established by the Board pursuant to Paragraph 1. Said charges and fees may be imposed against any business, resident or other property served by the street light facilities located within said street light district.
 - B. The payment of the charges and fees imposed by the Board shall be due and payable sixty (60) days from the date of billing. The payment shall become delinquent on the day following its appropriate due date and upon becoming delinquent shall be subject to a penalty of five percent (5%). In addition, upon becoming due the charges or fees shall bear interest at the rate of one percent (1%) per month from the date the assessment is due until the date the assessment is paid. For the purposes of this section, any period of less than one (1) month shall be considered to be one (1) month.
3. **Variations.**
 - A. Variations to existing street light districts shall be limited to the allowance of more street lights within said district upon submittal of a request and a petition presented to the Board of Commissioners by any person or persons authorized by Paragraph 1 to present an original petition for the establishment of a street light district.

B. Approval of variances will be at the discretion of the Board of Commissioners. If the Board of Commissioners approves the request by majority vote, the Board shall allow for the installation fo the requested number of street lights and establish a charge or fee for such light service, as well as the basis for computation of the charge or fee by appropriate resolution. Such additional fees shall be collected as provided for in Paragraph 2.

(Adopted 7/6/93)

EXHIBIT A

District	Name	District	Name
1001A	Bentley Place	1024A	Plum Orchard
1002A	Graystone	1025A	Gum Tree
1003A	Oaklake	1026A	Autumn Brooke
1004A	Park Place	1027A	Buck Creek
1005A	Cornish Trace	1028A	Hunters Creek
1006A	Princeton Woods Unit I	1029A	Radcliffe Trace Ph. I & II
1006B	Princeton Woods Unit II	1030A	Myrtle Grove
1007A	Highlands Plantation	1031A	Twin Chimney Ph. I
1008A	Magnolia Manor	1032C	Laurel Ridge Ph. III
1009A	White Oak Farms	1033A	Belmont Farms Ph. I & II
1010A	Melody Farms	1034B	Cedar Creek Unit II
1011C	Dove Point Unit III	1035A	Keel St. Cat's Paw Ct., Etc.
1011D	Dove Point IV	1036A	Eastwood Forest
1011E	Dove Point Unit 5	1037A	Woodland Ridge Ph. I, II, III
1012A	Highlands of Haynes Creek I	1039A	Surrey Chase Ph. I
1012B	Highlands of Haynes Creek II	1039A	Surrey Chase Ph. I
1013A	Highlands of Haynes Creek III	1040A	Allen Oaks Unit V
1014A	Double Gate Ph. II Unit I	1041A	Windsong Estates
1014B	Double Gate Ph. II Unit II	1043A	Alcovy Crossing
1014C	Double Gate Ph. II Unit III	1044A	Buckingham Subdivision
1015A	Ashford Cove	1045A	Mountain View Estates
1016A	Rolling Ridge	1046A	Livingston Willows
1017A	Manor Oaks	1047A	Saratoga
1018A	Womack Estates	1048A	Bentley Place
1019A	Whispering Pines	1049A	Wisteria Manor Subdivision
1020A	Somerset Springs	1050A	Douron Villas (Stephens Dr.)
1021A	Country Woods East	1057A	Spring Mill Farms
1022A	Trotters Walk	1058A	Bermuda Run Subdivision
1023A	Ashton Manor Ph. I & Ph. II		

ARTICLE 2.1 **Hotel-Motel Excise Tax**

1. **Definitions.** The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them below, except when the context clearly indicates a contrary meaning:

- A. **Person.** An individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the county is without power to impose the tax herein provided.
- B. **Operator.** Any person operating a hotel in this county including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, lender in possession, licensee, or any other person otherwise operating such hotel.
- C. **Occupant.** Any person who, for a consideration, uses, possesses, or has the right to use or posses any room in a hotel under any lease, concession, permit, right of access, license, or use, or other agreement, or otherwise.
- D. **Occupancy.** The use or possession, or the right to the use of possession of any room or apartment in a hotel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.
- E. **Hotel.** Any structure or any portion of a structure -- including any lodging house, rooming house, dormitory, turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, inn, public club, or private club -- containing guest rooms and which is occupied, or is intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor, or otherwise. Such term does not include any jail, hospital, asylum, sanitarium orphanage, prison, detention center, or other building in which human beings are housed and detained under legal restraint.
- F. **Guest Room.** A room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.
- G. **Rent.** The consideration received for occupancy valued in money -- whether received in money or otherwise -- including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.
- H. **Permanent Resident.** Any occupant as of a given date who has or shall have occupied or has or shall have right of occupancy of any guest room in a hotel for at least ten (10) consecutive days.
- I. **Return.** Any return filed or required to be filed as herein provided.
- J. **Due Date.** From the twentieth (20th) day after the close of the monthly period for which tax is to be computed.

2. **Purpose.** Excise taxes collected by the county shall be used for the purposes of promoting, attracting, stimulating, and developing conventions and tourism in the county and for the provision of other local government services.

A county levying said tax shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of promoting tourism, conventions, and trade shows a percentage of the total taxes collected under this Code section which is not less than the percentage of such tax collections expended for such purposes during the immediately preceding fiscal year.

1. **Rate of Levy.** There is hereby set and levied on each occupant of a guest room of any hotel located within Newton County a tax in amount of five percent (5%) of the rent for such occupancy.

No tax shall be levied as provided in this section upon the fees or charges for any rooms, lodgings, or accommodations furnished for a period of more than ten (10) consecutive days or for use as meeting rooms. No tax shall be levied as provided in this section upon the fees or charges for any rooms, lodgings, or accommodations furnished for a period of one (1) or more days for use by Georgia state or local government officials or employees when traveling on official business. Except as provided in *O.C.G.A. § 48-13-51*, no tax levied pursuant to this section shall be levied or collected at a rate exceeding six percent (6%) of the charge to the public for the furnishings.

The tax shall not apply to charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty.

1. **Collection of Tax by Operator.** It shall be the duty of every operator of a hotel located within the county to collect the tax on occupants herein above imposed.
2. **Exemption.** Notwithstanding any other provision of this section, no tax shall be imposed hereunder upon a permanent resident.
3. **Registration of Operator.** Every person engaging in or about to engage in business as an operator of a hotel in this county shall immediately register said business with the County Clerk, on a form provided by the County Clerk for such purpose. Persons engaged in such business must register no later than thirty (30) days after the date this section becomes effective; but such grace period for registration after the effective date of the tax shall not relieve any person from the obligation of payment or collection of such tax on and after the date of imposition thereof. The required registration hereunder shall set forth the name which the operator transacts business or intends to transact business, the location of his place or places of business, and such other information as would facilitate the collection of the tax by the County Clerk. The registration shall be signed by the owner if a natural person; by a member or partner in case of ownership by association or partnership; or by an officer in the case of ownership by a corporation.

A separate registration shall be required for each place of business of an operator.

1. **Certificate of Taxing Authority.** Upon the registration of an operator as herein above provided, the County Clerk shall issue to such operator without charge a certificate of authority to collect the tax on occupants. Each certificate shall state the name and location of the business to which it relates.
2. **Due Date and Required Report.** All taxes levied by this section shall be due and payable to the County Clerk monthly on or before the twentieth (20th) day of every month next succeeding each respective month in which such taxes are collected, and payment shall be accompanied by a return for the preceding monthly period showing the gross rent, rent from permanent residents, taxable rent, and amount of tax collected or otherwise due for the period, and such other information as may be required by the County Clerk.
3. **Collection Fee Allowed Operators.** Each person collecting the tax authorized by this article shall be allowed three percent (3%) of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if the amount due is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from the state sales and use tax under Section 1, Chapter 8 of the *O.C.G.A.*
4. **Determination If No Return Made.** If any hotel operator fails to file a return as required under the provisions of this section, the County Clerk shall make an estimate of the amount of gross rentals of such operator which the period or periods in which the operator failed to file the return and shall be based upon any information which is or may come into the possession of the County Clerk.
 - A. **Notice of Determination.** The County Clerk or his designated representative shall give to the hotel operator written notice of his determination as herein provided. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his address as it appears in the records of the County Clerk. Service by mail is complete when delivered by Certified Mail with a receipt signed by the addressee.
 - B. **Interest on Amount Found Due.** The amount of the determination made hereunder shall bear interest at the rate as determined by the Board of Commissioners per month, or fraction thereof, from the twentieth (20th) day of the month following the monthly period for which the amount or any portion thereof should have been returned until the date of payment.
5. **Required Records.** Each hotel operator collecting a tax under the provisions of this section shall keep for a period of at least three (3) years all records, receipts, invoices, and other pertinent papers setting forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the County Clerk may require.
6. **Administration and Enforcement.** The County Clerk shall administer and enforce the provisions of this section for the collection of the tax herein imposed and, in so doing, shall have the following powers:
 - A. To examine, or authorize the examination of, the books, papers, records, financial reports, equipment, and other facilities of and operator renting guest rooms to persons subject to the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid;
 - B. To require the filing of reports by any person or persons having in his or their possession or custody information relating to rentals of guest rooms which are subject to the tax herein levied; and

C. To allow a credit on any amount due and payable from persons who paid the tax herein levied but were erroneously or illegally subjected thereto.

7. **Action for Collection of Tax.** At any time within three (3) years after any tax or any portion of such tax required to be collected becomes due and payable, the County Attorney may bring an action in a court of competent jurisdiction in the name of the county to collect such amount due together with interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.

8. **Successors or Assignees of Operator.** If any hotel operator becomes liable for any amount required to be paid by this section and subsequent thereto sells out his business or quits the business, the successors or assignees of such operator shall withhold a sufficient amount of the purchase price to cover such amount due. In the event said purchaser of the business fails to withhold the required amount, he shall become personally liable therefor to the extent of the purchase price.

9. **Penalties.** Any operator or other person who fails to register as required herein, or who fails to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the County Clerk, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction therefor shall be punished as for other violations of the County code.

10. **Annual Report.** Each county imposing a tax as authorized by this article shall, as a condition of continuing authorization to impose the tax, annually file with the Department of Community Affairs a report specifying the rate of taxation and amounts collected and expended pursuant to this article. Such report shall be filed in such form and at such times as may be specified by rule of the Department of Community Affairs.

ARTICLE 2.1 Freeport Tax

The Board, under and by virtue of the authority vested in the same, hereby exempts from ad valorem taxation, including all such taxes levied for educational purposes and for State purposes.

1. Sixty percent (60%) of the value of all the following types of tangible personal property:

A. Inventory of goods in the process of manufacture or production which shall include all partly finished goods and raw materials held for direct use or consumption in the ordinary course of the taxpayer's manufacturing or production business in the State of Georgia. The exemption provided for herein shall apply only to tangible personal property which is substantially modified, altered or changed in the ordinary course of the taxpayer's manufacturing, processing, or production operations in this State, and

B. Inventory of finished goods manufactured or produced within the State of Georgia in the ordinary course of the taxpayer's manufacturing or production business when held by the original manufacturer or producer of such finished goods. The exemption provided for herein shall be for a period not exceeding twelve (12) months from the date such property is produced or manufactured.

C. As used in this section, the following words, terms and phrases are defined as follows:

(1) "Raw materials" shall mean any material whether crude or processed, that can be converted by manufacture, processing, or combination into a new and useful product, but shall not include unrecovered, unextracted, or unsevered natural resources.

ARTICLE 2.1 Local Option Sales Tax

The Board of Commissioners is authorized to levy a local option sales tax in accordance with O.C.G.A. § 48-8-85.

ARTICLE 2.1 Reserved

ARTICLE 2.1 County Tax Sales

1. **Time, Place, and Manner of Sale.** The time, place, and manner of the sale of property, both real and personal, for taxes due this county shall be the same as that provided by law for sheriffs' sales for state and county taxes.

2. **Sale by Parcels.** When not impracticable, all property sold for county taxes shall be so offered for sale that the smallest amount that will bring the amount of taxes and costs shall alone be sold.

3. **Purchase by County.** The County Clerk shall attend all sales of property for taxes due the county and in the event no one person bids for the property put up to be sold as much as the tax due thereon, the County Clerk shall place a bid for such property for the county and, if the bid is accepted, take custody of

the deed for the county. No property so purchased by the county shall ever be sold by the county except at a public sale thereof to the highest bidder.

4. **Redemption of Property Sold for Taxes.** Any person whose property is sold in obedience to an execution issued for the collection of county taxes shall have such rights of redemption of said property as are set forth in Chapter 4, Title 48 of the *O.C.G.A.* and any other provisions of law not inconsistent therewith.

ARTICLE 2.1 **Reserved**

ARTICLE 2.1 **Time for the Books to Be Open For the Return of Property Taxes**

In accordance with *O.C.G.A.*, Chapter 48-5-19 as amended 1996, p. 778, the person authorized to receive Tax Returns in Newton County, Georgia, shall open his books for the return of taxes on January 1 and close the books no sooner than March 1.

(Adopted and Approved 12/3/96; Effective 1/1/97)

ARTICLE 2.1 **Transfer of Tax Executions**

The Board of Commissioners of Newton County does hereby approve the following policies relative to the transfer of Newton County tax executions to third parties under *O.C.G.A.* § 48-3-19:

1. The Tax Commissioner shall not transfer Newton County Tax Executions on property taxes which are less than one hundred twenty-one (121) days past due.
2. The Tax Commissioner shall not transfer Newton County Tax Executions on property which is subject to the homestead tax exemption.
3. The Tax Commissioner shall not transfer Newton County Tax Executions on property which is owned, in whole or in part, by a taxpayer who has entered into a written payment agreement with Newton County, Georgia for the orderly payment of such taxes.
4. The Tax Commissioner shall not transfer Newton County Tax Executions for less than full value.
5. The Tax Commissioner shall not transfer Newton County Tax Executions to third parties who are business entities and do not have a business office within the State of Georgia.
6. Any party who wishes to purchase Newton County Tax Executions must submit such request to the Newton County Board of Commissioners for approval. Such request will be heard at the next regularly scheduled public meeting of the Board of Commissioners. Such request will be granted unless the Board determines that it is in the best interest of the public to deny the request.

ARTICLE 2.1 **Removal of Uncollectible Debts from Tax Records**

Policies regarding purging of uncollectible debts in the Newton County tax records and making of adjustments as to the assessed taxes, penalties, and interest due on Newton County tax accounts are as follows:

1. Newton County tax debts will be considered uncollectible under the following circumstances:
 - A. Where collection of said debt is barred by the statute of limitations.
 - B. Where said debt arises from a tax on real property, and an owner other than the named taxpayer has owned the property for more than four years.
 - C. Where said debt arises from a tax on personal property, and an owner other than the named taxpayer has owned the property for more than two years.
 - D. Where said debt arises from a tax on personal property, and the owner of the property cannot be located after a diligent search.
 - E. Where said debt is evidenced by duplicate or erroneous bills that have not been properly processed.
 - F. Any other debt which the Tax Commissioner reasonably believes to be uncollectible.
2. All debts that are determined to be uncollectible under Paragraph 1 will be compiled into an insolvency list by the Tax Commissioner. This list will be delivered from time to time and at least once a year to the Board of Assessors for review. The Board of Assessors will then submit a list of debts which have been properly identified as uncollectible to the Board of Commissioners for approval and placement in the minute book so as to authorize the purging of such uncollectible debts from the Tax Commissioner's digest.

3. All other adjustments on debts which do not qualify as uncollectible will be submitted by the Tax Commissioner or the Board of Assessors to the Board of Commissioners with the recommendation of such officers as to the relief to be granted. Each such request shall be accompanied by a sufficient statement of circumstances so as to convey the reasons for the requested adjustment. The Board of Commissioners will authorize any such relief as is reasonable under the circumstances.

(Adopted 8/6/96)

ARTICLE 2.1 E-911 Charge on Exchange Access Facility

The Board of Commissioners of Newton County, Georgia, continues the monthly E-911 charge on each exchange access facility subscribed to by telephone subscribers whose exchange to access lines are in areas served by the Newton County E-911 service.

The Amount of said charge shall be one dollar and fifty cents (\$1.50) per month per exchange access facility provided to the telephone subscriber and that said charge shall become effective on the first day of the month following passage of one hundred twenty (120) days from the enactment of the Resolution.

(Adopted 9/15/98)

ARTICLE 2.1 E-911 Charge on Cellular Wireless Access

The Board of Commissioners of Newton County, Georgia, places a monthly E-911 charge on each cellular/wireless exchange access facility whose billing address is within Newton County.

The amount of said charge shall be one dollar (\$1.00) per month per cellular/wireless exchange access facility with a billing address within Newton County and that said charge shall become effective on the first day of the month following passage of one hundred twenty (120) days from the enactment of this Resolution.

(Adopted 9/15/98)

ARTICLE 2.1 E-911 Surcharge Fees for Land-line and Wireless Phone Services

The Board of Commissioners of Newton County continues the E-911 charge on regular land-line phones in the amount of one dollar and fifty cents (\$1.50) per month per exchange access facility provided to each telephone subscriber served by the Newton County E911 Service.

The Board of Commissioners of Newton County does hereby continue the E-911 charge on cellular and other wireless phones in the amount of one dollar (\$1.00) per month per exchange access facility provided to each telephone subscriber whose billing address is within Newton County.

(Adopted 11/2/99)

ARTICLE 2.1 Tax Executions

The Board of Commissioners of Newton County approves the following policies relative to the transfer of Newton County tax executions to third parties under O.C.G.A. § 48-3-19:

1. The Tax Commissioner shall not transfer Newton County Tax Executions on property taxes which are less than one hundred twenty-one (121) days past due.
2. The Tax Commissioner shall not transfer Newton County Tax Executions on property which is subject to the homestead tax exemption.
3. The Tax Commissioner shall not transfer Newton County Tax Executions on property which is owned, in whole or in part, by a taxpayer who has entered into a written payment agreement with Newton County, Georgia for the orderly payment of such taxes.
4. The Tax Commissioner shall not transfer Newton County Tax Executions for less than full value.
5. The Tax Commissioner shall not transfer Newton County Tax Executions to third parties who are business entities and do not have a business office within the State of Georgia.
6. Any party who wishes to purchase Newton County tax executions must submit such request to the Newton County Board of Commissioners for approval. Such request will be heard at the next regularly

scheduled public meeting of the Board of Commissioners. Such request will be granted unless the Board determines that it is in the best interest of the public to deny the request.

7. If any provision of this resolution is determined to be invalid, the validity of the remaining provisions will not be affected.

(Adopted 8/6/96)

ARTICLE 2.1 Uncollectible Debts

The Board of Commissioners of Newton County approves the following policies relative to the purging of uncollectible debts in the Newton County tax records and the making of adjustments as to the assessed taxes, penalties, and interest due on Newton County tax accounts as follows:

1. Newton County tax debts will be considered uncollectible under the following circumstances:
 - A. Where collections of said debt is barred by the statute of limitations.
 - B. Where said debt arises from a tax on real property, and an owner other than the named taxpayer has owned the property for more than four years.
 - C. Where said debt arises from a tax on personal property, and an owner other than the named taxpayer has owned the property for more than two years.
 - D. Where said debt arises from a tax on personal property, and the owner of the property cannot be located after a diligent search.
 - E. Where said debt is evidenced by duplicate or erroneous bills that have not been properly processed.
 - F. Any other debt which the Tax Commissioner reasonably believes to be uncollectible.
2. All debts that are determined to be uncollectible under paragraph one will be compiled into an insolvency list by the Tax Commissioner. This list will be delivered from time to time and at least once a year to the Board of Assessors for review. The Board of Assessors will then submit a list of debts which have been properly identified as uncollectible to the Board of Commissioners for approval and placement in the minute book so as to authorize the purging of such uncollectible debts from the Tax Commissioner's digest.
3. All other adjustments on debts which do not qualify as uncollectible will be submitted by the Tax Commissioner or the Board of Assessors to the Board of Commissioners with the recommendation of such officers as to the relief to be granted. Each such request shall be accompanied by a sufficient statement of circumstances so as to convey the reasons for the requested adjustment. The Board of Commissioners will authorize any such relief as is reasonable under the circumstances.

(Approved 8/6/96)

ARTICLE 2. BONDS

ARTICLE 2.1 Preliminary Review by Finance Committee

Prior to any issue of bonds by the county, the proposal for such issue shall be referred to the standing finance committee, which committee shall give careful consideration to the proposal and submit a recommendation to the Board of Commissioners for approval or disapproval, with applicable reasons therefor.

ARTICLE 2.1 Bond Ordinances

1. **Contents of Bond Ordinances.** Any bond ordinance introduced for adoption as provided in this section shall contain in substance the following:
 - A. An authorization for the issuance of obligations, stating in brief and general terms sufficient for reasonable identification the purpose or purposes for which the obligations are to be issued, a statement of the estimated maximum amount of bonds or notes to be issued, and the estimated cost of such purpose or purposes, but related improvements of properties may be treated as one improvement or property;

- B. A determination of the period of usefulness of the purpose according to its reasonable life computed from the date of the bonds or, if issued for several purposes, a determination of the average period of usefulness, taking into consideration the respective amounts of obligations authorized for the said several purposes;
- C. A determination that the obligations authorized by the bond ordinance will be within the debt limitations prescribed by state law; and
- D. A statement of the aggregate cost of the improvement or property sought to be financed, which cost may include the following:
 - (1) Interest on obligations until the end of the fiscal year in which the obligations are issued or until six (6) months after the completion of construction or acquisition;
 - (2) Architect's fees, accounting, engineering, and inspection costs;
 - (3) Costs of issuing and selling obligations;
 - (4) Legal expenses;
 - (5) Preliminary planning expenses;
 - (6) Test and survey expenses; and
 - (7) A reasonable proportion of the compensation and expenses of county employees in connection with the construction or acquisition of said improvement or property.

2. **Procedure for Adoption of Bond Ordinances.**

- A. **Introduction.** All bond ordinances shall be introduced in writing at a regular meeting of the Board of Commissioners, and at such meeting shall receive a first reading, which may be by title.
- B. **Publication, Hearing, and Adoption.** Any bond ordinance introduced as herein above provided shall be published after first reading, together with notice of the date, time, and place set for further consideration and final passage. Such publication shall be at least ten (10) days after introduction and first reading and at least seven (7) days prior to the date for further consideration. At the time and place so advertised, or at any time and place to which such meeting or further consideration shall from time to time be adjourned, such bond ordinance may be read by its title, if:
 - (1) At least one (1) week prior to such date or further consideration, there shall have been posted, on a bulletin board or other place upon which public notices are customarily posted in the county:
 - (a) A copy of such bond ordinance, and
 - (b) A notice that copies of such bond ordinance will be made available during such week and up to and including the date of such meeting or further consideration to the members of the general public of the county who shall request such copies, naming the place at which such copies will be so made available; and
 - (2) Such copies of said bond ordinance shall have been made available accordingly, but otherwise such bond ordinance shall be read in full. All persons interested shall then be given an opportunity to be heard, and the Board of Commissioners shall proceed to amend the bond ordinance and thereupon finally adopt or reject it, with or without amendments.
- C. **Final Adoption and Publication.** A bond ordinance shall be finally adopted by the recorded affirmative votes of at least two-thirds (2/3) of the full membership of the Board of Commissioners.

3. **Effective Date of Bond Ordinances.** Unless otherwise provided for, such resolution or resolutions shall take effect immediately and shall not be laid over or published or posted.

ARTICLE 2.1 **Bond Sales**

- 1. **Private Sale - When Authorized.** All bonds shall be sold at public sale upon sealed proposals, except that bonds may be sold at private sale:
 - A. Without any previous public offering:
 - (1) If constituting all or part of an authorized issue of twenty thousand dollars (\$20,000.00) or less, or
 - (2) If sold to any board, body, agency, commission, instrumentality, district, authority, or political subdivision of any local unit, the state, or the federal government; or
 - B. If no legally acceptable bid is received at advertised public offering, such bonds or any of them may be sold within thirty (30) days after the advertised date for public bidding; provided, however, that no bonds shall bear interest at any rate of interest which is higher than the rate or maximum rate specified in the notice of sale, or contain substantially different provisions from those specified in said notice.

Any purchaser of bonds at private sale, other than a public body, shall deposit a certified or cashier's or treasurer's check drawn upon a bank or trust company in an amount equal to five percent (5%) of the amount of bonds purchased and such amount shall be applied as in the case of a deposit made at public sale. Any private sale of bonds as permitted hereunder shall be made or confirmed by resolution of the Board of Commissioners adopted by not less than a two-thirds vote of the full membership thereof, which such resolution shall set forth the date, maturities, interest rate, and price of the bonds and the name of the purchaser.

1. **Publication of Notice of Bond Sale.** A public sale of bonds shall be advertised at least once and at least seven (7) days prior thereto in a newspaper of general circulation in the county and in a publication carrying county bond notices and devoted primarily to financial news or the subject of state and county bonds and published in the State of Georgia.
2. **Contents of Notice of Bond Sales.** A notice of public sale of bonds shall set forth:
 - A. The principal amount, date, denomination, and maturities of the bonds offered for sale;
 - B. The rate or rates of interest or maximum rate or rates of interest to be borne by the bonds;
 - C. The terms and conditions of such public sale; and
 - D. Such other provisions as may be determined by the Board of Commissioners.
3. **Procedure for Public Sale of Bonds.**
 - A. All bidders shall be required to deposit a certified or cashier's or treasurer's check drawn upon a bank or trust company, equal to not less than two percent (2%) of the bonds to secure the county in part from any loss resulting from the failure of the bidder to comply with the terms of his bid, or as liquidated damages for such failure.
 - B. All bids for bonds shall be publicly opened and announced at the advertised time and place of sale. Such bids as comply with the terms of the notice of sale shall be considered, and any bid not complying with the terms of such notice may be rejected. All bids received may be rejected.
 - C. Bonds of two (2) or more issues may be sold on the basis of combined maturities, or the maturities of each issue offered for sale.
 - D. Bonds may be offered for sale at a single rate of interest, or bidders may be requested to name a single rate of interest, but no proposal shall be considered which offers to pay less than the principal amount of bonds offered for sale or which names a rate of interest higher than the lowest rate of interest stated in any legally acceptable proposal. As between proposals naming the same lowest rate of interest, the proposal offering to accept the least amount of bonds shall be accepted, the bonds to be accepted shall be those first maturing, and as between such proposals, the proposal offering to pay the greatest premium bid for the bonds shall in no event exceed one thousand dollars (\$1,000.00) for the principal amount of bonds offered for sale. In order to effect the foregoing, a sufficient number of the last maturing bonds shall be of the denomination one thousand dollars (\$1,000.00) or less.
 - E. Bonds may be offered for sale at different rates of interest of the same issue or different rates of interest for different issues, or parts thereof, or bidders may be requested to name any such rates of interest. No proposal shall be considered which offers to pay an amount less than the principal amount of bonds offered for sale or under which the total loan is made at an interest cost higher than the lowest net interest cost to the local unit under any legally acceptable proposal. Such net interest cost shall be computed in each instance by adding to the total principal amount of bonds bid for the total interest cost to maturity in accordance with such bid, and by deduction therefrom of the amount of premium bid, if any.
 - F. Additional terms or conditions of sale may be established by the Board of Commissioners.
4. **Sale of Bonds at One Time or in Installments.** Any issue of bonds may be sold at one time or in installments at different times. The maturities of an installment of bonds offered for sale, when combined with all maturities of the issue previously sold, shall be such as to comply with requirements as to maturities of a single issue of bonds. Any unsold part of an issue or installment may be sold notwithstanding that the maturities thereof, when considered alone, do not comply with such requirements.
5. **Power of Sale.** The Director of Finance of the county is hereby authorized and empowered to sell and award bonds in accordance with the advertised terms of public sale. Such officer shall report in writing to the Board of Commissioners at the next meeting thereof following such sale, which report shall indicate the principal amount, interest rate, and maturities of the bonds sold, the price obtained, and the name of each purchaser.
6. **Attorney's Fees.** Any qualified and practicing attorney at law who renders services in connection with the issuance and sale of bonds for this county shall be compensated for such services in an amount not exceeding one-tenth of one percent (.1%) of the amount of the bonds issued or proposed to be issued,

provided that said fee shall not be less than as determined by Board of Commissioners with respect to any one bond issue.

7. **Application of Proceeds.** The proceeds of the sale of county bonds shall be applied only to the purposes for which such obligations are authorized. If, for any reason, any part of such proceeds are not necessary for such purposes, such part shall be used to pay any outstanding obligations or to finance the cost of any other purpose of purposes which may be deemed proper by the Board of Commissioners.

8. **Prohibited Agreements.** In the issuance or sale of bond obligations, it shall be unlawful for the Board of Commissioners or any member thereof or any official:

- A. To pay or agree to pay, directly or indirectly, any bonus, commission, fee, or other compensation or consideration for the issuance or for the sale of such obligations, and any amount so paid may be recovered for the county;
- B. To make any agreement with any purchaser or bidder, or his representative, regarding the deposit or disposition of any monies received or to be received from such sale and every such agreement shall be void;
- C. To make any agreements pertaining to the sale of bond obligations which contains provisions as to any other matter, and such sale and any such agreement shall be void;
- D. To make any agreement or "service contract" with respect to publication of notice of sale and printing of bonds or notes, the providing of a legal opinion or for any of such services, whether or not accompanied by an offer to bid for or purchase such obligations. Any such agreement or contract shall be void, and any amount so paid may be recovered for the county; except, however, agreements made directly with a newspaper, bond printer, or an attorney licensed to practice law in the state in which he has his office.

A bond dealer, banker, or financial expert may be engaged or employed as financial advisor to provide financial services in connection with the sale of bond obligations, including the preparation of a bidding circular or prospectus, but no such financial advisor shall purchase any such obligations at any public or private sale, but any such purchase shall not affect the validity of the obligations and the county shall recover any compensation and profit to such financial advisor resulting therefrom.

ARTICLE 2.1 **Bond Records**

A complete description of each bond issued by the county shall be kept by the County Clerk in a suitable book, which book shall be open to public inspection during regular business hours.

ARTICLE 2.1 **Registration of Bonds**

1. **Application for Registration.** Any holder of a bond issued by the county may register such bond as to principal and interest, or as to principal only, by making written application for such registration to the County Clerk and presenting the bond desired to be registered. Each application shall state (a) the number of bonds presented, (b) the issue, (c) the date, (d) the amount, (e) the date due, and (f) to what extent the bonds are to be registered; and each application shall be signed by the applicant who, if holding the bonds in any capacity other than for himself, shall sign the application in the name of the party for whose benefit he holds the bonds, state the capacity in which he signs, and attach proof of such capacity.

2. **Bond Register.** A bond register shall be kept on file in the office of the County Clerk in which, upon written application and presentation of the bond by the holder thereof as herein above provided, shall be entered a description of each bond so presented. Such description shall state (a) the bond number, (b) the nature of the issue, (c) the face amount, (d) the date issued, (e) the date of maturity, (f) the rate and due dates of interest, (g) whether the bond is registered as to principal and interest or as to principal only, (h) the name and mailing address of the bond holder, (i) the name of the person registering the bond, and (j) the capacity in which such person registered the bond. All bonds registered in compliance with this section shall be non-negotiable to the extent registered.

3. **Statement of Registration and Form.** Upon registration of any bonds as herein above provided, the County Clerk shall stamp, print, or write upon each bond so registered a statement of the registration in the following form, inserting in the blanks the matter applicable to each transaction:

Registered by _____ . Non-negotiable. Principal [and interest] to be paid only to _____ located at _____ . This _____ day of _____, 20____.

County of _____

County Clerk

1. **Procedure for Transfer After Registration.** In order to transfer any bond which may have been registered under the provisions of this section, the holder thereof shall present the same to the County Clerk and shall authorize such transfer in writing, giving the name of the transferee, the number of the bond, of what issue, and the dates of issue and maturity. Such authority shall be signed and acknowledged in the presence of a notary public or some other officer authorized by law to administer oaths, and such notary public or other officer shall certify, in writing and under seal of his office, that such authority was signed and acknowledged in this presence. In addition to giving such written authority, the holder shall enter a statement of the transfer on the face of each bond, properly dated and signed. Thereupon the County Clerk shall enter the transfer of each bond opposite the original entry of registration in the bond register, giving the name of the transferee and date of the transfer, and shall enter the same on each bond over his official signature. The transferee may thereafter, in the manner herein prescribed, also transfer such bond.

ARTICLE 2.1 Lost, Destroyed, or Defaced Bonds

Lost, destroyed, or defaced bonds may be reissued in the form and tenor of the original obligations upon the Board of Commissioners being supplied to its satisfaction with the following:

1. Proof of ownership;
2. Proof of loss, destruction, or defacing of the obligations;
3. Adequate surety bond; and
4. Payment of the cost of preparation of the new obligations.

All such new obligations shall be issued pursuant to resolution of the Board of Commissioners setting forth the written request of the holder or owner, or his authorized attorney or legal representative, of the lost, destroyed, or defaced obligations and the date, maturity, interest rate, denomination, and numbers of such obligations, and the amount and term of the surety bond.

ARTICLE 2.1 Disposition of Bonds and Coupons

Whenever the County Clerk pays any bond or coupon of the county, he shall forthwith stamp, print, or write upon such bond or coupon the word "PAID" and shall notify the standing finance committee that he has in hand such canceled paper, whereupon the finance committee shall take possession of the same after giving the County Clerk a receipt for the bonds and coupons. Such bonds and coupons shall thereafter be destroyed by the finance committee in the presence of the County Clerk, who shall then make an entry to that effect on the receipt given him.

ARTICLE 2.1 Sinking Fund

1. **Establishment.** All taxes collected for the payment of principal and interest on county general obligation bonds shall be kept by the County Clerk as a separate fund to be known as the "sinking fund." Under no circumstances shall funds be paid out by the County Clerk for any other purpose than for the payment of the interest and principal on the bonds for which it was collected or for the purpose of investment as provided by law and county ordinance.
2. **Certification of Amount.** Prior to adoption of the annual budget, the amount to be included in the sinking fund for the prospective fiscal year shall be certified by the county auditor as an amount sufficient to pay all principal and interest coming due in such fiscal year, and the sinking fund as certified shall be included in the annual budget.
3. **Investment of Sinking Fund.** It shall be and it is hereby made the duty of the County Clerk, to promptly make arrangements for the investment of the sinking fund in the manner provided by law and, upon approval of such arrangements by the Board of Commissioners, promptly to make such investment.

ARTICLE 2. BUDGET

ARTICLE 2.1 Fiscal Year

The county shall operate on a fiscal year which shall begin on the first day of July and end on the last day of June.

ARTICLE 2.1 Requirement of Annual Balanced Budget

The county shall operate under an annual balanced budget adopted by ordinance or resolution and administered in accordance with Chapter 81, Title 36 of the *O.C.G.A.* A budget ordinance or resolution is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations.

Each unit of local government shall adopt and operate under a project-length balanced budget for each capital projects fund in use by the government. The project-length balanced budget shall be adopted by ordinance or resolution in the year that the project initially begins and shall be administered in accordance with this article. The project-length balanced budget shall appropriate total expenditures for the duration of the capital project.

ARTICLE 2.1 Adoption of Budget Ordinances or Resolutions

The county shall adopt and utilize a budget ordinance or resolution.

ARTICLE 2.1 Budget Officer

The county may appoint a budget officer to serve at the will of the Board of Commissioners. If no budget officer is appointed the Board of Commissioners shall perform the duties. The county may use an executive budget utilizing a chief executive and a budget officer.

ARTICLE 2.1 Procedures for Adoption of Budget

1. By the date established by the governing authority, in such manner and form as may be necessary to effect this article, and consistent with the county's accounting system, the budget officer shall prepare a proposed budget for the county for the ensuing fiscal year.
2. The proposed budget shall be an estimate of the financial requirements of each department or agency, by fund, for the budget year and shall be in such form and detail, with such supporting information and justifications, as may be prescribed by the budget officer or the Board of Commissioners. The budget document, at a minimum, shall provide a statement of the amount budgeted for anticipated revenues by category and the amount budgeted for expenditures by category for the current year, including budget amendments, and the anticipated revenues and proposed expenditures for the proposed budget year.
3. No later than June 15, the proposed budget shall be submitted to the Board of Commissioners for review prior to enactment of the budget ordinance or resolution.
4. On the day that the budget is submitted to the Board of Commissioners, a copy of the budget shall be placed in a public location which is convenient to the residents of the county. The Board of

Commissioners shall make every effort to provide convenient access to the residents during reasonable business hours so as to accord every opportunity to the public to review the budget prior to adoption. A copy of the budget shall also be made available, upon request, to the news media.

5. (a) At the time of submission of the budget to the Board of Commissioners, a statement advising the residents of the county of the availability of the budget shall be published in a newspaper of general circulation in the county. The notice shall be published during the week in which the proposed budget is submitted to the governing authority. The statement shall also advise residents the public hearing will be held at which time any persons wishing to be heard on the budget may appear. The statement shall be a prominently displayed advertisement or news article and shall not be placed in that section of the newspaper where legal notices appear.

(b) The Board of Commissioners shall give notice of the time and place of the required budget hearing at least one (1) week before the budget hearing is held.

1. At least one (1) week prior to adoption of the budget ordinance or resolution, the Board of Commissioners shall conduct a public hearing, at which time any persons wishing to be heard on the budget may appear.

2. Nothing in this section shall be deemed to preclude the conduct of further budget hearings if the Board of Commissioners deem such hearings necessary and complies with the requirements of subsection (5).

ARTICLE 2.1 Form and Content of Budget

The county budget shall be prefaced by a clear general summary of its contents and shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures for the ensuing fiscal year. It shall be so arranged as to show comparative figures for actual and estimated income expenditures of the preceding fiscal year. Separate items shall be included for at least the following:

1. Administration, operation, and maintenance expenses of each department or office of the county, including a breakdown for salaries and wages for each such unit;
2. Interest and debt redemption charges;
3. Proposed capital expenditures, detailed by departments and offices when practicable;
4. Cash deficits of the preceding year;
5. Contingent expenses in an amount not more than three percent (3%) of the total amount of administration, operation, and maintenance expenses; and
6. Such reserves as may be deemed advisable by the Board of Commissioners. The total of proposed expenditures shall not exceed the total of anticipated revenue.

The total of proposed expenditures shall not exceed the total of anticipated revenue.

Note: See O.C.G.A. § 36-81-3 regarding "Uniform Chart of Accounts."

ARTICLE 2.1 Adoption

After the conclusion of the hearing and no later than the first meeting in July of the fiscal year the Board of Commissioners shall adopt a budget ordinance or resolution making appropriations for the fiscal year in such sums as the Board of Commissioners may deem sufficient, whether greater or less than the sums presented in the proposed budget. The budget ordinance or resolution shall be adopted at a public meeting which shall be advertised in accordance with the procedures set forth in Section 4-305(5) at least one (1) week prior to the meeting.

The budget may be prepared in any form that the Board of Commissioners deems most efficient in enabling it to make the fiscal policy decisions embodied in the budget, but such budget shall show anticipated revenues and appropriations by fund.

ARTICLE 2.1 Effective Date

No Act of any of the types specified in this subsection shall be effective until the first day of January following passage of the Act. This requirement shall apply with respect to any Act which:

1. Requires that a county create one or more new personnel positions the cost of which will be paid from county or county funds;

2. Requires an increase in the salary, employment benefits, or other compensation of one or more personnel positions the cost of which will be paid from county funds; or
3. Requires any capital expenditure which will be paid from county funds.

This Code section shall not apply with respect to Acts affecting local school systems.

This section shall not apply with respect to a local Act when passage of the Act with an earlier effective date has been requested by the governing authority of the affected county and such request is evidenced by attachment of the request to the Act as provided for in paragraph (3) of subsection (b) of *O.C.G.A.* § 28-1-14.

Any local Act which contains a stated effective date in violation of the requirements of this section as presently or formerly amended shall not be invalid. Any local Act becoming law before or after the effective date of *O.C.G.A.* § 1-3-4.1 section, which local Act contains an effective date in violation of the requirements of this section as presently amended, shall become effective on the first day of January following its enactment. Any local Act becoming law prior to the effective date of this section, which local Act at the time of its becoming law contained an effective date in violation of the former requirements of this section but not in violation of the current requirements of this section, shall become effective on the later of the effective date specified in such Act or the effective date of this section.

ARTICLE 2.1 **Budget Message**

When introduced to the Board of Commissioners for approval, the county budget shall be accompanied by a budget message which shall explain the budget both in fiscal terms and in terms of the work programs. The budget message shall outline the proposed financial policies of the county for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and the revenues, together with the reasons for such change; summarize the county's debt position; and include such other material as will provide a complete synopsis of the financial condition of the county.

ARTICLE 2.1 **Amendments**

1. The Board of Commissioners may amend the budget during or after the public hearing, except that no proposed amendment shall be effective without such a hearing if it shall:
 - A. Add a new item of appropriation in an amount in excess of one percent (1%) of the total amount of appropriations as stated in the initially approved budget; or
 - B. Increase or decrease any item of appropriation by more than ten percent (10%); or
 - C. Increase the amount needed to be raised by taxes by more than five percent (5%).
2. Notice of hearing on any amendment shall be advertised at least three (3) days before the date set therefor. Any such amendment must be published in full in the same manner as an original publication and must be read in full at the hearing and before adoption. (See *O.C.G.A.* § 36-81-3(d)).

ARTICLE 2.1 **Audits Required**

1. **Annual Audit.** The Board of Commissioners shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of Newton County for each fiscal year.
2. **Audits Performed Before Years End.** At the option of the Board of Commissioners, an audit may be made at a lesser interval than one (1) year.

ARTICLE 2.1 **Conduct of Audits**

The audits of the county shall be conducted in accordance with generally accepted auditing standards. Each audit shall also contain a statement of any agreement or arrangement under which the county has assumed any actual or potential liability for the obligations of any governmental or private agency, authority, or instrumentality. Such statement shall include the purpose of the agreement or arrangement, shall identify the agency, authority, or instrumentality upon whose obligations the county is or may become liable, and shall state the amount of actual liability and the maximum amount of potential liability of the county under the agreement or arrangement. To the extent that the state auditor is able to provide comparable auditing services, the governing body may contract with the state auditor.

ARTICLE 2.1 Contents of Audit Reports

Whenever an audit of the financial affairs of a county or of an officer, board, department, unit, or other political subdivision of a county is made pursuant to a requirement or to an authorization otherwise provided by law, the audit report shall include the auditor's unqualified opinion upon the presentation of the financial position and the result of the operations of the governmental unit or office which is audited. If the auditor is unable to express an unqualified opinion, he or she shall so state and shall further detail the reasons for qualification or disclaimer of opinion. All such audits shall be conducted in conformity with generally accepted government auditing standards.

ARTICLE 2.1 Forwarding Audits to State Auditor

Each annual audit report shall be completed and a copy of the report forwarded to the state auditor within one hundred eighty (180) days after the close of the unit's fiscal year. In addition to the audit report, Newton County shall forward to the state auditor, within thirty (30) days after the audit report due date, written comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, the written comments should include a statement describing the reason it is not. In the case of units provided for in paragraph (2) of subsection (a) of this code section, the audit reports for both fiscal periods shall be submitted within one hundred eighty (180) days after the close of each second fiscal year and the written comments shall be submitted within thirty (30) days after the audit report due date.

ARTICLE 2.1 Public Inspection of Audits

A copy of the report and of any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at Newton County Executive Office.

ARTICLE 2.1 Annual Report, Submitted to the Department of Community Affairs

The county shall submit an annual report of local government finances to the Department of Community Affairs. The report shall include the revenues, expenditures, assets, and debts of all funds and agencies of the county, and other such information as may be reasonably requested by the department. Each local independent authority shall submit an annual report of indebtedness to the Department of Community Affairs. Such report shall include the revenues, expenditures, assets, and debts of all funds of the local independent authority and shall describe any actions taken by such local independent authority to incur indebtedness. The local government finance report and the local independent authority indebtedness report shall be filed on forms promulgated by the department and shall be submitted within the requested time periods established by the department.

ARTICLE 2.1 Capital Program

A five (5) year capital program may be submitted to the Board of Commissioners at the same time that the budget and budget message are introduced for approval. Such capital program shall include:

1. A clear general summary of its contents;
2. A list of all capital improvements which are proposed to be undertaken for the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
3. Cost estimates, method of financing, and recommended time schedules for each such improvements; and
4. The estimated annual cost of operation and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

ARTICLE 2.1 Transfer of Appropriations

The Board of Commissioners may, at any time during the fiscal year, transfer part or all of any unencumbered appropriation balance among programs within a department or office, and the Board of Commissioners may, by ordinance, transfer part or all of any unencumbered appropriation balance from one department or office to another, except that no appropriation for debt service or capital improvements may be reduced or transferred during any fiscal year, and under no circumstances may the expenditures exceed the total of the budget.

ARTICLE 2.1 Emergency Appropriations

Notwithstanding any other provision of this article, the Board of Commissioners may make emergency appropriations after the adoption of a budget, for a purpose which was not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made only to meet a public emergency affecting life, health, safety, property, or the public peace, and shall be made only out of actual unappropriated revenues or surplus. If there is no surplus, then temporary borrowing in notes may be made, provided that any such borrowed amounts are included as an appropriation in the next succeeding year's budget.

ARTICLE 2.1 Lapse of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the next succeeding year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

NOTE: Each annual budget should be able to exist for twenty-four (24) months, so that any bills arriving after the close of the fiscal year can be paid out of such budget.

ARTICLE 2.1 Uniform Chart of Accounts

The county shall adopt and use the Uniform Chart of Accounts developed by the Georgia Department of Community Affairs.

ARTICLE 2.1 Purchasing Policies

The Newton County *Purchasing Policies and Procedures Manual* is incorporated by reference as if fully set out herein.

ARTICLE 2.1 Fund Accounts for Gaither Plantation

The Chairman of the Board of Commissioners of Newton County is authorized and directed to open and maintain such financial accounts as he/she may deem necessary and appropriate in order to ensure that any and all tax-deductible donations made for the benefit of Gaither Plantation are kept and maintained separately from the general funds of Newton County and not commingled therewith. Checks and drafts may be drawn and honored on said account upon signature of the Chairman and any District Commissioner, provided, however, any expenditure of funds shall first be preceded by an affirmative vote of a majority of the members of the Newton County Board of Commissioners, said vote to be made in a public meeting with a quorum present and recorded in the Board's Minutes of action. In addition, the County's independent auditors shall make an annual examination of the Gaither Plantation financial accounts and report their findings to this Board.

(Adopted 3/20/01)

CHAPTER 5: **SUPERIOR COURT**

CHAPTER 6:

CHAPTER 7:

Section

- 5-101 Distribution of Drug Forfeiture Pool
- 5-102 Superior Court Judge, Retirement Supplement



Section 5-101 Distribution of Drug Forfeiture Pool

Pursuant to authority of *O.C.G.A.* § 16-13-49, the Office of the District Attorney of Newton County (Alcovy Judicial Circuit) shall receive ten percent (10%) of all amounts hereafter distributed from the drug forfeiture pool created pursuant to said code section. Said payments shall be used to provide for payment of any and all necessary expenses for the operation of said office, and shall be in addition to and not in reduction of sums otherwise appropriated to the use of said office by the Newton County Board of Commissioners.

(Adopted 3/2/92)

Section 5-102 Superior Court Judge, Retirement Supplement

As authorized by *O.C.G.A.* § 47-9-77 and unless otherwise provided by the laws of this State, any retirement benefit being paid by the Superior Court Judges Retirement System (*Ga. Laws*, 1976, p. 586, et seq, as amended) on account of a former Superior Court judge of this Circuit shall be supplemented by this County as follows: the supplement shall bear to such benefit the same percentage which the respective salary supplements paid by the County to active Superior Court judges bears to the State salary of active Superior Court judges, but in no event shall such percentage be less than the percentage which the supplement paid by this County to such retired judge at the time of his retirement bears to the State salary paid to him at that time; and such supplement shall be paid in equal monthly installments.

(Adopted 3/3/87)

CHAPTER 5: **AGREEMENTS**

CHAPTER 6:

CHAPTER 7:

Section

6-101 Agreements Incorporated by Reference



ARTICLE 2.1 **Agreements Incorporated by Reference**

The following agreements are hereby incorporated by reference as if fully set out herein.

1. Intergovernmental Agreement for Public Recreation between Newton County, Georgia and the Newton County Board of Education. *(Effective 3/18/97)*
2. Water Supply Agreement and Intergovernmental Contract between Newton County and the City of Covington, Georgia. *(Effective 1/1/97)*
3. Intergovernmental Contract between Newton County, Georgia and the City of Covington for distribution of LOST and SPLOST Proceeds, Recreation Budget, and Williams Street Water Plant. *(Effective 2/21/95)*
4. Intergovernmental Services Contracts for Jail Facilities between Newton County, Georgia and the City of Covington, City of Mansfield, City of Oxford, and City of Porterdale, Georgia. *(Effective 3/1/91)*
5. Intergovernmental Contract between Newton County and the Town of Porterdale for GEFA Loan and County Loan to improve Porterdale water and sewerage system. *(Effective 2/4/93)*
6. Fire Services Agreement between Morgan County Fire Services and Newton County Fire Service. *(Effective 2/24/97)*
7. Fire Service Agreement between the City of Social Circle Fire Department and Newton County Fire Service. *(Effective 10/9/96)*
8. Fire Services Agreement between Porterdale Rural Volunteer Fire Department and Newton County, Georgia. *(Effective 6/30/87)*
9. Automatic Mutual Aid Agreement between Social Circle Fire Department and Newton County Fire Services, to provide for a major disaster or structure fire. *(Effective 10/9/96)*
10. Fire Tower Agreement between the Georgia Forestry Commission and Newton County, Georgia. *(Effective 12/3/96)*
11. Mutual Aid Agreement between Jasper County Fire Service and Newton County Fire Service, to provide for a major disaster or fire. *(Effective 10/29/96)*
12. Emergency Medical Services Agreement, as amended, between Newton County, Georgia and Newton County, Georgia and Newton County Hospital Authority. *(Effective 1/1/82)*
13. Agreement to Protect the Big Haynes Water Supply Watershed between Rockdale County, Gwinnett County, Walton County, Newton County, City of Conyers, City of Snellville, City of Grayson and the City of Loganville, Georgia. *(Effective 8/15/95)*
14. Water Supply Agreement between Newton County, Georgia and Alcovy Shores Water and Sewerage Authority. *(Effective 3/20/95)*
15. Consecutive System Agreement between Newton County, Georgia, the City of Porterdale, City of Covington, City of Oxford, City of Mansfield, City of Newborn, Georgia and the Newton County Water and Sewerage Authority. *(Dated 8/16/94)*
16. Cornish Creek Reservoir Cooperative Agreement Between Newton County, Walton County and the City of Covington. *(Effective 4/5/88)*
17. Agreement for Construction, Ownership and Operation of Water Treatment Facilities between Newton County and the City of Covington. *(Effective 9/21/87)*
18. Master Lease between Association of County Commissioners of Georgia and Newton County, Georgia. *(Dated 3/7/95)*
19. Service Contract between the Covington/Newton County Chamber of Commerce and Newton County, Georgia. *(Effective 7/1/94)*
20. Intergovernmental Contract between Newton County and the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County. *(Adopted 9/7/99)*

21. Mutual Aid Agreement relating to a statewide emergency telephone number, "911" System plan between Newton County and the City of Covington Fire Department. *(Adopted April 1988, Renewed January 1995)*
22. Intergovernmental Contract with the Development Authority of Walton County. *(October 6, 1998)*
23. Intergovernmental Contract with the Joint Development Authority of Jasper County, Morgan County, Newton County, and Walton County. *(Adopted October 3, 2000)*

CHAPTER 7: **COUNTY PROPERTY**

CHAPTER 8:
CHAPTER 9:

Section

- 7-101 Sale of Real Property at Auction
- 7-102 Exchange of Real Property with Habitat for Humanity of Newton/Morgan Area, Inc.
- 7-103 Accepting Donation of Real Property from The Fowler Family Foundation
- 7-104 Clark Abandoning a Portion of Salem Cove Drive
- 7-105 Sale of 8.2588 Acres Located in the Industrial Park to the City of Covington



ARTICLE 2.1 Sale of Real Property at Auction

1. The county Attorney is authorized to, pursuant to O.C.G.A 36-9-3, to sell all of Newton County's right, title and interest to the following described real property at auction on the Courthouse steps to the highest bidder for not less than _____ Dollars (\$_____):

All that tract or parcel of land situated and being in Brewer's District, Newton County, being part of Land Lot 82 of the 8th Land District of Newton County, Georgia, and being described as follows:

Being Lot No. Fifty (50) of "Lakeside Grove": subdivision survey and plat of said subdivision made by Ernest L. Boggans, P.E. at Sur., Ga. Reg. Nos. 1262 and 496 in August 1957, for Curtis L. Jones and Lillian M. Jones which said plat is of record in Plat Book No. 2, Page 49, Clerk's Office Newton County Superior Court, said Plat and recorded thereof is made a part of th is deed to which reference is made for a more minute and definite description.

Together with the right to pass and re-pass in common with others over and along easements, streets, roads and passways of Lakeside Grove.

The Chairman of the Newton County Board of Commissioners is authorized to execute a quitclaim deed for the purpose of conveying the above-described real property.
(Resolved 12/15/98)

1. The County Attorney is authorized to, pursuant to O.C.G.A. 36-9-3, to sell all of Newton county's right, title and interest to the following described real property at auction on the Courthouse steps to the highest bidder for not less than _____ Dollars (_____):

All that tract or parcel of land lying and being in Land Lot 234 of the 9th District, Newton County, Georgia, being Lot 9, Block C, Subdivision of Covington South, as per plat prepared by Clyde B. Mitchell, Jr., R.L.S., dated September 30, 1970, recorded in Plat Book 8, Page 26, Newton County Records and incorporated here in by reference.

The Chairman of the Newton County Board of Commissioners is authorized to execute a quitclaim deed for the purpose of conveying the above-described real property.
(Resolved 12/15/98)

ARTICLE 2.1 Exchange of Real Property with Habitat for Humanity of Newton/Morgan Area, Inc.

Habitat for Humanity for Newton/Morgan Area, Inc. has proposed to exchange the following described property, consisting of approximately 0.63 acres located on Alexander Street and having the appraised value of

eight thousand seven hundred dollars (\$8,700.00) pursuant to an appraisal prepared by James E. Phillips, dated January 18, 2000:

All that tract or parcel of land lying and being in the City of Covington, Newton County, Georgia, and being improved property with two (2) houses situated thereon bounded as follows: On the West by Alexander Street; on the North by property now or formerly owned by Middleton, property now or formerly owned by Garnett and property now or formerly owned by Sally Harden; on the East by Dried Indian Creek, and on the South by property now or formerly owned by Essie Lee Gilstrap, property now or formerly owned by Freeman, property now or formerly owned by Mattie Mae Goodman.

Being same property conveyed by Warranty Deed from Robert C. Hodges to Lavonia S. Strong dated September 1, 1990, recorded in Deed Book 377, page 408, Newton County Records.

Habitat for Humanity for Newton/Morgan Area, Inc. has proposed to exchange the above-referenced property for the following described property, consisting of approximately 0.34 acres, located at the corner of Corley Street and Spring Street, having an appraised value of seven thousand nine hundred fifty dollars (\$7,950.00) pursuant to an appraisal prepared by James E. Phillips, dated January 18, 2000:

All that tract or parcel of land lying and being in the City of Covington in Newton County, Georgia, containing approximately 0.34 acre, and being shown as Block 9, Parcel 11 on Tax Map CO-25 in the Office of the Board of Tax Assessors of Newton County, Georgia, said map being incorporated herein by reference thereto for a more complete description. Said lands located on Spring Street at Corley Street, and now or formerly owned by Florence Nelson King Chapman.

The Newton County Board of Commissioners has approved the appraisals on the above-referenced property;

Notice of said proposed exchange has been published in the Covington News on the following dates: February 24, March 2, March 9, March 16, 2000, satisfying the requirements of O.C.G.A. § 36-9-3(2)(D);

Now Therefore, be it resolved as follows:

The Chairman and Clerk of the Newton County Board of Commissioners are hereby authorized to execute any and all quitclaim deeds or other documents necessary to effectuate the exchange of real property as detailed herein.

(Resolved 3/21/2000)

ARTICLE 2.1 Accepting Donation of Real Property from The Fowler Family Foundation

Newton County, acting by and through its duly elected Board of Commissioners, accepts the donation of real property from The Fowler Family foundation subject the condition that it be used for public purposes as part of the overall streetscape and public park plans for the area, including Turner Lake Park.

All that tract or parcel of land lying and being in Land Lot 253 of the 9th Land District, Newton County, Georgia within the corporate limits of the City of Covington, Georgia, containing 891 acres as shown on plat of survey for Louly T. Fowler Estate prepared by Louie D. Patrick, Ga. RLS 1757, dated January 23, 1996, and according to said plat, is more particularly described as follows:

Beginning at an iron pin marking the point of intersection of the eastern right-of-way of Turner Lake Road (100-foot right-of-way) with the northern

right-of-way of the southern leg of Clark Street (100-foot right-of-way) and running thence in a northern direction of the eastern right-of-way of Turner Lake Road the following courses and distances, to-wit: North 03 degrees 10 minutes 58 seconds West 282.61 feet to a point and North 03 degrees 25 minutes 53 seconds West 165.37 feet to an iron pin set at the point of intersection of the eastern right-of-way of Turner Lake Road with the southwestern right-of-way of the northern end of Old Clark Street (100-foot right-of-way)/ thence in a southeastern direction along the southwestern right-of-way of Old Clark Street and following the curvature thereof an arc distance of 465.89 feet to an iron pin set on said right-of-way (said arc of a curve having a radius of 1483.62 feet and being subtended by a chord of South 25 degrees 51 minutes 41 seconds East 463.98 feet); thence South 37 degrees 55 minutes 07 seconds West 77.3 feet (along the old right-of-way of Brown Bridge Road) to an iron pin located on the northern right-of-way of the southern end of Clark Street (new Clark Street); thence in a northwestern direction along the arc of a curve forming the northeastern right-of-way of Clark Street an arc distance of 27 feet to a point that is North 75 degrees 34 minutes 33 seconds West 27 feet from the preceding iron pin; thence North 76 degrees 37 minutes 30 seconds West along the northwestern right-of-way of the southern leg of Clark Street 106.02 feet to the iron pin marking the POINT OF BEGINNING. Said tract of land is irregular in shape and bounded on the South-Southwest by Clark Street right-of-way (the new right-of-way) / on the West by the eastern right-of-way of Turner Lake Road,- on the Northeast by the old Clark Street right-of-way; and on the Southeast by the old right-of-way of Brown Bridge Road.

ARTICLE 2.1 **Abandoning a Portion of Salem Cove Drive**

It has been determined that the section of the county road system known as Salem Cove Drive, being shown on the attached sketch and being described as follows:

That portion of the County Road System being the portion of the County Road known as Salem Cove Drive described as follows:

Beginning at the intersection of the northeastern right-of-way line of Salem Cove Trail and the northwestern right-of-way line of Salem Cove Drive; thence North 40 degrees 14 minutes 36 seconds East a distance of 121.55 feet; thence South 58 degrees 19 minutes 14seconds East a distance of 60.60 feet; thence South 40 degrees 14 minutes West a distance of 122.25 feet; thence North 58 degrees 19 minutes 14 seconds East a distance of 60.60 feet; thence South 40 degrees 14 minutes 36 seconds West a distance of 122.85 feet; thence North 58 degrees 19 minutes 14 seconds West 60.00 feet more or less to the point of beginning.

Said portion of Salem Cove Drive is more particularly described on that certain Final Plat of Salem Cove, Unit Two, prepared by East Metro Surveyors, Inc., Andrew Milner, Ga. R.L.S. No. 2545, last revised January 20, 1993 and recorded in Plat Book 26, pages 224 and 225, which plat is incorporated herein by reference thereto.

No private property owner will be deprived of adequate and reasonable access to his property for ingress and egress.

The BOC deems to be in the public interest to abandon the portion of Salem Cove Drive shown on the attached sketch and described above.

All requirements of O.C.G.A. § 32-7-1 *et. seq.* as to notice have been satisfied.

That section of the county road system known as a portion of Salem Cove Drive, as being shown on the attached sketch and described above, is hereby declared abandoned, it shall no longer be a part of the county road system and the rights of the public in and to Salem Cove Drive, as a public road, shall cease.

The Chairman of the Newton County Board of Commissioners is authorized to execute any and all Quitclaim Deeds relinquishing any right the County may have in the right of way of the abandoned portion of Salem Cove Drive, so long as the County does not currently own the fee simple title to the underlying land.

SO RESOLVED, this 15th day of December, 1998.

ARTICLE 2.1 Sale of 8.2588 Acres Located in the Industrial Park to the City of Covington

The sale of the property to the City of Covington and the execution of the Deed and all documents relating to the sale by the Chairman and the Clerk of the Newton County Board of Commissioners are hereby ratified. See attached Exhibit A.

(Resolved 10/3/00)

(Warranty Deed executed 9/28/00)

EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 283 and 284 of the 9th District of Newton County, Georgia, and being located within the City of Covington, and being more particularly described as follows:

Begin at a ½ inch rebar set at the intersection of the southwesterly right of way line of Georgia State Route No. 142 (130 foot right of way) with the northwesterly right of way line of Georgia Railroad (200 foot right of way); run thence along said northwestern right of way line of Georgia Railroad south 74 degrees 56 minutes 15 seconds west a distance of 825.63 feet to a point on said right of way line; thence continuing along said right of way line, and following the curvature thereof along the arc of a curve to the left, an arc distance of 825.63 feet to a point on said right of way line; thence continuing along said right of way line, and following the curvature thereof along the arc of a curve to the left, an arc distance of 112.93 feet, said arc being subtended by a chord bearing south 73 degrees 06 minutes 36 seconds west and having a chord distance of 112.91 feet, and said curve having a radius of 2,118.25, to a ½ inch rebar set on said right of way line, thence leaving said right of way line and running north 18 degrees 25 minutes 03 seconds west a distance of 209.46 feet to a ½ inch rebar set; thence running north 74 degrees 58 minutes 42 seconds east a distance of 358.61 feet to a ½ inch rebar set on the southwestern side of a proposed railroad track; thence running along said southwestern edge of said proposed railroad track north 41 degrees 38 minutes 37 seconds west a distance of 226.94 feet to a ½ inch rebar set; thence traversing said proposed railroad track along a bearing of north 48 degrees 21 minutes 23 seconds east, and a distance of 80.01 feet to a ½ inch rebar set on the northeasterly side of said proposed railroad track; thence leaving said proposed railroad track and running north 71 degrees 27 minutes 20 seconds east a distance of 619.34 feet to a ½ inch rebar set on the southwesterly right of way line of Georgia State Route No. 142; thence running along said right of way line in a generally southeasterly direction, and following the curvature thereof along the arc of a curve to the right, an arc distance of 93.54 feet, said arc being subtended by a chord bearing south 16 degrees 54 minutes 34 seconds east and having a chord distance of 93.53 feet, and said curve having a radius of 1,571.90 feet, to a point on said right of way line; thence continuing along said right of way line south 15 degrees 12 minutes 16 seconds east a distance of 388.86 feet to a ½ inch rebar set at the point of beginning as described above.

The above described property being shown as Tract II, and shown as containing 359.753 square feet (8.2588) acres, and being shown as zoned "M2", according to that certain Survey for Stone Mountain Industrial Park, Inc., said survey being prepared by Loo-Turley & Associates, P.C., Richard Loo, R.L.S. No. 2129, said survey being dated march 22, 2000, and being last revised August 14, 2000.

Subject to the following:

1. Easement from J. L. Johnson in the City of Covington, a municipal corporation, dated January 20, 1909, (recorded January 21, 1909, recorded in Deed Book 8, page 339, Records of Newton County, Georgia; as amended by that certain Quit Claim Deed from City of Covington, a municipal corporation to First Newton Corporation, dated August, 1966, filed for record September 8, 1966 at 3:30 p.m., recorded in Deed Book 78, Page 185, aforesaid Records; as further amended by that certain Quit Claim Deed from City of Covington, a municipal corporation to Covington Businessmen's Association, Inc., dated August, 1966, filed for record September 9, 1966 at 3:30 p.m., recorded in Deed Book 78, Page 186 Records of Newton County, Georgia.
2. Easements as contained in that certain Right of Way Deed from Charles H. Starling and Arnold K. Bohren to Newton County, Georgia, dated January 13, 1964, filed for record February 10, 1964 at 1:00 p.m., recorded in Deed Book 65, page 285, aforesaid Records.
3. Slope Easement from Charles H. Starling and Arnold K. Bohren to Newton County, Georgia, dated March 31, 1966, filed for record April 14, 1965 at 10:00 a.m., recorded in Deed Book 72, Page 193, aforesaid Records.
4. Dedication of Railroad Right of Way and Agreements concerning Use and Maintenance by City of Covington, Georgia and Newton County, Georgia, dated July 24, 1989, filed for record July 27, 1989 at 2:20 p.m., recorded in Deed Book 345, Page 443, aforesaid Records.
5. Easement from the City of Covington and Newton County, Georgia to the Municipal Electric Authority of Georgia, dated November 6, 1990, filed for record November 8, 1990 at 10:23 a.m., recorded in Deed Book 381, Page 526, aforesaid records. (Affects Tract II)
6. Those matters as disclosed by that certain survey entitled "Survey for Stone Mountain Industrial Park, Inc., prepared by Loo-Turley & Associates, P.C. bearing the seal and certification of Richard Loo, Georgia Registered Land Surveyor No. 2129, dated March 22, 2000, as follows:
 - A. Curbing encroaching 4.9' onto subject property over the northwesterly boundary line:

- B. Twenty foot (20') sanitary sewer easement crossing the westerly boundary line of subject property;
- C. Sewer line crossing the westerly boundary line of subject property; and
- D. Forty foot (40') utility easement crossing the westerly boundary line of subject property.

CHAPTER 8: **RESERVED**
CHAPTER 9:
CHAPTER 10:

CHAPTER 8: **RESERVED**
CHAPTER 9:
CHAPTER 10:

PART II: PUBLIC HEALTH AND SAFETY

CHAPTER 8: **FIRE PREVENTION AND PROTECTION**

CHAPTER 9:
CHAPTER 10:

Section

- 10-101 State Minimum Fire Safety Standards
- 10-102 Open Burning Within Unincorporated Areas
- 10-103 Newton County Fire Prevention Bureau



ARTICLE 2.1 **State Minimum Fire Safety Standards**

The State Minimum Fire Safety Standards shall have state-wide effect and shall not require adoption by Newton County. Newton County is authorized to enforce these standards on all buildings and structures except one-family and two-family dwellings and those structures listed in *O.C.G.A. § 25-2-13*. Notwithstanding any other provision of law or any local ordinance to the contrary, in the event of a conflict between any code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) and of the Standard Building Code Congress (Southern Standard Building Code), the code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) shall prevail. The order of precedence established by this subsection shall apply to all buildings and structures whether or not such buildings and structures are covered under this Code section.

ARTICLE 2.1 **Open Burning Within Unincorporated Areas**

1. **Restrictions and Procedures.** No person shall kindle or maintain any rubbish fire or authorize any such fire to be kindled or maintained without first obtaining a Permit to Burn through the Newton County Fire Department. Upon calling, you will reach a recording system. Listen to the recording, then leave your name, address where the burn is to take place and a telephone number. This will serve as your burn permit authorization.
2. **Safety Precautions Required.** After obtaining a Permit to Burn, the following safety precautions shall be observed:
 - A. No person shall kindle or maintain any bonfire or rubbish fire, or authorize any such fire to be kindled or maintained on any privately owned land, unless:
 - (1) No building or structure shall be located within fifty (50) feet of the actual or proposed location of the fire and adequate provisions shall be taken to prevent a fire from spreading within fifty (50) feet of any building or structure.
 - (2) The fire shall be contained in an approved waste burner located safely and not less than fifty (50) feet from any building or structure.
 - B. Bonfires and rubbish fires shall be constantly attended by a competent person until such fire is extinguished.
 - C. The person so attending the fire shall have an adequate water supply and/or have other fire extinguishing equipment, readily available for use to control the fire.
3. **Controlled Burns.** These restrictions will not in any way prohibit the use of "Controlled Burns" as an accepted agricultural practice on farmlands and in woodland. However, the individual in charge of the controlled burn will obtain a permit as prescribed herein so that county fire agencies and Georgia Forestry will have knowledge of the date, time and magnitude of the controlled burn. For large agriculture and land clearing burns, two permits are necessary. Caller should first call the local Forestry Office. If a permit is granted, the forestry Office will also notify the Newton County Fire Department.
4. **Burn Classification.** Each morning in the Newton County Fire Service shall obtain from the Newton-Rockdale Forestry unit the burn classification for that day. When responding to a request for a Permit to Burn, each individual requesting a Permit to Burn shall be advised whether that day is a "Burn" or "No Burn" day.

If the day is a "Burn" day, the recording will tell the requestor to leave their name, address and telephone number and that will serve as their burn permit.

When a Permit to Burn is not issued, the recording will tell the requestor that due to the unsafe conditions there will be no burning on that day. The requesting party shall also be advised that burning without a Permit to Burn is a violation of this ordinance and subjects the party so doing to the penalties contained herein.

1. **Construction Materials and Debris.** Construction and Demolition Debris shall consist of but not be limited to, treated lumber, plywood, OSB board, pallets, cardboard, siding, sheet rock, insulation, shingles, buckets, paint cans, carpet, wiring, foam board, etc.

- (1) Construction and Demolition Debris cannot be burned.
- (2) Construction and Demolition Debris must go to a permitted landfill.
- (3) Construction and Demolition Debris cannot be buried on site.
- (4) Neither the Georgia Forestry nor Newton Fire Service can issue a Permit to Burn Construction and Demolition Debris.
- (5) Untreated, dimensional lumber may be burned in a burn container, if conditions under Section B. are met.

2. **Penalties.** Individuals in violation of this ordinance will be left to the discretion of the authority having jurisdiction, as to whether a warning or citation will be given. For each offense, each person convicted of violating this ordinance will be fined a minimum five hundred dollars (\$500.00), to a maximum one thousand dollars (\$1,000.00) for the first offense. For the second and each subsequent offense each person convicted of violating the ordinance, will be fined a minimum of one thousand dollars (\$1,000.00) and a maximum of two thousand dollars (\$2,000.00). In certain cases, individuals may also be charged under State and Federal Environmental Protection Agency and Forestry regulations.

(Adopted 5/18/99)

ARTICLE 2.1 **Newton County Fire Prevention Bureau**

1. **Establishment and Duties of Fire Prevention Bureau.**

A. There is hereby created under the supervision of the County Coordinator of the Newton County Fire Service, the Newton County Fire Prevention Bureau. The purpose of creating the Newton County Fire Prevention Bureau is to better conserve property and safeguard human lives and to assist in the enforcement of various rules, regulations and ordinances of Newton County and the State of Georgia pertaining to fire prevention and life safety.

B. The Fire Marshal in charge of the Fire Prevention Bureau shall be appointed by the Coordinator of the Newton County Fire Service on the basis of examination to determine his qualifications. The appointment of the Fire Marshal shall continue during good behavior and satisfactory service and his employment shall otherwise be governed by the Newton County personnel policy.

C. Except as otherwise expressly provided by the other sections of the County Code and Regulations adopted or promulgated thereunder, the Fire Prevention Bureau and the Fire Marshal shall be charged with responsibility for the direct administration and enforcement of all codes, regulations and ordinances dealing with fire prevention and life safety, including but not limited to all provisions of this section. Further, the term "authority having jurisdiction" as may be used in this section or in any standard Code adopted under this section shall mean the Fire Prevention Bureau and the Fire Marshal thereof. As may be consistent with the intent of the provisions of this section, the use of the term "Fire Marshal " shall mean the head of the Fire Prevention Bureau.

D. The Fire Prevention Bureau shall investigate the cause, origin and circumstances of every fire occurring in Newton County by which property has been destroyed or damaged, or loss of life has occurred and, so far as possible, shall determine whether the fire is the result of carelessness or design. Such investigation shall begin immediately upon the occurrence of a fire. The Fire Marshal shall notify the proper authorities designed by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of any cases. Every fire shall be reported in writing to the Fire Prevention Bureau. Such reports shall be in such form as shall be prescribed by the Coordinator of the County Fire Service.

E. The Fire Marshal shall compile and keep a record of all fires and of all facts concerning the same including injuries, deaths, rescues of persons and statistics as to the extent of such fires and damage caused thereby. The Fire Marshal shall make an annual report of the activities of the Fire Department and the Fire Prevention Bureau and shall transmit this report to the County Coordinator.

1. **Adoption of Fire Prevention and Life Safety Codes and State Rule and Regulations.** For the purpose of prescribing Rules and Regulations governing hazardous conditions to life and property due to fire and explosions, and the risks incidental thereto, and the purpose of establishing further standards, rule and regulations relative to the construction, alteration, removal, demolition, use, and occupancy and maintenance of the buildings and structures of every character within the limits of Newton County, Georgia except as herein expressly provided, there is hereby adopted as fully and completely as if set out verbatim herein, the following:

A. The Standard Fire Prevention Code, 1991 Edition, as published by Southern Building Code Congress, International, Inc., save and except such portions thereof as are expressly deleted, modified or amended elsewhere in this section, a complete copy of which is now on file in the office of the Fire Marshal of Newton County, is hereby adopted and incorporated herein as fully as if set out at length herein (said Code as above identified and described is hereafter referred to as the "Fire Prevention Code");

B. That certain Code known as the Life Safety Code, published by National Fire Protection Association, being in particular the 1991 edition thereof, in its entirety, not less than two (2) copies of which have been and are now on file in the office of the Fire Marshal of Newton County at the Newton County Fire Service, 7144 Floyd Street, Covington, Georgia 30209, is hereby adopted and incorporated as fully as if set out at length herein (said Code as above described is hereinafter sometimes referred to as the "Life Safety Code");

C. The Georgia Safety Fire Rules and Regulations, promulgated by the Georgia Safety Fire Commissioner, pursuant to the provisions of Chapter 2 of Title 25, Official Codes of Georgia Annotated (formerly known as the Georgia Fire Safety Act), whether now or hereafter adopted by the Georgia Fire Safety Commissioner, expressly including all future amendments thereto as and when the same become effective, copies of which will be on file in the office of the Fire Marshal of Newton County, and the same are hereby adopted and incorporated as fully as if set out at length herein (said Rules and Regulations are hereinafter sometimes referred to as the "State Rules and Regulations"); and

D. The following sub-Codes of the National Fire Codes, as adopted by the National Fire Protection Association, a complete copy of which is now on file in the office of the Fire Marshal at the Newton County Fire Service, 7144 Floyd Street, Covington, Georgia 30209, are hereby adopted and by this reference incorporated into this Paragraph 2D as fully as if set out verbatim herein (said sub-Codes as above described and hereinafter enumerated are hereinafter sometimes referred to as the "National Fire Code") to wit:

Alphabetical Listing of National Fire Codes Adopted.

Code	Code No	Year Edition	Volume Location
Acetylene Cylinder Charging Plants	51A	1989	2
Air Conditioning & Ventilation Systems	90A	1993	4
Aircraft Engine Test Facilities	423	1989	6
Aircraft Fueling Ramp Drainage	415	1992	6
Aircraft Fuel Servicing	407	1990	6
Aircraft Hand Fire Extinguishers	408	1989	6
Aircraft Hangers	409	1990	6
Aircraft Loading Walkways	417	1990	6

Airport Terminal Buildings	416	1987	6
Airport Water Supply Systems	419	1992	10
Ammonium Nitrate, Storage of	490	1993	7
Aluminum or Magnesium Powder	651	1993	7
Aluminum Processing, Finishing	65	1987	3
Assembly Seat, Tents and Membrane Structures	102	1992	5
Archives and Records Centers	232AM	1991	10
Automotive & Marine Service Station Code	30A	1993	2
Blower and Exhaust Systems	91	1992	4
Boiler Furnaces, Furnace Implosions in Multiple Burner	85C	1991	4
Construction Alterations & Demolition Operations	241	1989	6
Building Construction & Materials, Fire Tests of	251	1990	6
Building Construction, Standard Types of	220	1192	5
Carbon Dioxide Extinguishing Systems	12	1993	1
Cellulose Nitrate Motion Picture Film	401	1988	2
Chimneys, Vents, Fireplaces, & Solid Fuel, Burning Appliances	211	1992	5
Deluge Foam - Water Sprinkler & Foam - Water Spray Systems	16	1991	1
Combustion Engines & Gas Turbines	37	1990	2
Computer/Data Processing Equipment	75	1992	4
Cooking Equipment, Vapor Removal	96	1991	4
Cooling Towers, Water	214	1992	5
Cutting & Welding Processes	51B	1989	2
Dipping & Coating Processes Using Flammable or Combustible Liquid	34	1989	2
Door Assemblies, Fire Tests of	252	1990	6
Dry Chemical Extinguishing Systems	17	1990	1
Dry-cleaning Plants	32	1990	2
Electrical Code, National	70	1993	3
Electrical Equipment in Hazardous (class) Locations, Gasses, Vapors Dust	497M	1991	10
Electrical Installations, Classification of Class 1 Hazardous Locations	497A	1992	10
Explosion Prevention Systems	69	1992	3
Explosive Materials, Code for	495	1992	7
Explosives, Motor Vehicle Terminals	498	1992	7

Exterior Fire Exposures	80A	1993	9
Feed Mills, Fire & Dust Explosions	61C	1989	3
Fire Detectors, Automatic	72E	1990	4
Fire Doors and Windows	80	1993	4
Fire Extinguishers, Portable	10	1988	1
Fire Warning Equipment, Household	74	1989	4
Fireworks, Manufacture, Transportation & Storage of	1124	1988	7
Firework, Outdoor Display of	1123	1988	7
Flammable & Combustible Liquids, Class	321	1991	6
Flammable & Combustible Liquids, Code	30	1993	2
Flammable & Combustible Liquids, Farm Storage of	395	1988	6
Flammable & Combustible Liquids, Portable Shipping Tanks	386	1990	6
Flammable & Combustible Liquids, Tank Vehicles for	385	1990	6
Flammable & Combustible Liquids, Underground Leakage of	329	1992	10
Flammable Liquids & Gasses in Manholes, Sewers	328	1992	10
Foam Extinguishing Systems	11	1988	1
Foam Systems, Medium & High Expansion	11a	1988	1
Foam-Water Sprinkler & Spray Systems	16	1991	1
Fuel Gas Code, National	54	1992	2
Fur Storage, Fumigation & Cleaning	81	1986	4
Furnaces, Ovens, Design, Location Equipment	86	1990	4
Furnaces, Industrial, Special Atmosphere	86C	1991	4
Furnaces, Industrial Vacuum Atmosphere	86D	1990	4
Garages, Repair	88B	1991	4
Gas Systems, Oxygen-Fuel, Welding, Cutting	51	1992	3
Grain Elevators & Bulk Handling	61B	1989	3
Halon 1211 Fire Extinguishing Systems	12B	1990	1
Halon 1301 Fire Extinguishing Systems	12A	1992	1
Health Care Facilities	99	1993	5
Hydrogen Systems, Gaseous, At Consumer Sites	50A	1989	3
Incinerators, Waste & Linen Handling Systems & Equipment	82	1990	4
Industrial Machines (Electrical Standard for)	79	191	4

Industrial Trucks, Powered	505	1992	7
Laboratories Using Chemicals	45	1991	3
Libraries & Library Collections	910	1991	11
Lightning Protection Code	78	1992	7
Liquefied Hydrogen Systems at Consumer Sights	50B	1989	2
Liquefied Natural Gas, Storage, Handling and Production	59A	1990	3
Liquefied Petroleum Gasses at Utility Gas Plants	59	1992	3
Liquefied Petroleum Gasses, Storage and Handling	58	1992	3
Manufactured Homes, Installations of	501A	1992	7
Oil-Burning Equipment, Installation of	31	1992	3
Organic Coatings, Manufacture of	31	1992	3
Ovens & Furnaces, Design, Location	86	1990	4
Oxidizing Materials, Gaseous, Storage	43C	1986	2
Oxidizing Materials, Liquid & Solid Storage of	43A	1990	2
Oxygen Systems, Bulk, at Consumer Sites	50	1990	2
Oxygen-Enriched Atmosphere, Fire Hazards in	53M	1990	9
Parking Structures	88A	1991	4
Pesticides in Portable Containers	43D	1986	2
Pneumatic Conveying Systems	650	1990	7
Private Fire Service Mains	24	1992	2
Pulverized Fuel Systems	85F	1988	4
Pyroxylin Plastic	40E	1993	2
Rack Storage of Materials	231C	1991	6
Radioactive materials, Facilities Handling	801	1991	10
Records, Protection of	232	1991	6
Roll Paper Storage	231F	1987	6
Roof Coverings	203	1992	6
Roof Coverings, Fire Tests of	256	1993	6
Rubber Tires, Storage of	231D	1989	6
Signaling Systems, Auxiliary Protection	72B	1986	4
Signaling Systems, Local Protective	72A	1987	4
Signaling Systems, Proprietary Protection	72D	1986	4

Signaling Systems, Remote Station	72C	1986	4
Signaling System, Testing	72H	1988	9
Smoke and Heat Venting	204M	1991	9
Solvent Extraction Plants	36	1993	2
Spray Application Using flammable and Combustible Materials	33	1989	2
Sprinkler Systems, Installation	13	1991	1
Sprinkler Systems, Residential Occupancies Up to 4 Stories in Height	13R	1991	1
Standpipe & Hose Systems	14	1993	1
Standpipe & Hose System, Test & Maintenance	14A	1989	9
Starch Manufacturing & Handling	61A	1989	3
Static Electricity	77	1993	9
Storage, General Indoor	231	1987	5
Tent & Air Supported Structures, Assembly Seating	102	1992	5
Venting of deflagrations	68	1988	9
Warm Air Heating & Air Conditioning Systems	9B	1993	5
Water Spray Fixed Systems	15	1990	1
Water Supplies, Suburban & Rural Fire Fighting	1231	1989	9
Water supplies, Valves Controlling	26	1990	9
Water Tanks For Private Fire Protection	22	1993	1
Window Assemblies, Fire Test of	257	1990	6
Wood Processing & woodworking Dust Explosion	664	1987	7

1. Application of Fire Prevention Code, Life Safety Code, State Rules and Regulations, and National Fire Codes.

A. Except as provided in Paragraph 3B hereafter or in other provisions of this section of the Code of Ordinances, the Fire Prevention Code, Life Safety Code, State Rules and Regulations, and the National Fire Codes, as adopted by Newton County under Paragraph 2, and the other provisions of this section, shall apply to all buildings, structures, premises, facilities, occupancies, conditions and regulated activities as herein specified within the corporate limits of Newton County.

B. The Fire Prevention Code, Life Safety Code, State Rules and Regulations, National Fire Codes and the other provisions of this section shall not apply to the following:

- (1) Those buildings, structures, facilities, occupancies and activities that are regulated under the Georgia Safety Fire Act, as amended: (Official Code of Georgia Annotated § 25-2-13) since the aforesaid act imposes special requirements on buildings, structures, facilities, occupancies and activities enumerated in the aforesaid Official Code of Georgia Annotated section;
- (2) One- and two-family residences, wherever they may be located within the limits of Newton County, Georgia.

2. **Building Permits and Certificates of Occupancy Subject to Review by Fire Marshal.** The Fire Marshal shall review the plans and specifications for proposed construction for which applications for building permits are made to ensure that all proposed buildings and structures and modifications thereof are in compliance with the provisions of this section. No building permit shall be issued by the Building Inspector in accordance with this section unless and until the Fire Marshal concurs therein showing the compliance of such proposed construction with the provisions of this section.

No building or structure subject to the provisions of this section shall be used or occupied until the Fire Marshal has issued a certificate of occupancy thereof. Upon completion of any new building or structure or the conversion of any existing building or structure so as to make same subject to this section, application shall be made by the proposed tenant or the owner of such building or structure for a certificate of occupancy. The application shall be on such form as specified by the Fire Marshal and shall be accompanied by an application fee of fifty dollars (\$50.00). The Fire Marshal shall proceed to inspect the subject building or structure to ensure compliance with the provisions of this section. Within ten (10) days after said application, the Fire Marshal shall either issue the certificate of occupancy to the applicant or notify the applicant in writing of the reasons for denial of the certificate of occupancy. A certificate of occupancy, when issued, shall run for the life of the building, provided that the internal or external features are not materially altered and the type of occupancy remains unchanged and there has been no fire of serious consequence or other hazard discovered. In existing buildings when substandard conditions are found, temporary occupancy may be permitted. A permit for temporary occupancy shall carry a time limit being necessary to make proper corrections in order to bring the subject building or structure into compliance with the provisions of this section.

1. **Definitions Used in Fire Prevention Code.** As used in the Fire Prevention Code adopted under Section 2, the phrase "Fire Official" shall mean the Fire Marshal serving in accordance with the provisions of Paragraph 1B.

2. **Exception to the Adoption of Fire Prevention Code.** The Standard Fire Prevention Code ("Fire Prevention Code") adopted pursuant to the provision of Paragraph 2A is hereby amended and modified by the complete deletion of Chapter II, "Board of Appeals and Adjustments," as though said chapter had never been adopted. Any and all appeals arising due to the application of the Fire Prevention Code shall be governed by the provisions of Section 10-103-13. Any place in the Fire Prevention Code referring to a Board of Appeals and adjustments shall be construed to mean the "Chairman and Board of Commissioners of Newton County."

3. **Reserved.**

4. **Reserved.**

5. **Clearing Property of Debris and Refuse Where a Building is Burned.**

A. Where a building or structure has burned, the premises must be cleared of all debris and refuse within ninety (90) days thereafter. If such premises are not cleared within said period, the same shall constitute a violation and may be treated accordingly.

B. Provided, however, that if the remains of a building mentioned under Paragraph 9A above constitute a safety hazard, the Building Inspector or any other official or citizen of this County may at any time file a complaint with the Newton County Board of Commissioners as provided by Paragraph 13 of this Chapter to have such condition declared to be a nuisance and for the abatement of same as therein provided.

C. The provisions of this paragraph are and shall be construed to be cumulative of all other provisions of this Chapter regarding the condition of property within the County and shall not be construed to alter, amend or repeal any other such provisions.

6. **Driving Across Firehose Prohibited.** It shall be unlawful for anyone to drive any vehicle of any kind over or across any firehose of the County.

7. **Fire Calls Inside the City Limits.** The Fire Departments will answer all calls inside the city limits in accordance with the "Emergency Operations Procedures Inside City Limits" and with the written "Firefighting Mutual Aid Agreement," as approved by the Chairman and Board of Commissioners and Coordinator of the Fire Service of Newton County.

8. **Modifications of Codes, Generally.** The Fire Marshal shall have the power to modify any of the provisions of the Fire Prevention Code and Life Safety Code upon application in writing by the owner, lessee or his duly authorized agent when there are practical difficulties in the way of carrying out the strict letter of this section, provided that the intent of the section and the applicable Code shall be observed, public safety secured, and substantial justice done. The particulars of such modifications, when granted or allowed and the decision of the Fire Marshal, shall be entered upon the records of the said Bureau and a signed copy shall be furnished to the applicant.

9. **Appeals.** Whenever the Fire Marshal has disapproved an application or refused to grant a permit applied for, or when it is claimed that a provision of this section does not apply or that the true intent and meaning of the within mentioned Codes have been misconstrued or wrongly interpreted, the applicant shall be entitled to appeal from the decision of the said Fire Marshal to the Chairman and Board of Commissioners by filing written notice of appeal within thirty (30) days from the day of the decision appealed.

10. **Penalties.** Any person who shall violate any of the provisions of this section hereby adopted, including the Codes, Rules and Regulations adopted under Paragraph 2 hereof, or who should fail to comply therewith or who should fail to comply with or who should violate any order made thereunder, or who should build in violation of any detailed statement of specifications or plans submitted and approved thereunder and from which no appeal has been taken, or who should fail to comply with such an order as affirmed or modified by the governing body, or by any other court of competent jurisdiction, within the time fixed therein, shall be a violation of this section and upon conviction thereof shall be punished in accordance with the Code of Ordinances of Newton County. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

11. **Nonliability of Persons Enforcing Section.** Any public employee, officers or other person responsible for the enforcement of this section, including the Fire Marshal, acting for the governing body in the discharge of its duties, shall not therefore render himself liable personally and each person is hereby relieved from all personal liability from any damage that may occur to persons and/or property as a result of any act required or permitted in the discharge of duties.

12. **Inspection of Buildings and Premises and Authority to Enter Premises.**

A. It shall be the duty of the Fire Marshal or other representatives of the said Bureau or the County Fire Service to inspect all buildings and premises except the interiors of dwellings expressly exempted from the application of this section, as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, endanger life from fire, or any violations of the provisions or intent of this section dealing with fire hazards and life safety.

B. The Chief of the Fire Department, Fire Marshal or any Inspector therefore may, at all reasonable hours, enter any building or premises covered by the application of this section for the purpose of making any inspection or investigation which, under the provisions of this section, he or they may deem necessary to be made. The Chief of the Fire Department, Fire Marshal or any Inspectors thereof shall be permitted by the owner, lessee, manager or operator of any building or premise to enter and inspect their building or premises at the time and for the purpose stated in this paragraph.

C. Any inspections by the Chief of the Fire Department, Fire Marshal or any Inspectors thereof of buildings and premises not otherwise open to the public shall be made only upon securing the consent of the owner or occupant thereof or upon securing of a search warrant for the inspection of said premises issued by the County Recorder upon the showing of probable cause of a violation of the County Code.

13. **Prohibition on Use of Inverting-type Fire Extinguishers.** Due to the discontinuance of the listing by Underwriters' Laboratories, Inc., of inverting types of fire extinguishers and difficulties encountered in finding suitable replacement parts and recharge materials, notwithstanding any provision contained in the Fire Safety Code, the Life Safety Code and the Georgia State Rules and Regulations, as same apply to Newton County, Georgia, inverting types of fire extinguishers shall not qualify as an approved fire extinguisher that may be required under any of the aforesaid provisions.

14. **Discharge of Combustible/Flammable Liquids or Other Hazardous Substances.** It shall be unlawful to place, deposit, discharge or to permit to be placed, deposited or discharged on or into any public or private street or roadway, public or private property, natural outlet, drainage ditch, storm sewer or sanitary sewer combustible or flammable liquids or vapors or any other hazardous substance which may create a safety hazard to persons or property. Nothing contained herein, however, shall prohibit the proper storage and/or transportation of such combustible or flammable liquids or other hazardous substances otherwise in accordance with the various Codes and Regulations adopted pursuant to Paragraph 2. It shall be the responsibility of the person or persons responsible for the discharge of combustible or flammable liquids or other hazardous substances to bear the costs of the removal and proper disposition of the discharged liquid or hazardous substances.

15. **Buildings and Structures Required to Have Approved Automatic Sprinkler Systems.**

A. **General Requirements and Specifications.** Except to the extent hereinafter provided, from and after the effective date of this section, all buildings or structures enumerated under Paragraph 19C hereafter on which construction or renovation is commenced within Newton County shall be required to have an approved automatic sprinkler system.

As used herein, an approved automatic sprinkler system shall be one meeting the specifications of and installed in accordance with the provisions of the National Fire Protection Association, National Fire Codes, and various sub-Codes thereof dealing with "Installation of Sprinkler Systems" (now NFPA 13) and "Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height" (now NFPA 13R) as may be in effect from time to time within the County in accordance with the provisions of Section 2(d) of the County Ordinances. All references in this Section 19 to "NFPA" or National Fire Protection Association or National Fire Codes shall mean the then current National Fire Codes as adopted by the National Fire Protection Association and otherwise adopted by the County under the provisions of Section 10-103-2D. Anything contained herein to the contrary notwithstanding, the provisions of this paragraph of the Code of Ordinances shall not apply to any single-family residence or duplex occupancy.

A. **Definitions.** The following words and terms shall, for the purpose of this section of the Code of Ordinances, have the following meanings in addition to the words and terms defined elsewhere herein except as otherwise expressly provided or unless the context otherwise requires:

(1) **Apartments.** Building containing three (3) or more living units with independent cooking and bathroom facilities whether designated as apartment house, tenement, garden apartment, or by any other name, and more than two (2) stories in height. In determining whether or not an apartment is more than two (2) stories in height, basement areas below grade not normally occupied and unfurnished attic areas not normally occupied shall be excluded from such determination.

(2) **Assembly.** Buildings or portions of buildings used for gathering together fifty (50) or more people for such purposes as "deliberations," "worship," "entertainment," "amusement," "dining," or "awaiting transportation."

(3) **Business.** Building or structures used for the keeping of accounts and records and similar purposes.

(4) **Detention and Correctional Facilities.** Buildings providing sleeping facilities for four (4) or more residents and occupied by persons who are generally prevented from taking self-preservation actions because of security measures not under the occupants' control.

(5) **Dormitories.** Buildings or spaces in buildings where group sleeping accommodations are provided for persons not members of the same family group in one room or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks, with or without meals, but without separate cooking facilities.

(6) **High Hazard.** Includes buildings having high hazard materials, processes or contents.

(7) **Hospital.** A building or part thereof used for the medical, psychiatric, obstetrical or surgical care, on a twenty-four-hour basis, of four (4) or more inpatients.

- (8) **Hotel, Motel.** Buildings or group of buildings under the same management in which there are more than fifteen (15) sleeping accommodations for hire primarily used by transients who are lodged with or without meals, whether designated as a hotel, inn, club, motel or by any other name; So-called apartment hotels shall be classified as hotels because they are potentially subject to transient occupancy like that of hotels.
- (9) **Industrial.** Factories and manufacturing facilities making products of all kinds and properties used for operations such as processing, assembling, mixing, packaging, finishing or decorating, repairing and similar operations.
- (10) **Lodging or Rooming Houses.** Buildings in which separate sleeping rooms are rented providing accommodations for a total of fifteen (15) or less persons on either a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants.
- (11) **Mercantile.** Stores, markets and other rooms, buildings or structures for the display and sale of merchandise.
- (12) **Nursing Home.** A building or part thereof used for the lodging, boarding and nursing care, on a twenty-four-hour basis, of four (4) or more persons who, because of mental or physical incapacity, may be unable to provide for their own needs and safety without the assistance of another person.
- (13) **Renovation.** The altering or improving of a building or structure that:
 - (a) Results in the change of the occupancy of the building or structure to an occupancy that requires the installation of an approved automatic sprinkler system hereunder no matter how large the building or structure is; or
 - (b) Involves an estimated expenditure for the changes, alterations or improvements of an amount greater than fair market value for ad valorem tax purposes for Newton County, Georgia, for the building or structure being altered or improved (exclusive of land) in accordance with the most recent Newton County tax digest that has been approved by the revenue commissioner of the Georgia Department of Revenue.
- (14) **Residential-Custodial Care Facility.** A building or part thereof used for the lodging or boarding of four (4) or more persons who are incapable of self-preservation because of age or physical or mental limitations (home for aged, facilities for social rehabilitation, mentally retarded care facilities).
- (15) **Storage.** All buildings and structures used primarily for the storage or sheltering of goods, merchandise, products, vehicles or animals.
- (16) **Supervisory Care Facilities.** A building or part thereof used for the lodging or boarding of mental health patients who are capable of self-preservation, but who require supervision and who are receiving training or other health-related care and who may have imposed upon them security measures not under their control.
- (17) **Twenty-Four-Hour Day Care.** Buildings or structures in which at least seven (7) children receive care, maintenance and supervision by other than their parents or legal guardian for twenty-four (24) hours per day.

B. **Requirements for Initial Construction and Renovations.** Except for single-family residences or duplex occupancies, the following buildings or structures located within the County on which initial construction or renovation commences after the effective date of this section shall have an approved automatic sprinkler system in accordance with the provisions of this section of the Code of Ordinances, to wit:

- (1) Buildings or structures three (3) or more stories in height regardless of occupancy (other than single-family residence or duplex occupancy).
- (2) Buildings or structures for residential occupancy that fall within the following classifications or definitions hotels, motels, apartments, dormitories, lodging or boardinghouses, and multifamily dwellings.
- (3) Buildings or structures occupied for mercantile purposes with a story over fifteen thousand (15,000) square feet, with a total gross area within the building or structures in excess of thirty thousand (30,000) square feet. Examples of mercantile occupancies shall include, but are not limited to, supermarkets, drug stores, department stores and shopping centers.

- (4) Buildings and structures occupied for health care purposes which shall include, but are not limited to, hospitals, nursing homes, residential-custodial care, and supervisory care facilities.
- (5) Buildings or structures occupied for detention and/or correctional facilities including, but not limited to, penal institutions, reformatories, jails, detention facilities and correctional facilities.
- (6) Buildings or structures to be occupied for assembly purposes with a rated occupancy load of over three hundred (300) or a rated occupancy of over one hundred (100) persons if alcoholic beverages are served in the building or structure. Examples of such assembly occupancies (assuming the occupancy load aforementioned) shall include, but are not limited to, theaters, motion picture theaters, auditoriums, exhibition halls, libraries, skating rinks, bowling alley, restaurants, churches, dance halls, drinking establishments, courtrooms and conference rooms.
- (7) Buildings or structures used for a business occupancy that is either more than two (2) stories in height, having a story over fifteen thousand (15,000) square feet, or having a total gross area of thirty thousand (30,000) square feet within the building. Business occupancy shall include, but is not limited to, doctors, dentists, lawyers, insurance and other professional offices, city halls, town halls, courthouses, colleges and university instructional buildings, general offices and governmental offices.
- (8) Buildings and structures for industrial occupancy if the building or structure exceeds fifteen thousand (15,000) square feet of space or if the industrial occupancy is classified as high hazard regardless of the size.
- (9) Storage buildings or structures occupied for storage if the building or structure exceeds fifteen thousand (15,000) square feet of space or if the storage occupancy is classified as high hazard regardless of the size.
- (10) All buildings or structures occupied by a twenty-four-hour day care facility.

C. **Determination of Building Height.** In determining whether or not a building or structure is over two (2) stories in height, basement areas below grade and unfinished attic areas not generally open to the public or occupied by employees of the business occupying such building or structures shall be excluded from such determination.

D. **Allowable Compliance with NFPA 13R.** In lieu of an approved automatic sprinkler system in accordance with NFPA 13, residential occupancies and business occupancies not over two (2) stories shall be allowed to comply with the provisions of NFPA 13R for its approved automatic sprinkler system.

E. **Section Provisions in Addition to Other Code Provisions.** The provisions of this paragraph are in addition to any provisions of the County Code requiring an approved automatic sprinkler system for building structures and/or occupancies within Newton County including, but not limited to, the National Fire Code adopted by Paragraph 2 as then in effect within Newton County.

- 2. **Reserved.**
- 3. **Reserved.**
- 4. **Reserved.**
- 5. **Reserved.**
- 6. **Reserved.**
- 7. **Reserved.**
- 8. **Reserved.**
- 9. **Reserved.**
- 10. **Reserved.**
- 11. **Reserved.**
- 12.

The provisions of this article have been adopted pursuant to the 1982 amendments by the Georgia General Assembly to the Georgia Fire Safety Act. Pursuant to the provisions of Section 25-2-12(b), Official Code of Georgia Annotated (formerly Section 92A-706(b) Georgia Code Annotated) Newton County does hereby adopt the "State Minimum Fire Safety Standards," adopted in the Rules and Regulations promulgated pursuant to Chapter 2 of Title 25, Official Code of Georgia Annotated, to apply only to those buildings and structures listed in Section 25-2-13, Official Code of Georgia Annotated. As used in this article, the term "State Rules and Regulations" shall mean the State Minimum Fire Safety Standards adopted in the Rules and Regulations promulgated by the Georgia Safety Fire Commission pursuant to the aforesaid Official Code of Georgia Annotated from time to time including all

subsequent revisions thereof as fully as if same were set out herein in their entirety. The provisions of this article and the State Rules and Regulations shall apply only to those buildings and structures listed in Section 25-2-13 Official Code of Georgia Annotated. Without limiting the foregoing, the provisions of Section 25-2-12(a) Official Code of Georgia Annotated, are hereby specifically adopted for application to buildings and structures located within Newton County.

13. **Plan and Specifications for Proposed Buildings; Certificate of Occupancy; Fees.**

A. Plans and specifications for all proposed buildings and structures shall be submitted to and receive approval by the Fire Marshal in charge of the Fire Prevention Bureau of Newton County (hereinafter called the "Fire Marshal") before any building permit may be issued or construction started thereon. All such plans and specifications submitted for screening shall bear the seal and Georgia registration number of the drafting architect or engineer or otherwise have the approval of the Fire Marshal. A complete set of the approved plans and specifications shall be maintained on the construction site and construction shall proceed in compliance with the minimum fire safety standards under which such plans and specifications were approved. The owner of any such building or structure, or his authorized representative, shall notify the Fire Marshal upon completion of approximately eighty percent (80%) of the construction thereof and shall apply for a certificate of occupancy when construction of such building or structure is completed.

B. Every building or structure shall have a certificate of occupancy issued by the Fire Marshal before such building or structure may be occupied. Such certificates of occupancy shall be issued for each business establishment within a building or structure, shall carry a flat rate charge of fifty dollars (\$50.00) per business establishment, shall state the occupant load for such business establishment or building, shall be posted in a prominent location within such business establishment or building and shall run for the life of the building, except as provided in Paragraph 31C herein.

C. For purposes of this article, any existing building or structure thereof shall be deemed to be a proposed building in the event such building or structure is subject to Substantial Renovation, a fire or other hazard of serious consequence or a change in the classification of occupancy. For purpose of this article, "Substantial Renovation" shall mean any construction project involving exits or internal features of such building or structure costing more than the building's or structure's assessed value according to County tax records at the time of the renovation.

14. **Temporary Occupancy Permits.** In existing buildings or structures when substandard conditions are found, a temporary occupancy permit may be issued, such permit carrying a time limit for a time adjusted to meet the amount of time being necessary to make the proper corrections in order to bring the building up to standard. All certificates of occupancy shall be issued against the building and shall not require renewal because of change of ownership. The same set of fees for certificates of occupancy as applicable to proposed buildings covered under Paragraph 31 shall apply. The Fire Marshal shall determine the time limit in complying with any of the provisions of this article.

15. **Buildings and Structures to Comply with State Rules and Regulations.**

A. Every existing building and structure shall comply with the minimum fire safety standards specified in the State Rules and Regulations which were in effect at the time such building or structure was constructed, except for those standards pertaining to electrical requirements which shall be the current standards adopted and specified in the State Rules and Regulations. A less restrictive provision contained in any subsequently adopted minimum fire safety standard may be applied to any existing building or structure.

B. Every proposed building and structure shall comply with the adopted minimum fire safety standards under the State Rules and Regulations that were in effect on the date that the plans and specifications therefore were received by the Fire Marshal for review and approval in accordance with the provisions of Paragraph 31.

16. **Right of Entry to Inspect Premises.** The Fire Marshal shall have authority at all times of day or night to enter in or upon and examine all buildings or premises where a fire is in progress or has occurred and other buildings or premises adjacent to or near same. Likewise, the Fire Marshal shall have the right to enter in and upon all buildings and premises subject to this article at all reasonable times for the purpose of examination or inspection. Upon complaint submitted in writing, the Fire Marshal may enter in or upon any building or premise between the hours of sunrise and sunset for the purpose of investigating such complaint. The Fire Marshal, upon the complaint of any person whenever he deems it necessary, may inspect or cause to be inspected all buildings and premises covered by this

article. Anything contained herein to the contrary notwithstanding, any inspections of buildings and premises by the Fire Marshal not otherwise open to the public shall be made only upon securing the consent of the owner or occupant of said premises or upon securing of a search warrant for the inspection of said premises issued by the County Magistrate upon the showing of probable cause of violation of the Code of Ordinances.

17. **Notice to Correct Conditions.** Whenever the Fire Marshal shall find any building or other structure which for want of repair, or by reason of age or dilapidated condition or from any other cause, is especially hazardous from fire or which is so situated as to endanger other property or the safety of the public, whenever such officer shall find in or around any building, combustible or explosive matter or inflammables or other conditions dangerous to the safety of such buildings, notice may be given to the owner or agent and occupant of any building coming under the provisions of this section to correct such unsafe condition as may be found.

18. **Court Order to Correct Conditions.** If any owner, agent or occupant fails to comply with the notice specified in the preceding sections, the Fire Marshal, upon approval of the governing authority of Newton County, may petition the court for a rule nisi to show cause why an order should not be issued by the court that the same be removed or remedied, and such court order, in vacation or regular term, shall forthwith be complied with by the owner or occupant of such building or structure. If such order is made by the court, such owner shall comply with same within such time that may be fixed in said court order. Nothing contained in this paragraph, however, shall be deemed to be a waiver of the County's rights to cause citation to be issued to the owner or occupant of any building or structure and the penalties specified in Paragraph 14 hereof. Paragraph 14 of this chapter is expressly made applicable to any violations of the provisions of this article.

19. **Failure to Comply with Court Order; Effect.** If any person fails to comply with the Order of the Court within the time fixed, then the County shall cause such building or premises to be forthwith repaired, torn down or demolished, and such materials removed and all dangerous conditions remedied, as the case may be at the expense of the County, and if the owner thereof, within thirty (30) days after notice in writing of the amount of such expense, fails, neglects or refuses to repay the city the expense thereby incurred, the County shall issue fi.fa against the owner of the property for the expense actually incurred.

20. **Final Authority for Ordering Enforcement.** The final authority for ordering the carrying out of the enforcement of the preceding sections to ensure compliance with this article shall be by Order of the Court and not by the Fire Marshal.

21. **Exemption From Fees.** All federal, state and county or city publicly owned buildings covered by this article are exempt from any fee or license which may be herein specified. Such fees or licenses may be waived by a resolution of the governing authority where such fees are chargeable to churches and other charitable organizations.

22. **Sovereign Immunity.** Nothing contained in this article or this section shall be construed to constitute a waiver of the sovereign immunity of the County or any officer or employee thereof in carrying out the provisions of this section. No action shall be maintained against the County or any officer, elected officer, or employee thereof for damages sustained as a result of any fire or related hazard covered by this section by reason of any inspection or other action taken or not taken pursuant to this section. Nothing in this section shall be construed to relieve any property owner or lessee thereof from any legal duty, obligation or liability incidental to the ownership, maintenance and use of such property.

CHAPTER 11: **TRAFFIC CONTROL**

CHAPTER 12:

CHAPTER 13:

Section

11-101	Uniform Rules of the Road
11-102	Speed Zones
11-103	Speed Detection Devices in Cities
11-104	Roads, Bridges, and Right of Way Pulpwood and Logging Operation Ordinance
11-105	Regulation Governing Transport of Building Material
11-106	Speed Hump Policy



ARTICLE 2.1 **Uniform Rules of the Road**

1. **Adoption By Reference.** Pursuant to Chapter 6, Title 40 of *O.C.G.A.* § 40-6-372 through 40-6-376, §§ 40-6-1 to 40-6-395 (except for §§ 40-6-393 and 40-6-394), and Chapter 2, Title 40 of *O.C.G.A.* § 40-2-20 and Chapter 5, Title 40 of *O.C.G.A.* § 40-5-20, known as the Uniform Rules of the Road and the definitions contained in *O.C.G.A.* § 40-1-1 are hereby adopted as and for the traffic regulations of this county with like effect as if recited herein.

2. **Penalties.** Unless another penalty is expressly provided by law, any person convicted of a violation of any provision of this code section shall be punished by a fine of not more than one thousand dollars (\$1000.00) or imprisonment for not more than one (1) year or by both such fine and imprisonment.

3. Pursuant to *O.C.G.A.* § 40-5-121, the Superior Court of Newton County shall be authorized to impose punishment in accordance with Georgia Law for convictions of driving while a license is suspended or revoked.

ARTICLE 2.1 **Speed Zones**

1. **On-System.**

State Route 11 from the Jasper County line (M.L. 0.00) to the south Mansfield city limit (M.L. 3.30) 0.15 south of County Road #141, a distance of 3.30 mi. to be zoned 55 mph.

State Route 11 from the north Mansfield city limit (M.L. 4.38) 0.06 mi. south of County Road #144 to the Walton County line (M.L. 13.20), a distance of 8.82 mi. to be zoned 55 mph.

State Route 12 runs common with State Route 402 (I-20) from (M.L. 0.00) to (M.L. 4.69), a distance of 4.69 mi.

State Route 12 from the east Covington city limit (M.L. 7.97) 0.13 mi. west of County Road #894 to the Walton County line (16.55), a distance of 8.58 mi. to be zoned 55 mph.

State Route 20 from the Rockdale County line (M.L. 0.00) to the Henry County line (M.L. 3.36), a distance of 3.36 mi. to be zoned 55 mph.

State Route 36 from the Butts County line (M.L. 0.00) to the south Covington city limit (M.L. 14.00) 0.17 mi. north of County Road #653, a distance of 14.00 mi. to be zoned 55 mph.

State Route 36 "SCHOOL ZONE" from a point 0.22 mi. north of County Road #192-Boy Scout Road (M.L. 6.35) to a point 0.11 mi. south of County Road #332-McCart Circle (M.L. 6.67), a distance of 0.32 mi. to be zoned 35 mph from 7:30 a.m. to 8:30 a.m. and 2:00 p.m. to 3:00 p.m. on school days only.

State Route 81 from the Henry County line (M.L. 0.00) to a point 0.25 mi. south of the Porterdale city limit (M.L. 7.08), a distance of 7.08 mi. to be zoned 55 mph.

State Route 81 "SCHOOL ZONE" from a point 0.02 mi. south of County Road #08-Bethany Road (M.L. 3.81) to a point 0.11 mi. north of County Road #25-Cowan Road (M.L. 4.19), a distance of 0.38 mi. to be zoned 35 mph from 7:30 a.m. to 8:30 a.m. and 2:00 p.m. to 3:00 p.m. on school days only.

State Route 81 from a point 0.25 mi. south of the Porterdale city limit (M.L. 7.08) to the Porterdale city limit (M.L. 7.33) 0.01 mi. south of State Route 162 Connector, a distance of 0.25 mi. to be zoned 45 mph.

State Route 81 from the north Porterdale city limit (M.L. 8.88) 0.06 mi. north of City Street #579 to the south Covington city limit (M.L. 9.10) 0.32 mi. south of City Street #702, a distance of 0.22 mi. to be zoned 45 mph.

State Route 81 from the north Oxford city limit (M.L. 13.71) 0.07 mi. north of City Street #628 to the Walton County line (M.L. 18.56), a distance of 4.85 mi. to be zoned 55 mph.

State Route 138 from the Rockdale County line (M.L. 0.00) to a point 0.05 mi. east of the Gum Creek Bridge-BRS00170 (M.L. 1.37), a distance of 1.37 mi. to be zoned 55 mph.

State Route 138 from a point 0.05 mi. east of the Gum Creek Bridge-BRS00170 (M.L. 1.37) to the Walton County line (M.L. 1.80), a distance of 0.43 mi. to be zoned 45 mph.

State Route 142 from the Newborn city limit/Jasper County line (M.L. 0.00) to City Street #528-Porter (M.L. 0.41), a distance of 0.41 mi. to be zoned 45 mph.

State Route 142 from City Street #528-Porter (M.L. 0.41) to a point 0.05 mi. west of the Southern Railroad crossing (M.L. 0.76), a distance of 0.35 mi. to be zoned 35 mph.

State Route 142 from the north Newborn city limit (M.L. 1.25) 0.26 mi. north of County Road #213 to State Route 12 (M.L. 8.51), a distance of 7.26 mi. to be zoned 55 mph.

State Route 142 runs common with State Route 12 from (M.L. 8.51) to (M.L. 10.87), a distance of 2.36 mi.

State Route 142 from the east Covington city limit (M.L. 11.25) 0.12 mi. south of County Road #371 to the east Covington city limit (M.L. 12.39) 0.20 mi. north of County Road #75, a distance of 1.14 mi. to be zoned 55 mph.

State Route 142 from the north Covington city limits (M.L. 13.99) 0.12 mi. north of County Road #366 to State Route 81 (M.L. 16.63), a distance of 2.64 mi. to be zoned 55 mph.

State Route 162 from State Route 36 (M.L. 0.00) to State Route 162 Connector (M.L. 10.56), a distance of 10.56 mi. to be zoned 55 mph.

State Route 162 from State Route 162 Connector (M.L. 10.56) to a point 0.09 mi. south of County Road #367-Roseberry Road (M.L. 11.02), a distance of 0.46 mi. to be zoned 45 mph. (This section of roadway shall not be included on the Speed Detection Device Permit.)

State Route 162 from a point 0.09 mi. south of County Road #367-Roseberry Road (M.L. 11.02) to State Route 81 (M.L. 11.42), a distance of 0.40 mi. to be zoned 35 mph. (This section of roadway shall not be included on the Speed Detection Device Permit.)

State Route 162 from State Route 81 (M.L. 11.42) to County Road #390-Tanyard Road (M.L. 11.68), a distance of 0.26 mi. to be zoned 45 mph.

State Route 162 from County Road #390-Tanyard Road (M.L. 11.68) to a point 0.25 mi. south of County Road #511-Brown Bridge Road (M.L. 14.19), a distance of 2.51 mi. to be zoned 50 mph.

State Route 162 from a point 0.25 mi. south of County Road #511-Brown Bridge Road (M.L. 14.19) to the Rockdale County line (M.L. 16.36), a distance of 2.17 mi. to be zoned 45 mph.

State Route 162 Connector from State Route 162 (M.L. 0.00) to a point 0.25 mi. north of State Route 162 (M.L. 0.25), a distance of 0.25 mi. to be zoned 45 mph.

State Route 162 Connector from a point 0.25 mi. north of State Route 162 (M.L. 0.25) to the Porterdale city limit (M.L. 1.44) 0.04 mi. south of State Route 81, a distance of 1.19 mi. to be zoned 35 mph.

State Route 212 from the Rockdale County line (M.L. 0.00) to State Route 20 (M.L. 0.45), a distance of 0.45 mi. to be zoned 55 mph.

State Route 212 runs common with State Route 20 from (M.L. 0.45) to (M.L. 0.49), a distance of 0.04 mi.

State Route 212 from State Route 20 (M.L. 0.49) to the Jasper County line (M.L. 14.90), a distance of 14.41 mi. to be zoned 55 mph.

State Route 212 runs in Jasper County from (M.L. 14.90) to (M.L. 15.39), a distance of 0.49 mi.

State Route 212 from the Jasper County line (M.L. 15.39) to the Jasper County line (M.L. 15.55), a distance of 0.16 mi. to be zoned 55 mph. (Due to inadequate distance, this section of roadway shall not be included on the Speed Detection Device Permit).

State Route 212 runs in Jasper County from (M.L. 15.55) to (M.L. 16.03), a distance of 0.48 mi.

State Route 212 from the Jasper County line (M.L. 16.03) to the Jasper County line (M.L. 16.68), a distance of 0.65 mi. to be zoned 55 mph.

State Route 402 (I-20) from the Rockdale County line (M.L. 0.00) to the west Covington city limit (M.L. 4.24), a distance of 4.24 mi. to be zoned 65 mph.

State Route 402 (I-20) from the east Covington city limit (M.L. 7.16) to the Alcovy River Bridge (BRS00380) (M.L. 9.25), a distance of 2.09 mi. to be zoned 65 mph.

State Route 402 (I-20) from the Alcovy River Bridge (BRS00380) (M.L. 9.25) to the Walton County line (M.L. 15.37), a distance of 6.12 mi. to be zoned 70 mph.

Signs to be erected by the Georgia Department of Transportation.

1.

Off-System.

County Road 19 from State Route 81 to State Route 212, a distance of 3.42 mi. to be zoned 45 mph.

County Road 20 from County Road 19 to State Route 162, a distance of 1.98 mi. to be zoned 45 mph.

County Road 24 from County Road 309 to the Porterdale city limit, a distance of 0.56 mi. to be zoned 55 mph.

County Road 25 from County Road 19 to County Road 22, a distance of 1.00 mi. to be zoned 35 mph.

County Road 29 from County Road 511 to County Road 566, a distance of 3.17 mi. to be zoned 55 mph.

County Road 29 from County Road 566 to State Route 162, a distance of 0.55 mi. to be zoned 45 mph.

County Road 37 from County Road 516 to the Rockdale County line, a distance of 2.38 mi. to be zoned 45 mph.

County Road 37 "SCHOOL ZONE" from County Road 41 to a point 0.18 mi. west of County Road 41, a distance of 0.18 mi. to be zoned 25 mph from 7:30 a.m. to 8:30 a.m. and from 2:00 p.m. to 3:00 p.m. on school days only.

County Road 50 from County Road 89 to County Road 512, a distance of 4.11 mi. to be zoned 55 mph.

County Road 55 from County Road 57 to the Covington city limit, a distance of 1.02 mi. to be zoned 45 mph.

County Road 58 from County Road 512 to County Road 55, a distance of 0.49 mi. to be zoned 55 mph.

County Road 71 from County Road 510 to County Road 50, a distance of 1.50 mi. to be zoned 55 mph.

County Road 73 from County Road 74 to the Walton County line, a distance of 0.90 mi. to be zoned 55 mph.

County Road 74 from County Road 73 to the Covington city limit, a distance of 3.46 mi. to be zoned 55 mph.

County Road 90 from County Road 510 to the Walton County line, a distance of 1.63 mi. to be zoned 55 mph.

County Road 96 from State Route 81 to County Road 510, a distance of 2.51 mi. to be zoned 45 mph.

County Road 144 from State Route 142 to the Mansfield city limit, a distance of 3.81 mi. to be zoned 55 mph.

County Road 181 from State Route 36 to County Road 634, a distance of 0.59 mi. to be zoned 45 mph.

County Road 181 from County Road 634 to County Road 475, a distance of 2.33 mi. to be zoned 55 mph.

County Road 181 from County Road 475 to the Covington city limit, a distance of 1.28 mi. to be zoned 45 mph.

County Road 213 from State Route 36 to the Mansfield city limit, a distance of 6.55 mi. to be zoned 55 mph.

County Road 213 from the Mansfield city limit to the Newborn city limit, a distance of 1.27 mi. to be zoned 55 mph.

County Road 229 from the Newborn city limit to State Route 12, a distance of 7.55 mi. to be zoned 55 mph.

County Road 309 from County Road 24 to County Road 511, a distance of 0.43 mi. to be zoned 55 mph.

County Road 506 from the Jasper County line to State Route 36 (M.L. 7.03), a distance of 7.03 mi. to be zoned 55 mph.

County Road 507 "SCHOOL ZONE" from a point 0.10 mi. northeast of County Road 156 to a point 0.10 mi. southwest of County Road 156, a distance of 0.20 mi. to be zoned 35 mph from 7:30 a.m. to 8:30 a.m. and from 2:00 p.m. to 3:00 p.m. on school days only.

County Road 509 from State Route 142 to the Walton County line, a distance of 3.40 mi. to be zoned 55 mph.

County Road 510 from State Route 81 to County Road 104, a distance of 0.47 mi. to be zoned 45 mph.

County Road 510 from County Road 104 to State Route 138, a distance of 5.96 mi. to be zoned 55 mph.

County Road 511 from the Rockdale County line to County Road 309, a distance of 6.28 mi. to be zoned 55 mph.

County Road 511 from County Road 309 to the Covington city limit, a distance of 1.41 mi. to be zoned 45 mph.

County Road 511 "SCHOOL ZONE" (Brown Bridge Road) from a point 0.10 mi. west of County Road 314 to a point 0.10 mi. east of County Road 315, a distance of 0.20 mi. to be zoned 25 mph from 8:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 4:00 p.m. on school days only.

County Road 512 from the County Road 50 to County Road 58, a distance of 2.15 mi. to be zoned 55 mph.

County Road 516 from the Rockdale County line to the Covington city limit, a distance of 4.21 mi. to be zoned 55 mph.

County Road 518 from County Road 511 to County Road 516, a distance of 2.30 mi. to be zoned 55 mph.

County Road 653 "SCHOOL ZONE" from a point 0.07 mi. south of the Covington city limit to a point 0.58 mi. south of the Covington city limit, a distance of 0.51 mi. to be zoned 35 mph from 7:30 a.m. to 8:30 a.m. and 3:00 p.m. to 4:00 p.m. on school days only.

County Road 653 (Covington Bypass) from State Route 36 to the Porterdale city limit, a distance of 3.64 mi. to be zoned 55 mph.

Signs to be erected by Newton County.

1. **City of Newborn.**

County Road 508 from the Newborn city limit to County Road 134, a distance of 0.40 mi. to be zoned 45 mph.

County Road 508 from County Road 134 to City Street 528, a distance of 0.75 mi. to be zoned 35 mph.

County Road 508 from City Street 528 to the Newborn city limit, a distance of 0.41 mi. to be zoned 45 mph.

Signs to be erected by the City of Newborn.

Be it resolved that any person convicted of a violation of this ordinance shall be punished as provided for by law.

(Approved 1/21/97)

ARTICLE 2.1 **Speed Detection Devices in Cities**

The cities of Newborn and Oxford authorize the use of speed detection devices by the Newton County Sheriff's Department on approved and designated roadways in the city.

(Resolved 11/7/94)

ARTICLE 2.1 Roads, Bridges, and Right of Way Pulpwood and Logging Operation Ordinance

1. **Purpose.** The purpose of this ordinance is to protect the county road system, bridges, and ditches from damage and excessive maintenance cost occasioned by the travel of heavy laden trucks and logging equipment over said road system.

2. Pulpwood and logging operations, which desire to cross county ditches to enter property for the purpose of cutting, must apply for and be granted a permit by the county road department to cross said ditch. Said ditch may only be crossed after the contractor has paid the county for the installation of an approved culvert pipe, or said contractor may use his own pipe if approved by the road superintendent such that storm water flow will not be restricted. Said contractor must restore said ditch line, backslopes, and road shoulders to original condition or better once his operations are complete in the area. In order to insure the protection of the county's road and ditch structure the contractor must file an application for a permit with the county road department for each crossing.

For each pulpwood and logging operation, a one thousand dollar (\$1,000.00) bond shall be posted with Newton County to insure compliance with this ordinance.

After completion of pulpwood and logging operation with satisfactory compliance with the provisions of this ordinance the bond posted shall be returned to the applicant.

In the event there is a failure of compliance with the provisions of this ordinance and the party is advised about this and fails to correct or perform those acts necessary to comply with this ordinance the bond amount may be used by Newton County toward the expense of causing compliance with the provisions of this ordinance.

1. Heavily laden pulpwood, logging operations and heavy equipment vehicles shall not proceed routinely over the county's unimproved road system during periods of rain or inclement weather when clearly, said travel causes excessive damage and maintenance to the road system such that road conditions for the passage of smaller and lighter passenger vehicles have been substantially hampered.

2. For pulpwood and logging operations, it shall be the responsibility of said contractor to ensure all trees, branches and limbs are removed from ditches as to not restrict the water flow and remove from county road sides (right-of-ways) as to not hamper the passage of county road department maintenance equipment, mowers, etc. This applies on both county unimproved road surfaces and county paved roadways.

3. Heavy laden transport vehicles are restricted from crossing county bridges, where their carted load exceeds the posted load limit of said bridge.

4. Pulpwood and logging operations which access county paved road surfaces will remove immediately dirt or mud brought onto the county road surfaces or county right-of-ways so as to prevent the destruction of improved surfaces and so as to not impede the hampering of safe motor vehicle operation over said surfaces. It shall be the responsibility of the contractor to place enough stone pad surface at access points and/or to take sufficient preventive action to stop any dirt and mud from adhering to county roadways.

5. For pulpwood and logging operations, it shall be the responsibility of said contractor to inform the Newton County Public Works Department of completion of each logging operation for purpose of final inspection of the work site area. This may be done by contacting either the Public Works Department or the County Commissioners Office.

A. The "work site are" is considered to be the area at which a pulpwood or logging operation connects county roadways, ditches, right-of-way, roadway access points and access via county bridges.

6. Pulpwood and logging operations, the County Sheriff and/or the County Road Superintendent shall have the authority to temporarily stop/halt access to county roads at work site areas, any pulpwood or logging operation contractor from the use of heavy equipment on county roadways whom they may deem to be in noncompliance of this ordinance until such time the contractor complies.

7. **Noncompliance.**
- A. A contractor as prescribed by the authority Paragraph 8 of this ordinance deemed in noncompliance may make repairs, etc., at his expense with the approval of the county road superintendent and within a specific time period.
 - B. A contractor as prescribed by the authority Paragraph 8 of this ordinance deemed in noncompliance and does not comply with Paragraph 9(A) may be billed by the Newton County Governing Authority for damages incurred by said contractor to the total cost for repairs.
 - C. Failure of any person to comply with any of the provisions of this ordinance constitutes a misdemeanor, and may be cited by the county Sheriff.

It shall be the responsibility of said pulpwood and/or logging contractors to comply to the ordinance provisions as approved by the Board of Commissioners.

(Approved and Adopted 7/20/93)

ARTICLE 2.1 Regulation Governing Transport of Building Material

- 1. **Title.** This ordinance will be known as the "Regulation Governing Transport of Building Materials."
- 2. **Prohibition.** It shall be unlawful for any person to haul or transport any building materials by means of any vehicle between the hours of sunset and sunrise unless the driver of the vehicle has in his possession documents satisfactorily establishing the ownership of such building materials, or the vehicle is owned by a governmental entity or public utility and is operated by an authorized employee of such governmental entity or utility, or the vehicle is subject to regulations of the Georgia Public Service Commission or the Interstate Commerce Commission. As used in this section, "building materials" shall mean and include any new materials customarily used in building or construction work and which have a reasonable fair market value in excess of one hundred dollars (\$100.00).
- 3. **Penalties.** Any person violating the provisions of this ordinance shall be fined up to a maximum of five hundred dollars (\$500.00). Such fine shall not bar prosecution or conviction for any related offense upon showing that the person convicted was unlawfully in possession of the building materials concerned.

(Adopted 11/6/79)

ARTICLE 2.1 Speed Hump Policy

- 1. **Policies.** In response to numerous complaints about speeding problems in neighborhoods, the Newton County Board of Commissioners has studied other similar communities and how those communities have addressed residential speeding problems. One popular and cost effective measure is the installation of speed humps. When properly designed and installed, and with strong community support, speed humps are effective at reducing speeds in neighborhoods. After much experimentation and testing, the use of speed humps has been formally endorsed by transportation authorities worldwide. In the United States, a policy on the use of speed humps has been developed by a special committee of the Institute of Transportation Engineers. The following policy has been established for the citizens of Newton County who want to pursue the installation of speed humps in their neighborhoods.
 - A. **Where:** Newton County will only consider installation of speed humps on streets classified as local, residential streets.
 - B. **Why:** Newton County will only install speed humps if the Newton County Commission Chairman, after conducting a limited study, determines that the installation of a speed hump will alleviate the alleged speed problems.
 - C. **Who:** Via informal petition, or a letter from an officer of an organized homeowner group, the homeowners of a neighborhood may request that their neighborhood be studied for the speed hump program. This letter or petition must represent a substantial percentage of the homeowners in that neighborhood.
 - D. **How:** After receiving the informal petition, the Newton County Commission Chairman will conduct a limited study to determine if the installation of a speed hump

will alleviate the alleged speed problems. If so, then, via formal petition, sixty-five percent (65%) of the property owners must affirm the installation of speed humps.

E. **What Kind:** The geometric design of the speed humps has been proven to be a critical factor in their effectiveness. Based on extensive research, speed humps will be constructed with the following specifications as determined by Newton County.

F. **How Much:** Property owners will pay for the installation and maintenance of the speed humps. These charges will show up as a separate entry on their annual property tax statement. The cost will be twelve dollars (\$12.00) per property per year.

G. **What if:** The County will remove speed humps if:

(1) Sixty-five percent (65%) of property owners, via formal petition, request their removal and,

(2) The humps have been in place at least one (1) year and,

(3) The homeowners are made aware that speeds will increase.

** For subdivisions not completely built out, a minimum of thirty percent (30%) of the total units must be occupied before any petition for the installation of speed humps will be considered, and a minimum of sixty percent (60%) of the total units must be occupied before a petition for the removal of speed humps will be considered.

The Newton County Board of Commissioners is taking the position that while speed humps are effective in reducing speeds in neighborhoods, their installation may be controversial. The key is that property owners be presented the facts as known so that they may make an informed decision.

1.

Procedure.

A. **Objective.** The objective of the Newton County Speed Hump Program is to provide property owners a process to install asphaltic speed humps on County maintained neighborhood roads, where engineering studies indicate that their use would achieve the desired result of reducing neighborhood speeds and their installation is favored by a majority of the property owners in the neighborhood.

B. **Formal Petition Requirements.** To have speed humps installed in Newton County, a petition must be submitted to the Board of Commissioners. All of the property owners in the subdivision or defined service area should be contacted and given an opportunity to sign this petition, indicating their "yes" or "no" concerning the installation of speed humps.

(1) Unless property is undergoing change of ownership, a wife's signature will not be acceptable if she is not the legal owner. If both husband and wife are joint legal owners, both signatures are required. A "Mr. & Mrs." signature is not acceptable.

(2) The owners must sign individually. This includes owners of undeveloped lots; renting tenants are not an acceptable substitute for the legal homeowner.

(3) No signature may be withdrawn from the petition after it is filed with the Board of Commissioners.

The percentages will be calculated, based on individual lots where owners sign affirmatively, divided by the total number of lots in the plotted subdivision, units, or "defined service area." Each lot counts as only one vote, regardless of the number of owners signing. At least sixty-five percent (65%) of the homeowners must vote in favor of the speed humps, before a petition can be presented to the Board of Commissioners.

The completed petition must be signed, notarized and then returned to this office, where it will be checked against tax records and land lot maps to insure that it meets all requirements. It will be returned to the sender if it does not meet the requirements. Petitions that do meet the requirements will be presented to the Commissioners at its regular meeting. A public hearing will be announced at that time for each petition. At the Public Hearing, the petition will be approved or disapproved by the Board of Commissioners.

A. **Installation.** The installation of the Speed Humps by the contractor will not be considered final until personnel of this office inspects the humps for compliance with design specifications.

B. **Time.** The time span from receiving the petition to installation will be approximately four (4) months or less.

C. **Cost.** Annualized charges for initial installation, maintenance and repair of speed humps are added to the property tax bills at the end of the year. Each platted lot,

whether developed or not, will be subject to the assessed charges. The rate for participation in the speed hump program will be twelve dollars (\$12.00) per year per property in the defined service area.

D. **Removal.** Removal of Speed Humps can proceed if the Board of Commissioners is presented a formal petition requesting that speed humps be removed. At least sixty-five (65%) of the property owners must vote in favor of removing the speed humps. A petition to remove an installed speed hump must comply with the requirements of the formal petition to install a speed hump. A petition for removal will only be considered after speed humps have been in place for a period of at least one (1) year after installation.

(Approved 6/3/97)

NEWTON COUNTY
BOARD OF COMMISSIONERS

Newton County Board of Commissioners
1113 Usher Street
Covington, Georgia 30209
(770) 784-2000

PETITION FOR SPEED HUMPS

WE THE UNDERSIGNED, all being property owners of the subdivision legally titled " _____," unit(s) _____, do hereby petition through our subdivision or unit(s) for installation of speed humps.

Each of us does hereby pledge and consent to the levying of a lien by Newton County against property we own for the purposed of payment of the cost of installing and maintaining the speed humps. There are _____ number of lots currently existing in " _____" and each owner as shown on the tax records has affirmatively signed this petition or their indication for disapproval is noted herein.

This petition represents _____% or more of the property owners of this subdivision to be affected join in this request. (Please do not fill in any blank spaces that appear above.)

"SPECIAL NOTE"

YOUR SIGNATURE ON THIS PETITION INDICATES THAT YOU HAVE READ AND FULLY UNDERSTAND ALL INFORMATION CONCERNING THE SPEED HUMP PROGRAM.

Personally appeared before me the undersigned affiant, who says on oath that _____ is one of the subscribing witnesses to the within instrument; that each of said witnesses saw the execution and delivery of the same by each grantor therein for the purpose set forth; and that each of said witnesses signed the same as purported.

Sworn to and subscribed before me,

this ____ day of _____, 20__

Subscribing Witness

Notary Public

NEWTON COUNTY SPEED HUMP PROGRAM FORM

Subdivision Name: _____ Contact _____
_____ Phone Number: _____

Person:

** We, the undersigned, have read Newton County's Speed Hump Program.
We, understand the advantages as well as the disadvantages of Speed Hump installation.

CHAPTER 12: **SOLID WASTE MANAGEMENT**

CHAPTER 13:
CHAPTER 14:

Section

ARTICLE I. LITTER CONTROL AND SOLID WASTE MANAGEMENT ORDINANCE

- 12-101 Purposes
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- 12-103 Title Clause
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ARTICLE II. YARD TRIMMINGS DISPOSAL ORDINANCE

- 12-201 Yard Trimmings Disposal Regulations



ARTICLE I. LITTER CONTROL AND SOLID WASTE MANAGEMENT ORDINANCE

ARTICLE 2.1 Purposes

The Board of Commissioners of Newton County, a political subdivision of the State of Georgia, enact and adopt this ordinance in order to protect the public health, safety and welfare of the citizens of Newton County, to protect the environment, to enhance the physical quality of life in Newton County, and to contribute by these efforts to improving the quality of life in Georgia and enhancing the natural beauty of our State and County by establishing minimum standards for the storage, collection, transportation and disposal of solid wastes that originate in Newton County, or which originate outside of Newton County but are stored, transported or disposed of within Newton County, and by establishing the mechanism by which these standards are enforced.

ARTICLE 2.1 Enactment Clause

The Board of Commissioners of Newton County, Georgia, under authority of Article IX, § II, Paragraph I of the Constitution of Georgia (1983), as set forth in § 12-101 of this Ordinance, hereby ordains and enacts into law the following sections.

ARTICLE 2.1 Title Clause

This Regulation shall be known and may be cited as “The Litter Control and Solid Waste Management Ordinance of Newton County, Georgia.”

ARTICLE 2.1 **Definitions of Terms Used in this Regulation**

1. **General.** Except as otherwise provided herein, all words shall have the customary dictionary meaning unless specifically defined in the Georgia Comprehensive Solid Waste Management Act of 1990 as now or hereafter amended, or in the Rules of the Georgia Department of Natural Resources Environmental Protection Division. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The word “person” includes a firm, corporation, association, organization, trust or partnership. The use of the masculine gender includes the feminine, and the use of the feminine gender includes the masculine. The word “shall” is always mandatory. The word “may” is permissive and is not mandatory. The “Board of Commissioners” refers to the Board of Commissioners of Newton County, Georgia.

2. **Specific Definitions.** When used in this Ordinance, the following words and phrases shall have the meaning given in this Section:

A. **Biomedical Wastes** means pathological waste, biological waste cultures and stocks of infection agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated, and other such waste materials.

B. **Business Trash** means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to business operations.

C. **Codes Enforcement Officer** means the person or persons authorized by the Board of Commissioners to issue citations to violators of this Ordinance.

D. **Compactor** means a bulk container used for the collection of garbage, refuse, trash and litter, equipped with a device to compact such materials and thereby increase the storage capacity of the containers. Compactors have generally been used to replace dumpsters.

E. **Composting** means the controlled biological decomposition of organic matter into a stable, odor free humus.

F. **Construction/Demolition Wastes** means any material such as lumber, roofing material, brick, concrete block, plaster, gutters, sand, gravel or other substances used in repairs or alterations of existing buildings or construction of new buildings, or results from demolition of existing buildings.

G. **Construction/Demolition Wastes Landfill** means any facility or disposal site where any treatment, utilization, processing, storage, or disposal of solid wastes, other than putrescible wastes, occurs and such wastes are disposed of on land by placing an earth cover thereon.

H. **County** means the duly authorized governing body of Newton County, Georgia, or the geographical area of Newton County, Georgia, outside the corporate limits of any incorporated municipality therein.

I. **Dumpster** means a bulk container used for the collection of garbage, refuse, trash and litter. The use of this term is generic, and does not refer to a bulk container manufactured by a specific manufacturer.

J. **Garbage** means the by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food, or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which during or after decay, may serve as breeding or feeding material for flies, insects or animals.

K. **Garbage Bag** means a plastic (or other similar non-porous material) bag or sack designed specifically to contain garbage or household trash in a secure airtight manner. Such bags shall also include suitable means of closure to insure that the material contained therein is not exposed to the outside air.

L. **Hazardous Waste** means any substance listed as a hazardous constituent in regulations promulgated pursuant to the federal act by the administrator of the United States Environmental Protection Agency which are in force and effect on February 1, 1992, codified as Appendix VIII to 40 C.F.R. Part 261 - Identification and Listing of Hazardous Waste.

M. **Household Trash** means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.

N. **Industrial Waste** means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste regulated under Part 1 of Article 3 of this chapter, the Georgia Hazardous Waste Management Act. Such waste includes, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and

steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textiles; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

O. **Junked Vehicles** includes any wrecked or inoperable automobile, truck or other vehicle, or vehicle which does not bear a current license plate.

P. **Landfill, Sanitary** means any facility or disposal site where any treatment, utilization, processing, storage, or disposal of solid wastes, including putrescible wastes or hazardous wastes, occurs and such wastes are disposed of on land by placing an earth cover thereon.

Q. **Litter** means all garbage, refuse, waste materials, sand, gravel, slag, brickbats, rubbish, tin cans, trash, debris, dead animals, or any other discarded, used or unconsumed substance which is not handled in accordance with the provisions of this Ordinance.

R. **Monitor** refers to the person or persons authorized by the Board of Commissioners to inspect and patrol the areas where compactors or dumpsters are located in the County, and the roads and streets of the County.

S. **Parking Lot** means (a) an area, whether paved or unpaved, designated, reserved or used for the reserved parking of motor vehicles, excluding street parking, which has more than 10 parking spaces or can accommodate more than 10 parked vehicles; (b) any commercial parking lot or garage; and (c) the driveway, drive-through, parking spaces or other paved areas adjacent to convenience stores, gas stations, restaurants and other retail establishments.

T. **Public or Private Property** means the right of way of any road, street or highway; and any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; and residential or farm properties, timberlands, or forests.

U. **Putrescible Waste** means wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible wastes include but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, dead animals, garbage, and wastes which are contaminated by such wastes.

V. **Recycling** means any process by which material which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

W. **Sharps** means any discarded article that may cause punctures or cuts. Such waste includes, but is not limited to, items such as needles, IV tubing and syringes with needles attached, and scalpel blades.

X. **Solid Waste** means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

Y. **Road or Street** shall be mutually inclusive, and shall likewise be deemed to include any alley, lane, court and other thoroughfare, however described or designated.

Z. **Rubbish** includes waste paper, cartons, boxes, wood, tree branches, yard trimmings, furniture, appliances, metal, cans, glass, packing material and similar material.

AA. **Scavenge or Scavenging** means any unauthorized or uncontrolled retrieval of discarded solid waste materials.

BB. **Yard Trimmings** means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative material resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

3. **Classification of Solid Wastes.**

A. **Accepted Solid Wastes-Compactors.** The following types of solid wastes shall be classed as "domestic solid wastes" and shall be accepted for disposal in compactors or dumpsters:

- (1) Garbage in garbage bags.
- (2) Household trash in garbage bags.

B. **Accepted Construction/Demolition Wastes Landfill.** The following types of solid wastes shall be classed as general solid wastes and shall be accepted for disposal at construction/demolition wastes landfills:

- (1) Construction/demolition wastes.
- (2) Other types of non-putrescible solid wastes.

A. **Accepted Solid Wastes-Sanitary Landfills.** The following types of solid wastes shall be classed as general solid wastes and shall be accepted for disposal at sanitary landfills:

- (1) Garbage
- (2) Household trash
- (3) Business trash
- (4) Rubbish
- (5) Litter, and
- (6) Some types of industrial waste when approved by appropriate State Environmental Protection Division permits.

B. **Non-Accepted Solid Wastes.** The following types of waste shall be classed as non-accepted solid wastes and shall not be accepted for disposal:

- (1) Some types of industrial waste
- (2) Hazardous wastes
- (3) Junked vehicles

C. **Recyclables.** Materials for recycling may be separated for storage at each disposal site.

ARTICLE 2.1 **Public Collection and Disposal**

1. **Public Compactors.**

A. The Board of Commissioners shall designate areas in the County where compactors, intended to be for public use, shall be located and maintained. These compactors shall be located on public property, along the right of way of public roads and streets, or on private property with the express written consent of the owner and tenant in legal possession of the property, and shall be located in such a manner that there is a minimum danger of the spread of noxious odors and the detrimental effect on the environment is minimal.

B. It shall be unlawful for any person or persons not a resident of Newton County, Georgia, to place or deposit any garbage, refuse, litter, household trash or other material of any kind in these compactors, The compactors shall carry a placard or sign stating that they are solely intended for the use of residents of Newton County, and that it is unlawful to deposit anything other than garbage or household trash therein.

C. it shall be unlawful to place or deposit industrial waste or construction/demolition wastes in these compactors unless they are specifically designated for such use by the Board of Commissioners.

D. It shall be unlawful to place or deposit any hazardous solid wastes of any kind in the compactors.

E. It shall be unlawful for any person to dispose of or discard in the compactor any hypodermic injection devices before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse, any hypodermic syringe, needle, instrument or device and without safeguarding the disposal thereof by wrapping or securing same in a suitable manner so as to avoid the possibility of causing injury to the collection personnel.

F. Ashes deposited in the compactors must be wetted and cool to the touch prior to being placed or deposited in the compactors.

G. No highly combustible liquid shall be placed or deposited in the compactors.

H. No material or substance governed or regulated as a noxious or toxic material by any governmental agency or which would pose a hazard to the health, safety and well-being of the collection personnel or residents of the County, or which could contaminate the ground or surface water of the County, or which would pose a danger to the wildlife of the County, shall be placed or deposited in the compactors.

I. It shall be unlawful to place or deposit any garbage or household trash in the compactors without first placing and securing such in a garbage bag of suitable strength and thickness. Objects which could puncture the garbage bag in the course of the ordinary and intended use thereof, shall be wrapped or protected so that the bag shall remain intact.

J. It shall be unlawful to place or deposit garbage or household trash on the ground adjacent to the compactors or in any location other than the compactors, unless otherwise directed and except that recyclable materials may be placed in designated containers where provided. Any person using

the compactors shall clean up any spills caused by his use of the compactors and shall not drop or discard any garbage or household trash in the area surrounding the compactors.

K. Dead or live animals shall not be placed or deposited in or around the compactors.

L. It shall be unlawful for a person to place more than two (2) cubic yards of rubbish in the compactors in any seven (7) day period.

2. **Public Construction/Demolition Wastes Landfill and Sanitary Landfill.**

A. The County, through the Board of Commissioners, may operate and maintain public landfills located on County property in compliance with all applicable State and Federal laws and regulations, and may adopt procedures, rules and regulations to govern the operation and use of construction/demolition wastes landfills and sanitary landfills.

B. Public sites approved for the disposal of solid wastes shall be identified by appropriate directional signs posted near the roadside and at the location of the Newton County Sanitary Landfill.

C. Such sites shall be maintained in use until permanently closed, at which time, additional authorized sites shall be opened and publicized by posting and through public advertisements.

D. The Board of Commissioners shall restrict certain sites or portions thereof to a specific type or types of solid wastes. The Board of Commissioners may adopt operational policies concerning the separation, storage and use of recyclable materials. Citizens are encouraged to practice source separation of specific types of solid wastes for disposal at specific sites by different methods.

E. Commercial Collectors, including yard maintenance men, may use the public designated landfills upon the payment of applicable fees, if any, established by the Board of Commissioners.

F. Residents of the County and businesses located in Newton County, other than commercial collectors, may use the public designated landfills upon payment of a fee to be set by the Board of Commissioners, in accordance with the regulations for the particular site and under the instruction of the site attendant.

G. Municipalities located within Newton County may use the public landfills upon the payment of applicable fees, if any, established by the Board of Commissioners.

H. No solid wastes generated outside the County will be accepted at any disposal site operated by the County unless approved by a specific, affirmative act of the Commission through amendment of this ordinance or adoption of superseding regulation.

I. Authorized public disposal sites shall be operated on the days established from time to time by the Board of Commissioners. During the hours designated by the Board of Commissioners or their designate, acceptable solid wastes generated in the County shall be received for disposal from any resident of the County.

J. No person shall enter a disposal site except when an attendant is present and during the hours and days prescribed in this Ordinance. All materials delivered and deposited for disposal in a disposal site shall immediately become the property of the County, unless the County refuses any such materials at the time it is presented for deposit in the disposal site, or the County, within a reasonable time, notifies the depositor of the unacceptability of the materials and to retrieve the materials.

ARTICLE 2.1 **Private Collection and Disposal**

1. **Private Collectors.** It shall be unlawful for any person to collect solid wastes within the County except from his or her own residence, business or industrial plant, without first having obtained a proper permit from the Georgia Department of Natural Resources and the County, and without first having obtained a Newton County Business License. This provision shall not prohibit the utilization of centralized recycling collection facilities by persons not in the business of recycling. Commercial recyclers must obtain the aforementioned permits.

2. **Private Landfills.**

A. It shall be unlawful for any person to operate a landfill, waste disposal area, or waste storage area intended to be used or used by others for the disposal or storage of waste without first having obtained a proper permit from the Georgia Department of Natural Resources and the County, and without first having obtained a Newton County Business License.

B. No permit shall be issued by Newton County until the applicant has shown, to the satisfaction of the Board of Commissioners, that all Federal, State and County regulations and ordinances will be complied with in the operation and management of the landfill, waste disposal area, or waste storage area, and that the location of said landfill, waste disposal area, or waste storage area is such that there is no or only minimal detriment to the environment, including but not limited to, noxious odors,

runoff, or contamination of surface and ground water, so that the maximum protection is afforded to the health, safety and well-being of the citizens of Newton County.

C. No permit shall be issued except by resolution of the Board of Commissioners after notice of the application has been published by the applicant in a newspaper of general circulation in Newton County. Such notice of the application shall run in the newspaper once a week for four consecutive weeks before the meeting of the Board of Commissioners in which the application is to be considered. The notice shall contain a description of the property whereon the landfill, waste disposal area, or waste storage area is to be located, the names of the owner or owners of such property, the names of the operator or operators of the landfill, waste disposal area, or waste storage area, and a description of the types of waste to be handled at said facility.

D. It shall be the duty and responsibility of the owner of any private disposal site to keep the site in an orderly condition and maintained so as not to be a public nuisance or a menace to public health.

E. The Board of Commissioners hereby designate its Code Enforcement Officer as its designee who shall have the right to enter a private disposal site at any time during normal business hours for the purpose of inspecting the site to determine whether or not the site is in compliance with this Ordinance and all other pertinent laws and regulations of the County.

ARTICLE 2.1 Private Litter Control

1. Commercial Establishments.

A. Every owner, occupant, tenant and lessee using or occupying any commercial, institutional or industrial building or property shall be obligated, jointly and severally, to provide solid wastes containers of that character, size, number and type as may be specified by the Board of Commissioners or its designee to be reasonably required to hold solid wastes generated by operations on the premises. Specifically, and without limiting the generality of the foregoing, the requirement for those containers shall apply to shopping centers, supermarkets, convenience stores, fast food restaurants, service stations and similar establishments; and shall likewise apply to commercial establishments, garages, schools, colleges and churches.

B. All commercial and industrial establishments shall store their solid wastes in containers as specified in this Ordinance so as to eliminate wind-driven debris and unsightly litter in and about their establishments. Approved methods of containerization shall include solid wastes receptacles, bulk containers and detachable containers. Any spillage or overflow shall be immediately cleaned up by said establishment.

2. Loading and Unloading Areas. All loading and unloading areas shall be provided with solid wastes receptacles for loose debris, paper, packaging materials and other trash. The owner or occupant of the commercial establishment shall be responsible for the placement of the number of containers in said area necessary to maintain a clean, neat and sanitary condition at all times. The number of such containers to be placed in service for a particular establishment shall be determined by the County or its designee, based on guidelines adopted and maintained, as amended from time to time, by the County or its designee. The occupant of the premises shall maintain surveillance to insure that all litter is placed in the proper container and the area is kept clean.

3. Parking Lots.

A. All parking lots and establishments with parking lots shall provide solid wastes receptacles. The County or its designee shall have the authority to determine the number and types of receptacles necessary to provide proper containerization, based on guidelines adopted and maintained, as amended from time to time, by the County or its designee. Such receptacles shall be weighted or attached to the ground as necessary to prevent spillage. It shall be the responsibility of the owner or his agent to collect the solid wastes and trash deposited in such containers and store this material in a location until collected by a private hauler or to otherwise dispose of the same.

B. It shall be the obligation of all persons using the parking areas to place any litter in receptacles or containers and it shall be unlawful for any person or persons to dump, scatter, or throw on any parking lot, any solid wastes, garbage or trash of any kind.

C. The owner and the tenant in possession of any parking lot or establishment with a parking lot shall collect and remove on a regular basis all loose solid wastes, garbage, litter or trash of any kind from the parking lot and open area of the premises and shall maintain surveillance to insure that all solid wastes are placed in the proper container and the area is kept in a clean, neat and sanitary condition at all times.

4. **Construction Sites and Demolition Sites.** All construction and demolition contractors shall provide on-site solid wastes receptacles, bulk containers, or detachable containers for loose debris, paper, building material waste, scrap construction/demolition wastes, and other trash produced by those working at the construction site. The site shall be kept in as litter-free condition as reasonably practicable. The number of solid wastes receptacles or bulk containers, or detachable containers, shall be determined by the size of the job, based on guidelines adopted and maintained, as amended from time to time, by the County or its designee. Dirt, mud, construction materials or other debris upon any public or private property belonging to a person other than the owner of the construction site shall be removed by the contractor as generated. Building material originating from private property preliminary to, during or subsequent to the construction of new building, alterations or additions to an existing building of whatever type or from demolition of existing structures shall be removed by the owner of the property or by the contractor. All solid wastes from construction and related activities shall be kept on site in such a manner as to eliminate wind-driven debris and unsightly litter in and about the site.

5. **Residences and Private Properties.**

A. All owners or occupants of property shall maintain their property in litter-free condition as reasonably practicable.

6. Every owner, occupant, tenant and lessee using or occupying a residence, apartment, duplex, or other dwelling, jointly and severally, are required to remove all litter, solid wastes, household trash, garbage and other solid wastes and dispose of the same by depositing in a public landfill or public compactor in accordance with this Ordinance or by placing in proper containers in a suitable place readily accessible to sanitation collection crews or contracting with a private hauler to collect the same on a regular basis, but at least once each week. Where collection is conducted by means of curbside pickup, the containers shall be placed at the curb for pickup no earlier than twenty-four (24) hours prior to the scheduled pickup time and shall be removed from the curb no later than twenty-four (24) hours after the scheduled pickup time.

A. No person shall sweep into or deposit in any street or sidewalk accumulation of litter from any building or property.

ARTICLE 2.1 Practices and Procedures

1. **General.**

A. The following practices and procedures shall be employed by persons in Newton County in order to facilitate the collection of solid waste:

- (1) **Solid Wastes.** All solid wastes shall be placed and maintained in containers as specified herein. All containers shall be maintained at all times with tight-fitting lids or covers.
- (2) **Garbage.** All garbage placed in containers for collection shall be wrapped, bagged, or enclosed in paper or plastic material.
- (3) **Household Trash.** Household trash may be combined with other bagged garbage.
- (4) **Injurious Trash Items.** All waste material of an injurious nature, such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes, and television tubes shall be securely packaged or wrapped for the purpose of preventing injury to the collection crews or other third parties.

B. It shall be unlawful for any person or persons to dump, deposit, throw, or leave or cause or permit the dumping, depositing, placing, throwing, or leaving of solid wastes on any road or street or any public or private property in the county, unless:

- (1) The litter is placed into a litter receptacle, container, or dumpster installed on such property and designated for the disposal of litter.

C. **Public Streets and Private Property.** No person shall place any accumulations of solid wastes and trash in any street, median strip, alley or other public place of travel, nor upon any private property except with the written consent thereof, and then only in accordance with the provisions of this Ordinance.

D. **Blockage of Drainage.** No person shall place any solid wastes, trash, solid wastes receptacles, or containers on, over or near any storm drain or drainage ditch, or so close thereto as to cause such material to interfere in any way with such drainage.

A. **Unauthorized Storage.** Any accumulation of solid wastes or trash items on any lot, property, premises, public streets, alley or other public or private place not permitted by this Ordinance, is hereby declared to be a nuisance. Failure of owner or occupant to remove and correct any such accumulation of solid wastes after appropriate notice from the Board of Commissioners or its designee shall raise the presumption that such person intended to violate this Ordinance.

B. **Appliances.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, or discarded appliance, refrigerator, or other container which has an airtight snap lock or similar device without first removing therefrom the lock or door as provided in *Official Code of Georgia Annotated § 16-11-100*.

C. **Use of Streets.** It shall be unlawful for any vehicle transporting loose materials on any road or street to transport same without covers suitable to prevent the materials within such vehicle from shaking, blowing or falling from the vehicle. Suitable covering may vary from vehicle to vehicle, but the primary purpose of the cover shall be to prevent materials from escaping the storage area of the vehicle. This paragraph shall not apply to the transportation of poultry, livestock, silage or other feed grain used in the feeding of poultry or livestock. The operator of any vehicle from which any material or solid wastes are thrown, dropped, spilled or blown shall stop and retrieve such material and solid wastes.

D. **Junk.** It shall be unlawful for any person to place or leave outside any building or dwelling, any dilapidated furniture, appliance, machinery, equipment, building material, junked motor vehicle, or other item which is either in a partially rusted, wrecked, junked, dismantled, or inoperative condition, and which is not completely enclosed within a building or dwelling.

Any such item or items which remain on the property of the occupant for a period of thirty (30) days after notice of violation of this Ordinance, shall be presumed to be abandoned and subject to being removed from the property by the County without further notice. The County may charge the owner or occupant a fee for the cost of removing said item or items. This paragraph shall not apply to licensed junk dealers or currently licensed establishments engaged in the repair, rebuilding, reconditioning, or salvaging of equipment or furniture, unless stated in ordinances of local government.

A. **Scavenging.** No person shall disturb or interfere with any container used for the purpose of storing solid wastes pending its collection, or remove any contents therefrom or remove such container from its location.

B. **Scattering of Solid Wastes and Littering.** It shall be unlawful for any person to: (a) throw or deposit any solid wastes on any public or private street or to scatter such solid wastes or litter on public or private property; (b) throw or deposit any solid wastes, trash, or debris in any marsh area, stream, drainage ditch, body of water or beach area.

2. **Contagious Disease Solid Wastes.** The removal of clothing, bedding or other solid wastes from some or other places where highly infectious diseases have prevailed shall be decontaminated prior to removal under the supervision and direction of the Newton County Health Department. Such solid wastes shall not be placed in receptacles or bulk containers for collection until decontaminated.

3. **Hypodermic Instruments.** No person shall dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse, such as hypodermic syringe, needle, instrument or device, and without safeguarding the disposal thereof, by wrapping or securing same in a suitable manner so as to avoid the possibility of causing injury or infection to the collection personnel or other parties.

4. **Hazardous Waste, Industrial Waste and Building Material.** No hazardous waste or building material shall be placed in any receptacle at any time. The County shall not be required to collect any hazardous solid wastes, or building material. All hazardous waste shall be secured against the possibility of causing injury to any person and shall not be placed on public property or private property without the written consent of the State Environmental Protection Division and the owner thereof.

5. **Yard Trimmings.** Yard trimmings shall be composted on the owner's premises in conformity with this ordinance and any applicable state law or removed by the owner of the property and disposed of in a manner approved by this ordinance. This part shall not require the removal of wood cut and/or stored for later use as firewood.

6. **Trees, Shrubbery Branches, Etc.** Tree and shrubbery branches, limbs and trimming cut by landscape or tree service contractors or other commercial workmen or resulting from land being cleared shall be composted on the owner's premises in conformity with this ordinance and any applicable state law

or collected and removed by those who have performed the work or shall be removed by the person for whom the work was performed.

7. **Leaves.** Leaves shall be composted on the owner's premises in conformity with this ordinance and any applicable state law or removed by the owner of the property and disposed of in a manner approved by this ordinance.

8. **Receptacles and Containers.**

A. Every person in possession, charge or control of any building or from which business trash, industrial waste or other waste is accumulated or produced shall provide and keep in a suitable place readily accessible to licensed private collectors' receptacles and containers suitable for the storage of all such waste materials which will normally accumulate between the established collection dates. This provision shall not be construed to require such persons to use the services of a licensed private collector for solid wastes removal so long as each person assures the removal and disposal of such solid wastes in a manner permitted by this Ordinance at least as frequently as private collector's normal schedule for the area, but in any event at least once each week.

B. All receptacles and containers as required by this Ordinance shall be constructed of an opaque, non-porous material such as metals, hard plastics or similar materials, or safe construction and design and shall be maintained in good, orderly and serviceable condition at all times. Any receptacle or container which does not conform to the requirements of this Ordinance, or which have ragged or sharp edges or any other defects likely to hamper or injure the person collecting the contents therefrom or the public generally, shall be promptly replaced by the user thereof.

9. **Household Furniture and Furnishings.** Property owners, themselves or using public or private haulers, shall remove normal household furniture and appliances, including sofas, chairs, beds, refrigerators, washers, dryers, hot water heaters, and similar items.

10. **Cardboard Boxes and Cartons.** Prior to depositing solid wastes for collection in authorized containers or receptacles or in commercial containers, the person disposing of any such boxes or cartons or the person in charge of the premises shall collapse all cardboard boxes and cartons.

11. **Covered Trucks.** All persons who desire to haul solid wastes over roads which are a part of county or state road systems shall use a vehicle provided with a cover and operate it so as to prevent solid wastes from being dropped, blown, or spilled therefrom. Any vehicle operated by a commercial hauler and any vehicle of one (1) ton or greater capacity shall be equipped with a cover, securely fastened, adequate to prevent solid wastes from being dropped, blown or spilled therefrom.

12. **Maintenance.** It shall be the duty and responsibility of the owner of any private property and the tenant in possession of any private property, jointly and severally, to keep the property in an orderly condition and maintained so as not to be a public nuisance or a menace to public health.

13. **Burning.** No garbage, solid wastes, litter or other trash shall be burned as a private means of disposal except leaves, trimmings and the like, and household trash may be burned if a burn permit is first obtained from Newton County and weather conditions are favorable. This provision shall not be construed to prohibit commercial incinerators where appropriate and necessary approvals have been obtained from State and Federal authorities, a special permit is obtained from the Board of Commissioners, and the incinerator is operated and maintained in compliance with all applicable regulations.

14. **Handbills and Advertising Matter.** In addition to the activities declared to be in violation of this Ordinance, the following activities are hereby declared to be unlawful and shall constitute a violation of this Ordinance.

A. It shall be unlawful to place in or on any automobile in the county any handbill, circular, pamphlet, poster, or other literature unless the same is secured so as to prevent wind-driven debris and unsightly litter.

B. It shall be unlawful for any person to place on any private property any handbill, circular, pamphlet, poster, postcard, newspaper or other literature or advertising device, unless the following conditions are met:

(1) All such publications and materials shall be placed in a box provided for that purpose or placed in a secure area of a building such as a door jamb or screen door, unless the distributor of such materials agrees to "sweep" the distribution area and retrieve all remaining items within four (4) days of distribution. This procedure shall be referred to as "sweeping."

(a) If "sweeping" is to be performed by a distributor of materials, advance notice of the intention to utilize such procedure must be given to the County.

(b) Failure to provide proper notice of "sweeping" procedures by a distributor shall constitute a violation of this section.

- (c) Failure to timely and adequately perform an approved “sweeping” procedure shall constitute a violation of this section.
- (2) No such publication shall be thrown, dropped or otherwise placed upon public right-of-way;
- (3) No such publication shall be thrown, dropped or otherwise placed upon any private property which is vacant or unoccupied; and
- (4) No such publication shall be thrown, dropped or otherwise placed upon any private property wherein the owner of said property has notified the publisher in writing that he does not wish to receive the publication. Absent a written expression of intent to the contrary, all property owners shall be presumed to consent to delivery by such means.

C. It shall be unlawful for any person to tack, post or nail any paper, metal, wood or other signs of any character on any telegraph, telephone or electric light pole, located in any public right-of-way.

15. **Dead Animals.** Any person who owns or is caring for an animal which has died or been killed shall dispose of said dead animal in the manner provided for in either the Georgia Dead Animal Disposal Act, *O.C.G.A. § 4-5-1 et seq.*; the Rules and Regulations of the Georgia Department of Agriculture, Chapter 40-16-2; or the Georgia Comprehensive Solid Waste Management Act, *O.C.G.A. § 12-8-20 et seq.*, as applicable.

The term “dead animals” means the carcasses, parts of carcasses, effluent, or blood of farm livestock, including poultry and equines, except where dead animals are found within the rights-of-way of all highways within the state maintained either totally or in part with state funds, in which case “dead animals” means the carcasses or parts of carcasses of all animals, regardless of whether they are considered to be farm livestock, poultry, equines, domesticated animals, pets, or any other type of animal and includes all such animals regardless of the cause of death of such animals.

Acceptable methods for disposal of dead animals are burning, burial, or rendering. It is the duty of the Georgia Department of Transportation to remove and dispose of dead animals found with the rights-of-way of state highways. Where dead animals are found outside the rights-of-way of state highways, no person shall dispose of a dead animal by burial or burning on the land of another without the permission of the owner of the land. Arrangements for proper burial or burning must be made with an appropriate county official prior to disposal of a dead animal in a County Sanitary landfill.

1. **Abandoned Motor Vehicles.** It shall be unlawful to abandon any motor vehicle as provided in *Official Code of Georgia, § 40-11-1*. Any motor vehicle abandoned within the County shall be disposed of by the proper authorities as provided in *Official Code of Georgia Chapter 40-11*.

2. **Composting.** Composting is an acceptable means of handling yard trash, tree and shrubbery trimmings, leaves, grass clippings or other organic wastes produced by landscaping and lawn maintenance activities. Composting shall be performed in a manner to minimize offensive odors and prevent escape of wind blown litter from the compost site. Composting activities shall be conducted so as not to constitute a nuisance to neighboring property owners.

3. **Lead Acid Vehicle Batteries.** No person shall place or dispose of a lead acid vehicle battery in any compactor, dumpster, or landfill located in Newton County, Georgia, or otherwise discard or dispose of a lead acid vehicle battery except by delivery to a battery retailer or wholesaler, to a secondary lead smelter, or to a collection or recovered materials processing facility that accepts lead acid vehicle batteries.

4. **Motor Oil.** No person shall place or dispose of motor oil in any compactor, dumpster, or landfill located in Newton County, Georgia, or otherwise discard or dispose of motor oil except by delivery to a recycling collection facility or a disposal facility authorized and specifically designed to accept motor oil.

5. **Recyclable Material.** The collection, transportation, handling, storage and conversion of recyclable materials shall be permitted so long as such activities conform to the requirements of State law.

6. **Biomedical Wastes.** All biomedical wastes shall be handled and disposed of in accordance with the Rules of the Georgia Department of Natural Resources Environmental Protection Division and the Georgia Comprehensive Solid Waste Management Act of 1990, as now or hereafter amended.

ARTICLE 2.1 **Community Health and Welfare**

1. **Declared Nuisances.** Within the county, it shall be unlawful for any person to create a nuisance on his property or property occupied by him, or to allow a nuisance to remain on his property or property occupied by him. Dead animals, stagnant water, decayed vegetables or fruits, filthy privies or unkept

stables or anything having an offensive odor, or anything that causes injury or damage to the health or life of any other person, are declared nuisances.

2. **Trash and Weeds.**

A. Within the county, it shall be unlawful for any person to maintain his premises, including vacant lots or land, in such a way as to allow trash, garbage or miscellaneous solid wastes to accumulate if the condition of the property causes a nuisance, or causes injury to the health or welfare of residents in the vicinity, or causes injury to neighboring property. Drive-in restaurants and other food establishments that permit carry-out food service shall maintain at all times on their premises sufficient receptacles for the disposal of trash, garbage and miscellaneous solid wastes.

B. Within the county, it shall be unlawful for any person to maintain, cause or permit uncut grass or weeds on any property on which is located a residential dwelling or commercial establishment or vacant property intended for such use under such circumstances that the grass or weeds become a breeding place for insects, rodents or reptiles, or constitute a fire hazard.

ARTICLE 2.1 **Enforcement**

1. **Enforcing Officers.**

A. The Board of Commissioners shall name, by appropriate resolution, an employee of the County to serve as their designate and to oversee all matters concerning the enforcement of this Ordinance, to be known as the Codes Enforcement Officer.

B. The Board of Commissioners shall name, by appropriate resolution, such persons as they feel necessary, to be Monitors. Such Monitors shall be under the supervision of the Codes Enforcement Officer described in the preceding section of this Ordinance and shall patrol, inspect and monitor dumpster and compactor sites to insure compliance with this Ordinance.

C. The Codes Enforcement Officer, the Sheriff and any deputy of the Newton County Sheriff's Office, shall be authorized to issue citations to violators of any provision of this Ordinance or to the owner or any other person who may be in possession of any property upon which any condition exists which constitutes a violation of any provision of this Ordinance. Such citation shall be on a form approved for such use by the Board of Commissioners and shall state the time and place at which the accused is to appear for trial, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the Court, shall indicate the identity of the accused and the date of service, and shall be signed by the representative of the County who completes and serves it.

2. **Rebuttable Presumptions.**

A. Whenever solid waste is thrown, deposited, dropped, or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this Ordinance, it shall be prima-facie evidence that the operator of the conveyance has violated this Ordinance. In the case of a commercial or private hauler if the operator is unknown, then it shall be prima-facie evidence that the company or owner of the service has violated this Ordinance.

B. Whenever any solid waste which is dumped, deposited, thrown, or left on public or private property in violation of this Ordinance is discovered to contain any article or articles, including but not limited letters, bills, publications, or other writings which display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this Ordinance. If such person can show that he lawfully gave possession, custody and control of such solid wastes to another person, then he shall make a sworn statement to that effect, supported by any documentary evidence available at which point the presumption shall shift to such other person.

C. Whenever this Ordinance is violated by an employee or agent, then the employer or principal shall be rebuttably presumed to have violated this Ordinance unless and until he shall provide a sworn statement providing the name, address and telephone number of the employee or agent who violated this ordinance, the basis of the employer's or principle's knowledge of which individual violated this ordinance, and a statement to the effect that the employee or agent acted outside the scope of his employment or agency.

D. If a person accused of violating this Ordinance on the basis of the rebuttable presumption created in subsection (A) or (B) of this provision, shall demonstrate by sworn testimony that another person had control of such litter, then the presumption shall shift to such other person.

E. No person accused of violating this Ordinance shall be arrested prior to trial, but any defendant who fails to appear for trial shall be arrested thereafter on the warrant of the Magistrate, and required to post a bond to his future appearance.

3. **Penalties.**

A. Pursuant to *O.C.G.A.* §§ 36-1-21 and 16-7-43(b)&(c), any person violating this Ordinance, or any provision hereof, upon conviction, shall be punished by one or more of the following:

- (1) By a fine of not less the one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00);
- (2) By imprisonment for a period of not more than sixty (60) days;
- (3) In the sound discretion of a court in which conviction is obtained, the person may be directed to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one (1) mile any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence;
- (4) In the sound discretion of the judge of a court in which conviction is obtained, the person may be directed to pick up and remove from any public park, private right-of-way, or with the prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter, any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
- (5) The court may publish the names of persons convicted of violating this Ordinance.

(Amended 3/17/98)

1. **Court Proceedings.**

A. Violations of this Ordinance shall be tried upon citations and may be tried with or without a prosecuting attorney as well as upon accusations. The District Attorney may serve as prosecuting attorney.

B. Violations of this Ordinance shall be tried in the Magistrate Court of Newton County, Georgia, and shall be tried in accordance with the *Official Code of Georgia*, Chapter 15-10.

C. Nothing in this Article shall prevent the Board of Commissioners from bringing any civil action for injunction, mandamus or other proceedings to prevent, correct, or abate any violation of this Ordinance. No sanction, penalty or remedy prescribed herein shall be considered exclusive of any other remedy, but shall be available in addition to any other sanction, penalty or remedy by law.

D. Each violation of this Ordinance shall constitute a separate offense. A continuing violation shall constitute a separate offense for each day during which such violation continues.

ARTICLE 2. **YARD TRIMMINGS DISPOSAL ORDINANCE**

ARTICLE 2.1 **Yard Trimmings Disposal Regulations**

1. **Definitions.**

A. **Commercial Solid Waste.** All types of solid waste generated by stores, offices, restaurants, warehouses and other non-manufacturing activities, excluding residential and industrial wastes.

B. **Composting.** The controlled biological decomposition of organic matter into a stable, odor-free humus.

C. **Leachate Collection System.** A system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

D. **Municipal Solid Waste.** Any solid waste derived from households, including garbage, trash and sanitary waste in septic tanks and includes solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural or silvacultural operations or industrial processes or operations.

E. **Municipal Solid Waste Disposal Facility.** Any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, including but not limited to municipal solid waste landfills.

F. **Municipal Solid Waste Landfill.** A disposal facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludge or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

G. **Yard Trimmings.** Leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance, other than mining, agricultural and silvacultural operations.

2. **Placement and Disposal of Yard Trimmings: Prohibitions.**
 - A. It shall be unlawful to place or mix yard trimmings with municipal solid waste within Newton County.
 - B. Yard trimmings shall not be disposed at any municipal solid waste disposal facility having a liner and leachate collection system or requiring vertical expansion located within Newton County.
3. **Sorting, Storing, Composting and Collecting Yard Trimmings.** The productivity of the soils of Newton County requires that nature's way of recycling vegetative matter be respected and followed and that such essential building materials are no longer wasted by being buried in landfills but are returned to the soil. This ordinance, therefore, adopts and recommends the following hierarchy for handling yard trimmings:
 - A. Naturalized, low-maintenance landscaping requiring little or no cutting;
 - B. Grass cycling by mowing it high and letting it lie;
 - C. Stacking branches into brush piles for use as wildlife habitats and for gradual decomposition into the soil;
 - D. Composting on the site where the material was grown, followed by the incorporation of the finished compost into the soil at that site;
 - E. Chipping woody material on the site where such material was generated;
 - F. Collecting yard trimmings and transporting them to another site to be chipped or composted for later use; and
 - G. Chipping woody material for later use as fiber fuel.
 - H. Yard trimmings that are brought to Newton County facilities for disposal must be separated from all other types of refuse and deposited solely at a site designated for the collection of yard trimmings.
4. **Penalties.** Any person violating this ordinance shall be punished as provided in Article I, Section 12-110(3) of this Code.

(Adopted 7/19/94; Amended 9/3/96)

CHAPTER 12: **RESERVED**
CHAPTER 13:
CHAPTER 14:

CHAPTER 12: **NOISE REGULATION**

CHAPTER 13:

CHAPTER 14:

Section

14-101	Title
14-102	Noises Prohibited
14-103	Noises Enumeration
14-104	Exceptions
14-105	Penalty



ARTICLE 2.1 **Title**

This Ordinance shall be entitled the “Noise Ordinance of Newton County, Georgia.”

ARTICLE 2.1 **Noises Prohibited**

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual sound or noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the county, and which is audible to a person of normal hearing ability more than seventy-five (75) feet from the point of origin of this sound or noise.

ARTICLE 2.1 **Noises Enumeration**

The following acts, among others, are declared to be loud, disturbing and unnecessary sounds or noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

- Horns, Signaling Devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the county for an excessive period of time, the creation of any unreasonably loud or harsh sound by means of this signaling device and the sounding of this device for an excessive period of time.
- Radios, Phonographs, Similar Devices.** The use, operation or play, of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to unreasonably disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is reasonably necessary for convenient hearing for the person who is in the room, vehicle or chamber in which this machine or device is operated and who is a voluntary listener thereto. The operation of the set, instrument, phonograph machine or device between the hours of 11:00 p.m. and 6:00 a.m. in such a manner as to be plainly audible at a distance of seventy-five (75) feet from the room, building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- Loudspeakers, Amplifiers for Advertising.** The use, operation or play, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure. Announcements over loudspeakers shall only be made by the announcer in person and without the aid of any mechanical device. See Section 14-104(3).
- Noisy Animals or Birds.** Anyone who keeps or maintains an animal or bird that unreasonably disturbs the comfort or repose of any person, because the animal or bird is emitting frequent or long continued sound or noise, and who continues to keep, maintain or allow any animal or bird to so disturb the comfort or repose of any person or persons shall be deemed in violation of this section, provided that the person keeping or maintaining the animal or bird has been first notified in writing by certified mail, return receipt requested, by the complaining party that this animal or bird being kept by the addressee is unreasonably disturbing his or her comfort or repose. This section shall be liberally construed to accomplish the objective of the section, and the person making this written notification need not use the exact words of this section to the addressee so long as the notification sufficiently informs the addressee of

the nature of the disturbing noise emitted by the animal or bird. Upon receipt of a certified letter notifying the person keeping or maintaining such animal or bird, such person shall be required to immediately comply with this section. This section shall not apply to horses, livestock, poultry or other farm animals, provided they are maintained in accordance with other ordinances and the Newton County Zoning Ordinance.

5. **Construction or Repair of Buildings.** The erection, excavation, demolition, alteration or repair of any building between the hours of 11:00 p.m. and 6:00 a.m. which causes unreasonably loud noises or which unreasonably disturbs the peace and quiet, except that the building inspector may grant a permit for a period not to exceed ten (10) days for this work to be done between the hours of 11:00 p.m. and 6:00 a.m. when the building inspector determines that the loss or inconvenience that would result to any party in interest is of such a nature as to warrant special consideration. Such activity shall be allowed during the hours of 6:00 a.m. to 11:00 p.m. notwithstanding the amount or level of noise created thereby.

6. **Blowers and Motors.** The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noises due to the explosion of operating gases or fluids, unless the noise from this blower or fan is muffled and the engine is equipped with a muffler device reasonably sufficient to deaden the noise. The operation of such non-muffled equipment shall be allowed during the hours of 6:00 a.m. to 11:00 p.m. notwithstanding the amount or level of noise created thereby.

7. **Sound Trucks.** The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other commercial purposes. The use of sound trucks for noncommercial purposes during such hours, and with such unreasonable volume as would constitute a public nuisance.

8. **Loading, Unloading, Opening Boxes.** The creation of unreasonably loud and excessive noise in a residential area during the hours of 11:00 p.m. to 6:00 a.m. in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

9. **Schools, Courts, Churches, Hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of the institution, or which disturbs or unduly annoys patients in the hospitals, provided that conspicuous signs are displayed in the streets indicating that it is a school, hospital or court street.

10. **Hawkers, Peddlers, Vendors.** The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

ARTICLE 2.1 **Exceptions**

The provisions of this section shall not apply to or be enforced against:

1. Any vehicle of the county while engaged in necessary public business.
2. Excavations or repairs of streets by or on behalf of the county or state at night when public welfare and convenience render it impossible to perform this work during the day.
3. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial.

ARTICLE 2.1 **Penalty**

The penalty for violating this ordinance shall not exceed a fine of one thousand dollars (\$1,000.00) or sixty (60) days imprisonment or both.

(Adopted and effective 9/16/97)

CHAPTER 12: **EMERGENCY MANAGEMENT**

CHAPTER 13:

CHAPTER 14:

Section

- 15-101 Emergency Management
- 15-102 Mutual Emergency Aid



ARTICLE 2.1 **Emergency Management**

1. **Definition.** As used in this ordinance the term "Emergency Management" shall mean the preparation for and the carrying out of all emergency and disaster functions other than those functions for which forces or other state and federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from emergencies or disasters, or the imminent threat thereof, of manmade or natural origin. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, warning services, communications, defense from radiological, chemical and other special weapons, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to civilian population, together with all other activities necessary or incidental to total emergency and disaster preparedness for carrying out the foregoing functions.

2. **Office of the City/County Emergency Management Director/Coordinator.** In agreement with the governing officials, there is hereby established the Covington-Newton County Emergency Management Agency. The County Commissioner and Mayor of Covington, with concurrence of other city and county officials, shall nominate, for appointment by the Governor, a Director/Coordinator of Emergency Management for the City of Covington and Newton County. When appointed, the Emergency Management Director/Coordinator is charged with the following duties:

- A. To represent the governing officials of the City and County on matters pertaining to emergency management.
- B. To assist City and County Officials in organizing city and county departments for emergency operations.
- C. To develop, in conjunction with city and county departments and agencies, an Emergency Operations Plan for emergency functions set forth in Section 15-101(1) of this chapter. Such plan will be in consonance with the State Natural Disaster Operations Plan and Nuclear Emergency Operations Plan, and shall be submitted to the governing officials of Covington and Newton County, and thence to the State Emergency Management Agency for approval.
- D. To maintain the Emergency Management Office and carry out the day-to-day administration of the City and County Emergency Management Program, including the submission of required reports to the State Emergency Management Agency.
- E. To submit reports as required by governing officials in keeping with good management practices, financial, daily activity, etc.
- F. To procure, with the authority of governing officials, a facility to be used as the City and County Emergency Operations Center.
- G. To coordinate the activities of the City and County Emergency Operations Center staff during periods of a declared emergency, and under the supervision of City and County Governing Officials.

3. **Covington-Newton County Emergency Management Organization.** The Covington-Newton County Emergency Management Organization shall be established around existing city and county departments and agencies and the emergency functions listed in Section 15-101 are assigned as follows:

Department

Executive

(County Commissioner)
 (Mayor)
 (City Manager)
 (Elected Officials)

Law Enforcement

(Sheriff's Department)
 (City Police Department)

Fire Control

(County Fire Department)
 (City Fire Department)
 (County Volunteer Departments)

Public Works & Engineering

Human Resources, including:

- (1) Division of Family & Children Services
- (2) Division of Physical Health
- (3) Hospital Services
- (4) Ambulance Services

Emergency Management

Emergency Functions

Direction & Control
 Public Information
 Supply - Finances

Security
 Movement
 Search
 Communications
 Warning
 Fire Control
 Rescue*
 Damage Assessment

Utilities & Public Services
 Restoration
 Hazards Analysis
 Human Needs, including:
 Welfare
 Health Control
 Medical & Mortuary Services
 Casualty Transport
 Shelter
 Radiological Defense
 Rescue*
 Assistance in Industrial &
 Institutional
 Emergency
 Planning
 Evacuation Planning
 Emergency Transportation

* As appropriate to local organization; function can be assigned to an existing department or may be separate.

Heads of departments listed above are responsible for developing the plan for their assigned emergency function. Such plans will be submitted through the Emergency Management Director/Coordinator to the County Commissioner and Mayor and Governing Officials of the City and County for approval.

1. **Emergency Powers.** In the event of a manmade or natural disaster, actual enemy attack upon the United States, or any other emergency which may affect the lives and property of the citizens of Covington and Newton County, the Mayor and County Commissioner and the Governing Officials of the City and County may declare that a state of emergency exists and thereafter shall have and may exercise for such period as such state of emergency exists or continues, the following emergency powers:
 - A. To enforce all rules, laws and regulations relating to emergency management, and to assume direct operational control over all emergency management resources.
 - B. To seize, take for temporary use, or condemn any private property for the protection of the public.
 - C. To sell, lend, give, or distribute all or any such property or supplies among the inhabitants of the City and County; to maintain a strict accounting of property or supplies distributed and for funds received for such property or supplies.
 - D. To perform and exercise such other functions and duties, and take such emergency actions as may be necessary to promote and secure the safety, protection and well-being of the inhabitants of the City and County.
2. **Volunteers.** All persons, other than officers and employees of the City and County, performing emergency functions pursuant to this ordinance, shall serve with or without compensation. While engaged in such emergency functions, duly assigned volunteers shall have the same immunities as city and county officers or employees.

3. **Penalties.** Any person violating any provision of this ordinance, or any rule, order, or regulation made pursuant to this ordinance, shall, upon conviction thereof, be punishable as a misdemeanor.
4. **Liberality of Construction.** This ordinance shall be construed liberally in order to effectuate its purpose.

(Approved 2/4/86; Effective 2/4/86)

ARTICLE 2.1 Mutual Emergency Aid

The Sheriff of Newton County, Fire Coordinator and/or Director of Emergency Management Agency of Covington-Newton County may request assistance and cooperation from other political subdivisions of the State of Georgia during local emergencies in Newton County pursuant to the Georgia Mutual Aid Act. (O.C.G.A. § 36-69-1, et seq.)

The Sheriff, Fire Coordinator and Director of Emergency Management Agency may cooperate with and provide assistance during local emergencies to other political subdivisions of the State of Georgia.

(Approved 9/3/91)

CHAPTER 12: **JAIL CONSTRUCTION AND STAFFING**

CHAPTER 13:

CHAPTER 14:

Section

16-101 Jail Construction and Staffing



ARTICLE 2.1 **Jail Construction and Staffing**

The Jail Construction and Staffing Act (*O.C.G.A. § 15-21-90 et seq.*) is hereby put into effect in Newton County, Georgia, and such additional penalty assessments shall be imposed and collected and all funds collected therefrom shall be used exclusively for the construction, operation, or staffing of the Newton County Jail, that Newton County shall enter into such intergovernmental contracts as may be convenient and proper with the municipalities within the County so as to provide for the imposition and collection of such additional penalty assessments in all courts operated by the municipalities within Newton County, and to comply with all provisions of the Jail Construction and Staffing Act in every respect.

(Approved and Adopted 5/1/90)

CHAPTER 12: **REGULATIONS FOR PUBLIC HEALTH**

CHAPTER 13:

CHAPTER 14:

Section

17-101	Food Service Regulations
17-102	Tourist Courts Regulations
17-103	Swimming Pools, Public Spa Pools, and Bathhouses Regulations



ARTICLE 2.1 **Food Service Regulations**

The Newton County Food Service Regulations are incorporated by reference as if fully set out herein.

(Adopted 11/20/90; Effective 12/20/90)

ARTICLE 2.1 **Tourist Courts Regulations**

The Newton County Tourist Courts Regulations are incorporated by reference as if fully set out herein.

(Adopted 11/20/90; Effective 12/20/90)

ARTICLE 2.1 **Swimming Pools, Public Spa Pools, and Bathhouses Regulations**

The Newton County Swimming Pools, Public Spa Pools, and Bathhouses Regulations are incorporated by reference as if fully set out herein.

(Adopted 11/20/90; Effective 12/20/90)

CHAPTER 12: **911 SYSTEM PLAN**

CHAPTER 13:

CHAPTER 14:

Section

18-101 911 System Plan



ARTICLE 2.1 911 System Plan

Newton County 911 is a single county system serving approximately 42,000 people in Newton County. The 911 Emergency Answering Center is located in the Covington/Newton County Communications Center, Covington, Georgia. The system also includes two (2) central offices, five (5) municipalities, and twenty (20) public safety agencies. Each of the central offices will be tandem trunked to the Emergency Answering Center via seven (7) dedicated lines.

Calls from adjacent counties will be handled in the following manner: calls from Rockdale County citizens will be transferred via speed call dialing to Rockdale E.A.C., who will dispatch the required emergency service. Calls from Walton, Jasper, and Morgan Counties will be answered by the E.A.C. of Newton County and be transferred via speed call dialing to the appropriate Sheriffs Office which will dispatch the requested emergency service.

The Newton County 911 System is operated by the Covington/Newton County Communications Center, under the direction of the Newton County Board of Commissioners and the Newton County Cooperative 911 E.A.C. Board of Governors. The liaison between the Board of Governors and the Covington/Newton County Communications Center is the Director, Emergency Management Agency. The responsible fiscal agent is Newton County.

Newton County and Covington agree as follows:

1. To form an association known as the Newton County Cooperative "911" Emergency Answering Center, whose purpose is to provide emergency answering services for the parties herein, and who is referred to as the "Answering Center."
2. The County shall provide emergency call answering services for law enforcement, fire, and emergency medical services 24 hours a day, 7 days a week, 365 days a year.
3. The County shall hold the title and have care, custody, and control of equipment, furnishings, and the Answering Center. The County shall further be responsible for planning, acquiring, and maintaining the common equipment of the Answering Center.
4. The County shall contract with the City of Covington for the day to day operation of the Emergency Answering Center, under the direction of the E911 Board of Governors. The City shall be in charge of the hiring, training, and disciplining of employees working on the premises of, or in conjunction with, the operation of the Answering Center, subject to the provisions of applicable personnel policies and with the approval of the Board of Governors of the Emergency Answering Center. The City will administer the employees pay, insurance, vacations, and any other benefits that accrue to the employee. The County will reimburse the City the pro-rata share of operating cost and expenses based upon a fiscal budget approved by both the City and County.
5. The County shall be in charge of the making and promulgation of any necessary rules and regulations and their enforcement, by and with the assistance of the participating parties.
6. The parties herein agree to form the Newton County Cooperative "911" Emergency Answering Center Board of Governors. The Board of Governors shall consist of the Chairman, Newton County Board of Commissioners; Mayor, City of Covington; Executive Assistant, Newton County Board of Commissioners; City Manager, City of Covington; Sheriff, Newton County; Chief of Police, City of Covington; Chief, Newton County Fire Department; Director, Emergency Medical Service; Chief, Covington Fire Department; Chairman, Firemasters Association; and. Director, Emergency Management Agency. The Director, EMA shall serve as liaison between the Board of Governors and the Answering Center.

7. All costs for operating and maintaining the Answering Center shall be paid initially by the County or be reimbursed to the City under the terms of paragraph 4 of this agreement. Purchases and contracts for the purpose of operating the Answering Center shall be in the name of the County, provided:
 - A. The Answering Center cost shall consist of the following items: buildings, recorders, phone lines, equipment, salaries and benefits, center supplies and materials, depreciation of equipment, employee training and related expenses, publicity expenses, and other expenses agreed on by a majority of the Board of Governors.
 - B. The costs shall be pro-rated among the parties based on a mutually agreed allocation formula.
 - C. The County and/or City shall maintain financial records relating to the cost of operating and maintaining the Answering Center, and said records shall be available to the parties herein, or their representative, upon request.
8. The period for the contract shall be for sixty (60) months, or until such time as all parties mutually agree to termination.
9. All gifts or grants in furtherance of the purpose of the Answering Center shall be in the name of the County, unless otherwise restricted or limited by donor or grantor and shall be used for the purpose of reducing the overall operating costs of the Answering Center.
10. All claims for federal and state aid for the operation of the Answering Center shall be made by or for the benefit of the County.
11. Any liabilities incurred by the parties hereto as a result of the operation of the Answering Center will be paid initially by the County, with each of the parties subsequently paying their pro-rata shares, except, that any individual action of an employee of the one of the parties hereto, and not in furtherance of the purposes herein stated, shall be borne individually by that party.
12. Any disputes arising between the parties hereto shall be decided by a majority vote of the Board of Governors and, in the event that the controversy cannot be settled by the Board, the Director of the Georgia Department of Administrative Services Telecommunications Division shall serve as arbitrator whose decision shall be binding on all parties.
13. All funds, payments, and disbursements on behalf of the Answering Center shall be accounted for by the Finance Department of the County and/or City, who shall conduct an annual audit of the Answering Center. A copy of this audit shall be available to the representatives of any party hereto.
14. By a majority vote of the Board of Governors, this contract may be wholly or partially amended.
15. It is agreed by the parties hereto that the Director, Emergency Management Agency of the County shall serve as the administrator of the agreement in the manner provided herein.

CHAPTER 19: **RESERVED**
CHAPTER 20:
CHAPTER 21:

CHAPTER 19: **WATER SERVICE**

CHAPTER 20:

CHAPTER 21:

Section

20-101 Water Service



ARTICLE 2.1 **Water Service**

Any proposal subdivision which is not required to connect to a public water system may utilize community water supply systems, provided that said systems are approved by the Environmental Protection Division of the Georgia Department of Natural Resources, and further provided that the design specifications of the Newton County Water and Sewer Authority (or other Newton County public water system which is closer in distance to the proposed development) are met.

(Adopted 9/4/90)

CHAPTER 21: **ENVIRONMENTAL HEALTH**

CHAPTER 22:

CHAPTER 23:

Section

21-101 Rules and Regulations
21-102 Enforcement



ARTICLE 2.1 **Rules and Regulations**

The following rules and regulations, are hereby adopted by reference as if fully set out herein:

1. Rules of Department of Humans Resources; Public Health; Chapter 290-5-14 of the Administrative Code of Georgia; Food Service;
2. Rules of Department of Humans Resources; Public Health; Chapter 290-5-26 of the Administrative Code of Georgia; On-site Sewage Management Systems;
3. Rules of Department of Humans Resources; Public Health; Chapter 290-5-18 of the Administrative Code of Georgia; Tourist Accommodations; and
4. Recommended Standards of the Georgia Department of Human Resources Division of Public Health for Public Swimming Pools.

(Adopted 6/20/00)

ARTICLE 2.1 **Enforcement**

1. Be it further ordained, that these Rules and Regulations shall be enforced by the Newton County Board of Health. Any person violating any provision in these Rules and Regulations shall be guilty of violating a duly adopted ordinance of Newton County and, upon conviction by a court of competent jurisdiction, shall be punished either by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed sixty (60) days or both.
2. The court shall have the power and authority to place any person found guilty of a violation on probation or to suspend or modify any fine or sentence. As a condition of such suspension, the court may require payment of restitution or impose other punishment allowed by law. Violations of these Rules and Regulations may be prosecuted upon citations issued by officers of the Newton County Sheriff's Department or by employees of the Newton County Health Department designated by the director of that department

CHAPTER 22: **RESERVED**
CHAPTER 23:
CHAPTER 24:

CHAPTER 22: **PUBLIC PARKS, PLAYGROUNDS, AND RECREATION CENTERS**

CHAPTER 23:
CHAPTER 24:

Section

ARTICLE I.

- 23-101 Title
- 23-102 Definitions
- 23-103 Enforcement
- 23-104 Regulations

ARTICLE II.

- 23-201 Violence At County Recreation Facilities Ordinance



ARTICLE 2.

ARTICLE 2. 1 **Title**

This Ordinance shall be known and may be cited as "The Factory Shoals Recreation Park Ordinance of Newton County, Georgia."

ARTICLE 2. 1 **Definitions**

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense; the singular shall include the plural, and the plural the singular; and the use of masculine or feminine gender is for convenience only, and the use of each shall include the other.

As used in this Ordinance, the term:

1. **Park** means the real property owned by Newton County, Georgia, and designated as The Factory Shoals Recreation Park.
2. **Motor Vehicles** means automobiles, motorcycles, motor bikes, mini bikes, all terrain vehicles, trucks and all other such equipment.
3. **Weapons** means firearms of all types, bows and arrows, explosives, fireworks, BB guns, pellet guns, fishing spear, or any device that discharges projectiles by any means.
4. **Wildlife** includes all flora and fauna of every type and description.
5. **Camping Areas** means those areas of the park set aside for overnight use by campers by the Board of Commissioners of Newton County, Georgia, or their designated representative(s).

ARTICLE 2. 1 **Enforcement**

The provisions of this Ordinance will be enforced by the Newton County Sheriff's Department, the Newton County Code Enforcement Officer, or by any authorized law enforcement officer.

ARTICLE 2.1 **Regulations**

1. **Motor Vehicles.**

A. Motor vehicles shall not be parked in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, park property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.

B. The operation and/or parking of a vehicle off authorized roadways is prohibited. Taking any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence or traffic control barrier is prohibited.

C. Vehicles shall be operated only in accordance with posted regulations and applicable Federal, State and local laws, which shall be enforced by authorized enforcement officials.

D. No person shall operate any vehicle in a careless, negligent or reckless manner so as to endanger any person, park property or environmental feature.

E. At developed recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless otherwise posted.

F. No person shall operate any motorized vehicle without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

2. **Intoxicants.** The use and consumption of alcoholic beverages or intoxicants within the confines of the park are prohibited.

3. **Weapons.** Except for authorized law enforcement officers, the possession or carrying of weapons within the confines of the park is prohibited. No hunting of any kind is allowed.

4. **Collecting.** The taking, defacing or damaging of any plant life, artifacts, driftwood, or any other natural or manmade features within the park is prohibited. The use of electronic devices for the detection of minerals or metals is prohibited.

5. **Camping.**

A. Camping is permitted only in designated camping areas.

B. Campsite occupancy is limited to one (1) tent and to one (1) of the following:

(1) One (1) motor home and one (1) automobile,

(2) One (1) automobile and one (1) pop-up type tent trailer,

(3) One (1) automobile and one (1) tent,

(4) One (1) automobile and one (1) travel trailer,

(5) One (1) automobile and one (1) pickup truck with camper mounted on the rear of the truck,

(6) Two (2) motorized vehicles, or

(7) At walk-to: two (2) automobiles or pickup trucks at designated parking areas and two (2) tents at the campsite.

C. One (1) boat trailer is permitted at campsites provided the site alone is large enough to contain it and the other vehicles permitted.

D. Each additional party will be required to use another campsite and will be charged the standard fee for the additional campsite.

E. Camping between designated campsites is prohibited. Only designated campsites within designated camping areas may be utilized.

F. Campers must have completed setting up camp no later than 10:00 p.m.

G. Continuous occupancy of a campsite is limited to fourteen (14) days. Campers who have occupied a campsite in the park for a period of fourteen (14) days must vacate the park for a period of not less than four (4) days before being permitted to occupy a campsite.

H. Campers under eighteen (18) years of age are prohibited unless accompanied by an adult.

I. The playing of musical instruments, radios, television sets, or other noise producing devices is prohibited after 10:00 p.m. and before 7:00 a.m.

J. Campers must check out of campsites no later than 3:00 p.m. of the final day of their stay.

K. Visitors to campsites are prohibited after 10:00 p.m.

L. Dishwashing in restrooms or in water fountains is prohibited.

M. Lanterns and other heat producing devices are prohibited adjacent to or hung from trees or bushes.

N. Cutting or gathering of trees or parts of trees and /or the removal of wood from the park is prohibited.

O. Gathering of dead wood on the ground for use in designated areas as firewood is permitted.

6. **Picnicking.** Picnicking and related day-use activities are permitted in designated areas.
7. **Sanitation.**
 - A. Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated at the park and incidental to authorized recreational activities shall be either removed from the park or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, in the park is prohibited.
 - B. It is a violation to bring into the park any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind for disposal or dumping.
 - C. The spilling, pumping or other discharge of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on park lands or into park waters is prohibited.
 - D. Campers, picnickers, and all other persons using the park shall keep their sites free of trash and litter during the period of occupancy and shall move all personal equipment and clean their sites upon departure.
8. **Fires.**
 - A. Fires shall be confined to designated areas, and shall be contained in fireplaces, grills, or other facilities designated for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure. The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic or treated wood products is prohibited.
 - B. Improper disposal of lighted smoking materials, matches or other burning materials is prohibited.
9. **Control of Animals.**
 - A. No person shall bring or allow dogs, cats, or other pets into the park unless penned, caged, on a leash under six (6) feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of the park by the public. All animals and pets are prohibited in swimming areas. Animals and pets, except properly trained animals assisting the handicapped (such as seeing-eye dogs) are prohibited in sanitary facilities. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.
 - B. Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals.
10. **Abandonment and Impoundment of Personal Property.**
 - A. Personal property of any kind shall not be abandoned, stored or left unattended in the park. After a period of twenty-four (24) hours, or at any time after a posted closure hour in a public use area, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the Board of Commissioners of Newton County, Georgia, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.
 - B. Newton County shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Newton County's custody or control.
11. **Recreation Use Fees.** The Board of Commissioners of Newton County, Georgia, shall establish and modify from time to time, standard fees for the use of park facilities, including campsites and shall maintain a copy of such fees at the office of the Clerk of the Newton County Board of Commissioners. Such list shall be periodically reviewed and modified as the Board of Commissioners of Newton County, Georgia, may in its discretion, determine to be necessary to provide for the maintenance or modification of the park or park facilities.
12. **Violations.**
 - A. Any person who violates the provisions of this Ordinance may be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than sixty (60) days or both and may be tried and sentenced in accordance with the provisions of the laws of the State of Georgia. Law enforcement officers, code enforcement officers or other individuals designated by the Board of Commissioners shall have the authority to issue citations for violations of this Ordinance, requiring the appearance of any person charged with a violation to appear before the Magistrate Court of Newton County, Georgia.
 - B. Any person who commits an act against any official or employee of Newton County, Georgia that is a crime under the provisions of United State Code or under provisions of pertinent state law may be tried and sentenced as further provided in federal or state law, as the case may be.
13. **State and Local Laws.** Except as otherwise provided herein, Federal law or regulation, and state and local laws and ordinances shall apply on park lands and waters. This includes, but is not limited to, Federal, state and local laws and ordinances governing:
 - A. Operation and use of motor vehicles, vessels, and aircraft;

- B. Hunting, fishing and trapping;
- C. Use of firearms or other weapons;
- D. Civil disobedience and criminal acts; and
- E. Littering, sanitation and pollution.

These Federal, State and local laws and ordinances are enforced by those Federal, State and local enforcement agencies established and authorized for that purpose.

(Adopted 8/2/88)

ARTICLE 2.

ARTICLE 2.1 **Violence At County Recreation Facilities Ordinance**

1. The following definitions are used within this ordinance:
 - A. **County Recreation Facilities:** Any property owned, operated, or leased by Newton County for the purposes of recreation. This includes Newton County Board of Education property pursuant to agreement with the Newton County Recreation Department.
 - B. **Board:** The Newton County Board of Commissioners.
2. **Prohibited Acts.**

The following acts are prohibited by any person at Newton County Recreation Facilities:

 - A. Profanity or profane language that is sufficient to constitute a verbal attack on coaches, players, spectators, or sports officials.
 - B. Physical threats to coaches, players, spectators or sports officials.
2. **Violence at County Recreation Facilities - Penalties.**
 - A. Any person found guilty of committing a prohibited act enumerated in Section 23-201(3) by a court of competent jurisdiction may be punished by a fine not to exceed one thousand dollars (\$1000.00) or imprisonment for a period not exceeding sixty (60) days or both.
 - B. Mandatory exclusion from county recreational facilities for:
 - (1) Any person who is convicted of a violent misdemeanor or felony at a recreation facility shall be excluded from participating in or attending any recreation event or activity at County Recreation Facilities for a minimum period of two (2) years or for the term of any sentence or probation service imposed by any court deciding a particular case, whichever is greater.
 - (2) Any person who is convicted of violating Section 23-201(3)(B) of this Ordinance shall be excluded from participating in or attending any recreation event or activity at County Recreation Facilities for a minimum period of 6 months.
 - (3) The above mentioned exclusions apply to persons involved in independent leagues using County Recreation Facilities.
 - (4) On recommendation of the Newton County Recreation Director, the Board may, in aggravated cases, exclude a person charged with a misdemeanor involving violence or any felony from participating in or attending any recreation event or activity at County Recreation Facilities pending the outcome of a Court's determination of those charges.
 - (5) Any person excluded from participating or attending any recreation event or activity at County Recreation Facilities for any period of time and who is found to have violated this exclusion during that time shall be banned from participating in or attending any recreation event or meeting at County Recreation Facilities for life.
3. **Reinstatement.** The following applies to reinstatement of recreation facilities privilege:
 - A. At the conclusion of the period of exclusion as set out above, an individual excluded from participating in or attending any recreation event or activity at County Recreation Facilities may petition the Board to have that individual's exclusionary status lifted. The Board when considering a petition for lifting the exclusionary status shall consider the nature and severity of the crime committed and shall not be obligated to lift the exclusionary status of any individual who, in the opinion of the Board, poses a threat to the safety and health of citizens using County Recreation Facilities.
 - B. Any person who petitions and his or her exclusionary status is continued by the Board may petition again at the end of a one (1) year period for permission to attend and participate in events and activities at County Recreation Facilities.

C. Nothing contained in this Ordinance shall imply that the Board is ever obligated to lift a person's exclusion from participating or attending recreation events and activities at County Recreation Facilities and, in appropriate cases, an individual may never be allowed to attend or participate at events and activities at County Recreation

4. **Independent Leagues.** All independent leagues using County Recreation Facilities shall:

A. Establish rules governing the conduct of players, coaches, and spectators while attending or participating in recreational activities at County Recreation Facilities in a form acceptable to the County and shall post or otherwise distribute those rules to all participants,

B. Report any violations of County or league rules, policies, or regulations to the County Recreation Director or designate within 24 hours of occurrence with a written report by league officials within 72 hours of occurrence.

(Adopted 3/21/2000)

CHAPTER 24: **RESERVED**

CHAPTER 25:

CHAPTER 26:

CHAPTER 24: **RESERVED**
CHAPTER 25:
CHAPTER 26:

CHAPTER 24: **RESERVED**
CHAPTER 25:
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PART IV: GENERAL GOVERNMENTAL REGULATIONS

CHAPTER 24: **ANIMAL CONTROL ORDINANCE**

CHAPTER 25:

CHAPTER 26:

Section

30-101

Animal Control Ordinance



ARTICLE 2.1 **Animal Control Ordinance**

1. **Administration and Definitions.**

A. The responsibility for the control of animals within the county shall rest with the Newton County Board of Commissioners.

B. The responsibility for the control of rabies and other zoonos shall rest with the Newton County Board of Commissioners and the Newton County Board of Health.

C. For the purpose of this proposed code, the following words and phrases shall have the meanings herein ascribed to them, unless clearly indicated to the contrary by the context.

- (1) **Animal.** The term "animal" is defined as any live vertebrate creature, domestic or wild.
- (2) **Director.** The "director" is defined as a full-time animal control officer of the Department of Animal Control whose duty is to administer and manage the county's animal control program. He/she will be responsible to the Chairman, Newton County Board of Commissioners.
- (3) **Animal Control.** The term "Animal Control" shall not be understood to be limited in practice, or interpretation, to the extermination of unwanted or deserted animals in Newton County. In practice it imposes an obligation upon the administrators to also develop and implement an aggressive program promoting responsible pet ownership within Newton County. The program shall include, but not be limited to:
 - (a) The development of an educational program on the need for responsible treatment, ownership, and the need for spaying and neutering of dogs and cats to prevent undesirable and unwanted litters;
 - (b) An active, concerted and responsible adoption program in conjunction with the Newton County Humane Society, which might also include an adoption contract between the parties. All revenues collected by the Animal Control Center will be credited to their account by the county to help defray the implementation of these programs. The additional income shall not reduce this department's annual budget. Newton County pet owners should be advised that the Animal Control Center was never intended to be a dumping ground and extermination center, to serve irresponsible pet owners at the expense of all taxpayers in the county. The current and increasing trend of the extermination of thousands of pets every year is unacceptable.
- (4) **Animal Control Center.** A structure or physical plant, which is constructed or renovated specifically to be the center of the county's animal control activities. The center will contain facilities for housing animals in a humane manner, administrative areas for animal control personnel, a clinic and euthanasia room, a cold storage area for animal cadavers, and adoption area, facilities for humane education programs, and other responsibilities as determined by the director.
- (5) **Animal Control Officer (ACO).** An individual employed either full or part-time by the Department of Animal Control whose duty is to enforce the county's animal code. The ACO should have the authority to issue citations, be familiar with local and state animal laws, and be sensitive to the needs of animals.
- (6) **Senior Animal Control Officer.** A full-time employee of the Department of Animal Control whose duty is to supervise and evaluate animal control officers assigned to field duty in addition to normal animal control officer duties.

- (7) **Animal Control Attendant.** An individual employed either full or part-time by the Department of Animal Control whose duty is to provide humane care for the animals housed in the animal control center.
- (8) **Animal Welfare Agency.** Independent humane agencies such as SPCA's, Animal Welfare Leagues, Humane Societies, etc. The majority of these agencies are dependent on public contributions for sustaining their programs. Many, especially in large cities, operate animal shelters and, often, contract with the local governments to conduct animal control activities and/or house animals. The Humane Society of Newton County is a state approved, incorporated animal welfare agency whose goals include assisting the department of animal control on a voluntary basis.
- (9) **Control.** Restrained by fence (electronic or physical), leash, or otherwise contained.
- (10) **Dog.** The word "dog" shall mean a domestic dog, of either sex, vaccinated or not vaccinated against rabies, registered or not registered in Newton County, Georgia.
- (11) **Cat.** The word "cat" shall mean a domestic cat, of either sex, vaccinated or not vaccinated against rabies, registered or not registered in Newton County, Georgia.
- (12) **Vaccine.** The word "vaccine" shall mean an injectable material containing killed or attenuated rabies virus, licensed by the United States Department of Agriculture, Veterinary Biologies Division and approved by the Georgia Department of Human Resources. Vaccine used for the purpose of immunizing animals against rabies shall be stored at the temperature prescribed on the package label.
- (13) **Vaccinate or Inoculate.** The words "vaccinate" and "inoculate" shall mean the injection of a specified dose of antirabic vaccine by a veterinarian or properly supervised animal health technician into the proper site of an animal.
- (14) **Veterinarian** Any person duly licensed to practice veterinary medicine in the State of Georgia.
- (15) **Veterinary Hospital or Clinic.** A place where medical and surgical treatment is administered to animals by or under the supervision of a veterinarian.
- (16) **Vaccination Tag.** A tag furnished or approved by the Georgia Department of Human Resources and the Newton County Department of Animal Control. This tag will certify the year, county, and vaccination number. The tag shall be worn at all times by the vaccinated animal.
- (17) **Registration Tag.** A tag approved by the Newton County Department of Animal Control, which signifies the dog, or cat has been duly registered. The tag will be worn at all times by the registered animal.
- (18) **Rabies Certificate.** A certificate of vaccination on a form furnished or approved by the Georgia Department of Human Resources.
- (19) **Registration Certificate.** A certificate signed by the director or his designated representative certifying that a dog or cat has been properly registered in Newton County, Georgia.
- (20) **Owner.** Any person having a right of property in an animal, or any person whom permits an animal to remain on his or her premises.
- (21) **Person.** Any individual, firm, corporation, partnership, municipality, county, society, or association.
- (22) **Neutered.** The surgical sterilization of a female animal (ovariohysterectomy or spay) or male animal (architectecture or castration).
- (23) **Running at Large.** The term "to run at large" or "running at large" means the going upon public or private property by an animal without the owner or person in charge thereof having control over such animal, and includes any animal whatsoever which may be staked, tied or hobbled in any manner as to allow such animal to go or get upon the public streets or sidewalks.

2. **Enforcement and Violations.** The director, the animal control supervisor and officers, and other authorized employees of the county shall have all of the powers and authority of police officers to the extent only and no further of enforcing this animal code of law and other laws of the county relating to animals and fowl.

A. All duly appointed and qualified law enforcement officers and animal control officers and other designated persons are authorized to issue written notices to persons violating this animal code of law or any other laws governing the regulation and/or disposition of animals, which notices shall, among other things describe the violation complained of. Any person violating this code, obstructing qualified animal control personnel, and/or their equipment or any other laws governing the regulation of animals within Newton County shall be subject to a fine not less than one-hundred dollars (\$100.00) and not more than five-hundred dollars (\$500.00) and/or sixty (60) days imprisonment. Imprisonment and/or fine may be substituted with mandatory spay/neuter of the animal by a licensed veterinarian at the expense of the owner, except in circumstances where state law provides for harsher penalties.

3. **Dogs and Cats.**

A. **Rabies Vaccination.** All dogs or cats in Newton County over three (3) months of age will be inoculated annually for rabies with an approved vaccine. All dogs and cats which are brought into the county and which are more than three (3) months of age and which have not been inoculated shall be inoculated within thirty (30) days after their arrival in the county. Any person owning, keeping, harboring or maintaining a dog or cat in the county who fails or refuses to comply with the vaccination requirements herein set out shall be deemed guilty of an offense. A certificate of a veterinarian certifying that the vaccine was administered as required by this code, bearing the date and type of vaccine and the identification of the dog or cat by breed, color, and sex and the vaccination tag number and the name and address of the owner, shall be evidence of such vaccination.

B. **Dogs Running at Large.** It shall be unlawful for any person owning or having in his or her possession any dog to allow such dog to be at large without the owner or person in charge thereof having control over such dog*. An owner or person having in his possession a dog may allow the dog to be at large on the owner's property or on other property by permission of an owner that does not provide the animal with access to a sidewalk or street. *Hunting dogs shall be deemed under control while on land with the consent of the owner thereof and engaged in normal hunting activity for the particular type of hunt involved.

C. All female dogs and cats that have not been spayed and are in heat, must be securely confined in such a way that they not only cannot run loose, but also cannot be reached by other dogs or cats.

D. **Impoundment of Dogs and Cats.** Where the animal control director, supervisor or officer(s) either observes or receives a proper citizen complaint of a dog running at large, it shall be the duty of said director, supervisor or officer (s) to take up and take charge of all dogs found to be running at large as defined in section C(3) above within the boundaries of Newton County, and to capture and take such animals to the animal control center or other designated place, there to be impounded and detained for a period of three (3) calendar working days. Cat traps will be made available free of charge to citizens of Newton County with nuisance cat complaints. If a dog or cat which has been delivered or admitted to the animal control center is wearing a vaccination or registration tag not more than two (2) years old or any other type of identification, the person in charge of the center shall notify the owner of this animal by telephone, door hanger, or by mail that such animal has been received by the animal control center. The mailing of notice shall be deemed sufficient notice under this sections if it is mailed to the owner at the address shown in other types of identifications. Dogs and cats wearing a vaccination or registrations tag not more than two (2) years old shall be held in designated pens for the owner for six (6) calendar working days from the date the owner was notified by telephone, door hanger, or notice was mailed to the owner. On the seventh (7) day following such notice, the animal may be placed for adoption or euthanized at the discretion of the animal control officer director or his/her designated representative. The director is authorized to negotiate with other local government agencies for the handling of animals under this code. Any contract, which is the subject to such negotiations, must be approved and its execution authorized by the Board of Commissioners as in other contracts entered into by the county. Dogs or cats, three (3) months of age or older, can be subject to impoundment if said dog or cat does not display a current vaccination.

E. **Redemption or Adoption after Impoundment.** Any animal adopted may be redeemed by its rightful owner at the animal control center, after said owner proves ownership beyond a reasonable doubt. The person entitled to redeem said animal shall be entitled to have the animal delivered to them at the animal control center upon presentation of satisfactory evidence of ownership (regulations paper, bill-of-sale, photographs, registration and/or vaccination certificates, etc.), and

payment of the following charges and/or fees if applicable, provided such animal is not infected or reasonably believed to be infected with rabies or any other infections or contagious diseases:

- (1) Except as otherwise provided in this code, an impoundment fee of twenty-five dollars (\$25.00) shall be charged for each animal impounded. The impoundment fee shall double for each successive impoundment of any animal belonging to one owner. However, an adoption-handling fee shall be charged for each cat or dog surrendered to the Newton County Animal Shelter by its owner or authorized agent.
 - First Adult cat or dog.....written warning,
 - First litter of puppies or kittens.....written warningThe owner surrendering a second litter shall be charged the following:
 - Adult cat or dog.....ten dollars (\$10.00)
 - Litter of puppies or kittens.....twenty dollars (\$20.00)Additional, they must either qualify for or obtain a kennel license, or have the parents spayed and neutered by a licensed veterinarian at the owner's expense, with proof to be furnished to Newton County Animal Control within thirty (30) days. Failure to comply shall be in violation of this code and subject to a fine of not less than one hundred dollars (\$100.00) and/or imprisonment not to exceed five (5) days. An exception may be made in the case of indigent owner son an individual basis if confirmed by the supervisor.
- (1) Payment for a current rabies vaccination not to exceed twelve dollars (\$12.00), provided the dog or cat has no valid vaccination. The owner will be issued a receipt to take to a participating clinical veterinarian who authorizes the veterinarian to inoculate the animal. The veterinarian will submit the receipt to the animal control department indicating that the vaccine was administered and the number of the vaccination tag issued. The animal control department will send the veterinarian a sum not to exceed twelve dollars (\$12.00) per animal vaccinated.
- (2) Except as otherwise specifically provided in this code, a boarding fee not to exceed ten dollars (\$10.00) per day shall be charged for each animal impounded. However, when a person seeks delivery of an animal on the first regular working day after a Sunday and/or a county holiday, no boarding fee shall be charged for the immediately preceding Sunday and/or holiday unless such Sunday and/or holiday was within the period of quarantine for rabies observation.
- (3) Impounded or sick animals will be treated for injury or illness when such treatment is found to be reasonably necessary in the judgement of the animal control director or supervisor.

B. Adoptions. It will be the duty of the ACO director to offer for adoption to the public, or transfer to rescue agencies licensed by the Georgia Department of Agriculture, after verification, any and all healthy animals impounded in accordance with this code and not redeemed as provided for in code section C.4. The person entitled to redeem the animal will be required to exercise such option within a period of (30) days from the date the animal was adopted, and will be required to reimburse the adopter double the adoption fee, three dollars (\$3.00) per day for the days the animal was held and cared for by the adopter and any verified expenses incurred for qualified veterinary services. Any animal not redeemed in accordance with the provisions set forth above shall, after the (30) thirty-day period, become the property and responsibility of the adopter. No animal determined to be dangerous shall be offered for adoption. It shall be unlawful to remove any animals from the animal control center except as provided for in this code.

C. Dogs, cats and other animals taken up and impounded under the terms of this code which are not redeemed or adopted as provided in this code shall be disposed of by the department of animal control. These animals shall be humanely destroyed in the most humane method of euthanasia currently recognized.

D. If, in the opinion of the animal control director or designated employee the release of an impounded animal could impair the health or safety of the public, such animal shall be held at the animal control center or an approved veterinary clinic at the expense of the owner pending a court order disposition.

2. **Dangerous Dogs.**

A. **Dangerous and Potentially Dangerous Dogs.** Dangerous dogs and potentially dangerous dogs shall be investigated, classified, controlled and possessed in strict accordance with the Georgia Dangerous Dog Control Law (O.C.G.A. § 4-8-20) , as the same shall be amended from time to time.

B. **Creation of Newton County Animal Control Board.** There is hereby created a Newton County Animal Control Board, which members shall serve at the pleasure of the Newton County Board of Commissioners and shall carry out the duties and responsibilities of an animal control board, as outlined in the Georgia Dangerous dog Control Law (O.C.G.A. § 4-8-20), as the same shall be amended from time to time.

3. **Rabies Control.** Except as provided in section E.2 below, every animal that has rabies or symptoms thereof, every animal that has been exposed to rabies, and every animal that bites or otherwise attacks any person within Newton County shall be impounded at once and held under observation by the department of animal control for ten (10) calendar days. If its owner desires, such animal may be confined for observation in a veterinary hospital or clinic approved by the ACO director at the owner's expense for the same period of time as the animal would be confined for observation at the county's animal control center. Upon request, the ACO Supervisor shall approve a veterinary hospital or clinic for such purposes if it is shown that the hospital or clinic is able to properly confine and observe such animals unless there is reason to doubt whether such hospital or clinic will actually do so.

A. Any dog or cat that bites or otherwise attacks any person within Newton County while the animal is confined on the owner's premises may be quarantined on the owner's premises for a period of ten (10) calendar days immediately following the date such animal has attacked a person if the animal has a current rabies vaccination and a current county registration at the time the attack occurred, provided that the animal is examined by a veterinarian, at the owner's expense at the beginning of the quarantine period, and again ten (10) days later. The veterinarian will provide the owner with a written report setting out the results of each such examination. The report will be submitted by the owner to the ACO director within three (3) days after the examination has been made. Any owner or keeper of an animal that fails to keep the animal confined, fails to have the animal examined by a veterinarian, or fails to provide the animal control department a veterinarian's report of the results of an examination when required to do so under the provisions of this code shall be in violation of this code and subject to fines and penalties as stated in Section B.2.

B. No animal that has rabies shall be allowed at any time on the streets or public ways of the county. No animal that has been suspected of having rabies shall be allowed at any time on the street or public ways of the county until such animal has been released from observation by the ACO director. The owner, keeper or person in charge of any animal that has rabies or symptoms thereof, or that has been exposed to rabies, or that has bitten or otherwise attacked any person within the county shall, on demand, turn over such animal to the ACO director or any officer acting as his/her representative. The body of any animal that has- died of rabies shall not be disposed of except as directed by the ACO director. Any person having knowledge of an animal bite is hereby required to report it immediately to the department of animal control.

4. **Livestock and Fowl.** The running at large of horses, mules, other equidae, cattle, sheep, goats, hogs, domestic rabbits, or domestic fowl, or ostrich and emu, or other animals within the limits of Newton County is hereby declared a nuisance and shall be unlawful for the owner or keeper of any such animal or fowl to permit the same to run at large within the county.

A. It shall be the duty of the director to take up and take charge of all horses, mules, other equidae, cattle, sheep, goats and hogs found running at large within Newton County, and to capture or contract to capture and take such animals to the animal control center or other designated place, there to be impounded and detained for a period in accordance with state law.

B. **Redemption of Impounded Livestock.** The owner shall be responsible for impoundment and boarding fees, as well as any reasonable fees for veterinary care and hauling. Impoundment----- \$50.00/Animal Boarding----- \$10.00/day

C. If, at the time of the sale of any livestock under the provisions of state law and this code, the owner has not redeemed the same in accord with state law and this code, and no purchaser can be found for the animal, the director shall cause such animal to be humanely destroyed, and shall deposit the carcass in such place as may be designated for such matter.

D. It shall be unlawful for any person, other than a duly appointed and qualified law enforcement officer of the county or any authorized employee of the director, or humane organizations approved by the director to engage in the catching or impounding of animals; nor shall any reward be given for such catching or impounding, and any officer authorized to catch and impound animals detected in offering a reward of any kind whatsoever to any person or impound such animals shall be deemed guilty of an offense.

E. When from any cause it may happen that any horse, mule, cow, calf, steer, goat, sheep, dog, cat or other animal within the limits of Newton County shall be so wounded, maimed or injured as to render its recovery hopeless, then it shall be the duty of the director, or designated Animal Control Officer, to cause it to be humanely destroyed as soon after such injury as possible, and to cause the carcass thereof to be removed to such place as may be set apart for such matter. When the director has caused to humanely destroy any animal under this code, it shall become his/her duty to at once file a report in writing of such destruction, and such report shall show:

- (1) a description of the animal destroyed, and the name of the owner thereof if known,
- (2) the injury which made destruction necessary, and how same was inflicted, and by whom, if known,
- (3) the names of at least two (2) reliable witnesses, who are conversant with the facts of the injury and the destruction,
- (4) a description of the injury from a veterinarian, if available. Section F.7 shall not apply to veterinarians or veterinary hospitals and clinics.

F. It shall be unlawful for any person to (a) stake, tie or hobble any animal whatsoever on any land of which he is not the owner, (b) obstruct any street or sidewalk by hitching or staking out any animal or to permit any animal to be so hitched or staked out that it can go upon or across any street or sidewalk, (c) tie or fasten any animal to any tree, or box around any tree, planted or growing in any street or public place, or to a fence or lamppost which is the property of another, without such other person's consent therefore.

5. **Keeping of Wild Animals.** It shall be unlawful within the corporate boundaries of Newton County for any person to possess, keep, permit, suffer, cause or allow any wild animal within any residence or within three-hundred (300) feet of any residence or building used for human habitation.

A. A "wild animal" shall mean and include any mammal, amphibian, reptile or fowl which is of a species which is wild by nature, and of a species which, due to size, vicious nature or other characteristic is dangerous to humans. Such animals shall include, but not be limited to lions, tigers, leopards, panthers, bears, wolves, raccoons, skunks, apes, gorillas, monkeys of a species whose average adult size weight is twenty (20) pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, and all forms of poisonous reptiles. The term "wild animal" as used in this code shall not include gerbils, hamsters, guinea pigs, mice, rabbits or ferrets.

B. Any person who violates any provision of this chapter shall upon conviction thereof, be fined in accordance with the provisions of code section B-2. Each day any person possesses, keeps, permits suffers, causes or allows any wild animal within any residence or within three-hundred (300) feet of any residence or building used for human habitation in violation of this code shall be a separate offense. Further, the keeping of more than one such wild animal in violation of this code shall be a separate offense for each such animal.

C. The ACO director shall seize all animals found in violation of this code and impound all such animals at the animal control center or other suitable place. The director, and ACO, or any law enforcement officer within the county may enter any building to seize an animal which is therein in violation of this code upon the consent of an adult occupant of such building or one having the right of possession of such building, or under a warrant.

D. Redemption of impounded wild animal. Upon showing to the ACO director or his/her delegated authority of clear and convincing proof of right of possession of any such impounded animal, such person may redeem such animal within seven (7) days of the date of impoundment upon payment of the fees set out below provided:

- (1) That such animal is not infected or believed to be infected with rabies or any other disease.
- (2) That such person submits to the ACO director a sworn affidavit setting out the location where the animal will be kept, and that he will not permit, suffer, cause or allow such animal to be within any residence or within three-hundred (300) feet of any residence in violation of this code. If such animal is not redeemed within seven (7) days of the date of initial impoundment, the director shall be authorized to destroy such animals in the most humane manner possible.

- (3) In the event an individual redeems any such animal upon providing the sworn affidavit required above, and such animal upon thereafter is found within a residence or within three-hundred (300) feet of any actual residence or building used for human habitation, in violation of this code, said animal shall be seized and impounded as herein above described in section G.4 above.
 - E. The following fees shall be charged for impoundment and boarding wild animals:
 - (1) Impoundment fee for each animal impounded: fifty dollars (\$50.00).
 - (2) A boarding fee of ten dollars (\$10.00) per day for animals under thirty (30) pounds; fifteen dollars (\$15.00) per day for animals over thirty (30) pounds but not more than one hundred(100) pounds; or twenty dollars (\$20.00) for animals over one hundred (100) pounds.
 - F. The provisions of section G.I. shall not apply to animals kept for treatment in a facility operated by a veterinarian licensed in the State of Georgia, animals kept in publicly owned zoos, and animals used for research or teaching purposes by a medical or veterinary school, licensed hospital or non-profit university or college providing a degree program.
 - G. **Vaccination of Wild Animals.**
 - (1) No person shall vaccinate, or attempt to vaccinate, any wild animal as defined in this code against rabies by the use of live virus vaccine.
 - (2) Except as provided in subsection (c) below, no person shall possess, keep, permit, or allow any wild animal as defined in this code within the county if such animal has been vaccinated against rabies with the use of live vaccine.
 - (3) This section pertaining to the vaccination of wild animals shall not apply to the use of live rabies vaccine for research purposes when such research is conducted by a medical or veterinary school, licensed hospital or non-profit university providing a degree program.
6. **Humane Treatment of Animals.** No person, corporation or other entity having an animal in its possession and/or control, shall fail to provide said animal sufficient food, water, shelter and adequate protection from the elements. Veterinary care, when needed, to prevent suffering to said animal, shall be provided and, further, said animal, shall be treated with humane care at all times.
 - A. No person shall beat, ill treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit combat between animals or fowl.
 - B. No person or corporate entity having an animal in its possession and/or control shall abandon said animal on public or private property. Any person in violation of this section shall receive a five hundred dollars (\$500.00) fine and/or confinement for sixty (60) days.
 - C. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal. It shall not be unlawful for a person to expose on his or her property common rat and insect poisons.
 - D. No person shall use steel-jawed leghold traps for the trapping of animals without any required written permit obtained from the appropriate state or federal government agency.
 - E. As a condition of entering Newton County, all who enter shall be deemed to have consented to such reasonable means or force necessary to cause the removal of such animals left unattended in a closed vehicle between the dates of May 1 and September 30, and no action at law or equity or claim for o damages shall lie against Newton County or its officers in connection with lawful enforcement of this section.
 - F. No animal in the custody of the Newton County Animal Control Center shall be sold, donated, released or received for any type of research or experiments. Any employee of the county so involved in addition to penalties in Section B.2 shall also be subject to termination.
 - G. A leash must restrain any animal that is kept in the back of an open truck or a convertible car. Such a leash must be of the size and length to restrict the animal within the confines of the car or bed of the truck and to prohibit the animal from jumping out over the side or back of such vehicles.
 - H. Any person, corporation or other legal entity violating any of the provisions set forth in code section H shall be subject to fines and/or penalties as stated in section B.2.
7. **Mandatory Sterilization.** Sterilization of Adopted Animals: Animals adopted from Newton County Animal Control shall be sterilized in strict accordance with the Georgia Spay/Neuter Law (O.C.G.A. § 4-8-20), as the same may be amended from time to time.
8. **Issuance of Licenses.** Before a kennel or breeders license is issued by the county, the Animal Control Center shall be required to investigate the petitioner, the location and facilities to determine the legitimacy of the petition and whether the location, facilities and environment are such as will insure against so called puppy mills and provide humane and proper care of the animals. All kennels and breeders shall

be registered with the Animal Control Center and Animal Control personnel may make periodic inspections of the animals and facilities. Any operator of a kennel in the county who fails to obtain a license and/or fails to maintain a registry with the Animal Control Center shall be subject to fines and/or penalties as set forth in section B.2.

CHAPTER 31: **GENERAL OFFENSES**

CHAPTER 32:

CHAPTER 33:

Section

31-101	Disorderly Conduct
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ARTICLE 2.1 **Disorderly Conduct**

It shall be unlawful for any person or persons within the unincorporated areas of Newton County, Georgia to engage in any conduct described in the following subsections, provided, however, that no person shall be convicted of any of the following sections upon a showing that the predominant intent of said conduct was to exercise a constitutional right:

1. To act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of his life, limb or health; or
2. To act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed; or
3. To cause, provoke or engage in any fight, brawl, riotous conduct so as to endanger the life, limb, health or property of another; or
4. To assemble or congregate with another or others for the purpose of, or with the intent to engage in gaming; or
5. To be in or about any place, alone or with another or others with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing; or to aid or abet any person or persons in doing so; or
6. To be in or about any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated, for the purpose of or intent to engage in gaming or the purchase, use, possession or consumption of said illegal drugs, narcotics or alcoholic beverages; or
7. To recklessly or knowingly commit any act which may reasonably be expected to prevent or disrupt a lawful meeting, gathering or procession; or
8. To interfere, by acts of physical obstruction, another's pursuit of a lawful occupation; or
9. To congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by an officer of the Newton County Sheriff's Department or other lawful authority; or
10. To throw bottles, paper, cans, glass, sticks, stones, missiles, or any other debris on public property.

(Adopted 6/3/86)

ARTICLE 2.1 Discharging Firearms, Air Guns, Etc.

1. It shall be unlawful for any person in unincorporated Newton County to discharge any gun, pistol, or other firearm within three hundred fifty (350) yards of any street, alley, or building, or at any point upon the land of another person without the express consent of the owner or occupant thereof; or to discharge any air gun, BB gun, or other toy gun which projects lead or any other missile.

This section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty, nor to prohibit any citizen from discharging a firearm when lawfully defending person or property.

1. It shall be unlawful for any person to discharge a firearm while:
 - A. Under the influence of alcohol or any drug or any combination of alcohol and any drug to the extent that it is unsafe for the person to discharge such firearm except in the defense of life, health, and property;
 - B. The person's alcohol concentration is 0.08 grams or more at any time while discharging such firearm or within three (3) hours after such discharge of such firearm from alcohol consumed before such discharge ended; or
 - C. Subject to the provisions of subsection (3) of this Code section, there is any amount of marijuana or a controlled substance, as defined in *O.C.G.A.* § 16-13-21, present in the person's blood or urine, or both, including the metabolites and derivatives of each or both without regard to whether or not any alcohol is present in the person's breath or blood.
2. The fact that any person charged with violating this section is or has been legally entitled to use a drug shall not constitute a defense against any charge of violating this section; provided, however, that such person shall not be in violation of this section unless such person is rendered incapable of possessing or discharging a firearm safely as a result of using a drug other than alcohol which such person is legally entitled to use.
3. Any person convicted of violating subsection (2) of this section shall be guilty of a misdemeanor of a high and aggravated nature.

ARTICLE 2.1 Report of Treatment of Wounds

All physicians and all hospital superintendents in the county are hereby required to report to the Sheriff's Department all patients treated by physicians or diagnosed or known to be suffering from wounds inflicted by a dangerous or deadly weapon of any kind. Such report may be made in writing or by telephone, giving the name of the reporting person and the patient and any other pertinent data requested by the Police Department. All reports shall be made within twenty-four (24) hours after treatment by a physician or after admission to the hospital. (See *O.C.G.A.* § 31-7-9, reports by physicians and other personnel of nonaccidental injuries to patients).

ARTICLE 2.1 Throwing of Missiles

It shall be unlawful for any person in unincorporated Newton County to throw any stone, rock, or other missile upon or at any vehicle, building, tree, or other public or private property, or upon or at any person in any public or private way or place.

ARTICLE 2.1 Ball Playing

It shall be unlawful for any person to play ball by throwing, catching, pitching, or batting a ball on any public street, alley, or sidewalk of unincorporated Newton County.

ARTICLE 2.1 Bonfires

It shall be unlawful for any person or group, during a holiday or at any other time, to build a bonfire of any description within unincorporated Newton County, except at places approved and designated by the Fire Chief.

ARTICLE 2.1 **Drinking in Public**

It shall be unlawful for any person to consume any spirituous malt or alcoholic beverage in or upon any street, alley, sidewalk, or other public way or place in unincorporated Newton County, or within any public building.

ARTICLE 2.1 **Accumulation of Junk**

It shall be unlawful for any owner or resident of any property in unincorporated Newton County other than a person who is a licensed junk dealer to permit to accumulate on such property any "junk," as such term is defined as old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes in below of this code, including any discarded, dismantled, wrecked, scrapped, ruined, or junked motor vehicles, or parts thereof.

1. **Notice to Remove.** It shall be the duty of the Sheriff to notify, in writing, the owner or occupant of any premises upon which junk is permitted to accumulate in violation of the provisions of this section that such material must be removed within thirty (30) days from the date of such notice.

Notice shall be by registered mail, addressed to said owner or occupant, at his last known address.

1. **Action Upon Non-compliance.** Upon the failure, neglect, or refusal of any owner or occupant so notified to remove such junk within the designated time period, the Board of Commissioners or its designee is authorized and empowered to arrange for the removal of such material by the county or by a private individual or firm through contract with the county.

ARTICLE 2.1 **Abandonment of Motor Vehicles**

It shall be unlawful for any person to abandon or to leave unattended for a period in excess of five (5) days any motor vehicle on any street, road, alley, or other public way in the county.

ARTICLE 2.1 **Loitering or Prowling**

1. A person commits the offense of loitering or prowling when, within the unincorporated areas of Newton County, Georgia, he is in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

2. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object.

3. Unless flight by the person or other circumstance makes compliance impractical, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct.

4. No person shall be convicted of an offense under this ordinance if the law enforcement officer fails to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

5. Upon conviction, person shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed sixty (60) days or both.

(Adopted 6/3/86)

ARTICLE 2.1 **Use of Security and Fire Alarms**

1. **Definitions.** For the purposes of this Ordinance, the following words and phrases shall have the meanings given:

- A. **Alarm Company.** Any corporation, partnership, business or individual engaged in the business of installing, maintaining, altering, servicing, or monitoring of an alarm system or which responds to such alarm systems.
 - B. **Alarm Response.** Any response to a premise by Sheriffs Department or Fire Department personnel as a result of an alarm signal.
 - C. **Alarm Signal.** The activation of an alarm system resulting in a request for an alarm response regardless of cause.
 - D. **Alarm System.** Any assembly of equipment, mechanical or electrical, designed to signal an occurrence of robbery, burglary, unauthorized entry, attempted entry, fire, smoke, heat or extinguishing agent/discharge application, or any other circumstance requiring urgent attention and to which Sheriffs Department or Fire Department personnel are expected to respond.
 - E. **Alarm User.** Any person, firm, partnership, association, corporation, company or organization of any kind, including the owner or occupant of a protected premise, who purchases, leases, contracts for, or otherwise obtains an alarm system, or the servicing, maintenance or monitoring of an alarm system from an alarm company.
 - F. **Automatic Dialing Device.** A device which is interconnected to a telephone line and is programmed to a predetermined telephone number and which automatically transmits by recorded voice message or signal the existence of a hazard requiring urgent attention and to which Sheriffs Department or Fire Department personnel are expected to respond.
 - G. **County.** Newton County, Georgia
 - H. **False Alarms.** Any signal of an occurrence of robbery, unauthorized entry, heat, smoke or extinguishing agent/discharge application, or any other circumstance to which Sheriff s Department or Fire Department personnel are expected to respond when there exists no actual or threatened criminal activity or emergency.
 - I. **False Alarm Response.** An alarm response to a false alarm.
 - J. **Fire Department.** The Newton County Fire Department or any of the Volunteer Fire Departments whose service area includes unincorporated portions of the County.
 - K. **Sheriffs Department.** Newton County Sheriffs Department
 - L. **Person.** Shall mean any individual, group of persons, firm, partnership, association of any kind, company or corporation.
 - M. **Protected Premise.** Shall mean the premises upon which an alarm system has been placed for the purpose of detecting a hazard.
2. **Administration and Enforcement.** The Sheriffs Department and Fire Department respectively shall be responsible for the administration and enforcement of this Ordinance.
3. **Alarms System Requirements.**
- A. **Instructions to Alarm Users from Alarm Companies.** Any alarm company involved with the installation of any type of alarm system shall furnish the alarm user with instructions that provide information to allow the alarm user to operate the alarm system properly and to obtain service for the alarm system at any time.
 - B. **Automatic Dialing Device Restrictions.** It shall be unlawful for any person to install, operate or maintain any automated dialing device which is programmed to transmit a prerecorded message or code signal for response from Sheriffs Department or Fire Department personnel.
 - C. **Required Equipment.**
 - (1) Alarm users shall use only alarm system equipment that meets the minimum alarm device standards of Underwriters Laboratories and/or the National Fire Protection Association (NFPA).
 - (2) An alarm system operated within the unincorporated portion of the County; shall be equipped in such a manner so as to prevent false alarms due to interruptions in electrical power.
 - (3) Any alarm system within the unincorporated limits of the County which is equipped with a horn, bell, siren or other noise device audible beyond the confines of the premise shall be adjusted in such a manner that it will not sound for longer than fifteen (15) minutes before resetting and silencing itself.
 - D. Alarm users shall come into compliance with this ordinance within one hundred eighty (180) days after the effective date of this Ordinance.

4. **Intentional False Alarms Prohibited.** It shall be unlawful for any person to knowingly and willfully activate a security and/or fire alarm system to summon Sheriffs Department or Fire Department personnel when there is no actual or threatened criminal activity or emergency.

5. **Excessive False Alarm Responses Prohibited.**

A. On and after thirty (30) days from the installation date of an alarm system, it shall be unlawful for any alarm user in the County to allow an excessive number of false alarm responses to occur at a protected premise for which the alarm user is responsible.

B. More than three (3) false alarm responses to a protected premise in any twelve (12) consecutive months is deemed to be an excessive number for response by the Sheriffs Department and shall be a violation of this Ordinance.

C. More than three (3) false alarm responses to a protected premise in any twelve (12) consecutive months is deemed to be an excessive number for response by the Fire Department and shall be a violation of this Ordinance.

D. Any alarm response, which results from an alarm signal initiated by an alarm system, which is not in compliance with this Section, shall be deemed to be a false alarm response and shall be a violation of this Ordinance.

E. Sheriffs Department and Fire Department personnel assigned false alarm responses shall, whenever possible, leave written notice for the alarm user which provides the following information:

- (1) Date and time of false alarm response;
- (2) Officer/firefighter's name and business telephone number;
- (3) Alarm/case number; and
- (4) Brief synopsis of this Ordinance (printed brochure).

In the event that a alarm user is absent, delivery of said false alarm response nonce to the alarm user shall be make by personal service or by certified mail will be utilized to notify the property owner. A "carbonless" or tear-away copy of such information will be retained by the appropriate agency for administrative filing.

A. **Recording alarm Responses.** The Sheriffs Department and the Fire Department will be responsible for the recording of all alarms responses in the unincorporated portions of Newton County. This information shall be electronically or otherwise stored so that alarm responses and keyholder information can be updated.

2. **Penalties for Violations.**

A. Administrative fines, in accordance with the following fee schedule, shall be assessed against the alarm user for more than three (3) false alarm responses to a protected premises by Sheriffs Department personnel in any twelve (12) consecutive month period:

Administrative Fine Schedule for False Alarm Responses (Sheriffs Department)	
Fourth response	\$ 25.00
Fifth response	\$ 50.00
Sixth response	\$ 75.00
Seventh response	\$100.00
Eighth response	\$125.00
Responses in excess of eight, each	\$150.00

A. Administrative fines, in accordance with the following fee schedule, shall be assessed against the alarm user for more than three (3) false alarm responses to a protected premises by Fire Department personnel in any twelve (12) consecutive month period:

Administrative Fine Schedule for False Alarms Responses (Fire Department)	
Fourth response	\$100.00
Fifth response	\$150.00
Sixth response	\$200.00
Seventh response	\$300.00
Eighth response	\$400.00
Responses in excess of eight, each	\$500.00

A. To ensure that the assessed amounts are representative of costs incurred by the County to provide alarm responses and to administer this Ordinance, the amounts contained in the administrative fine schedules shall be subject to all associated court costs customarily included by Magistrate Court of Newton County or as mandated by state law.

B. In addition to the administrative fines outlined above, violations of this Ordinance may subject the alarm user to an order of the Magistrate Court Judge requiring that the alarm system be disconnected.

C. Unless otherwise provided in this Ordinance, any person, alarm user or alarm company who violates any provision of this Ordinance or any rules, orders or regulations made pursuant to this Ordinance, shall, upon conviction thereof, be punished by a monetary fine not to exceed one thousand dollars (\$1,000.00) or sixty (60) days imprisonment, or both.

CHAPTER 32: **LICENSING AND BUSINESS REGULATION**

CHAPTER 33:

CHAPTER 34:

Section

ARTICLE I. OCCUPATION TAX

32-101 Occupation Tax

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- 32-101 Alcoholic Beverage Ordinance
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ARTICLE 2. OCCUPATION TAX

ARTICLE 2.1 Occupation Tax

1. Occupation Tax Required; Occupation Tax Required for Business Dealing in the County.

A. For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in Newton County, Georgia, whether with a location in Newton County or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in Newton County, Georgia. If the taxpayer has no permanent business location in Newton County, Georgia, such business tax registration shall be shown to the County Clerk or his/her designee or to any police officer of said, Newton County Georgia, upon request.

2. Construction of Terms; Definitions.

A. As used in this section, the term:

- (1) **Administrative Fee** means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.
- (2) **In Towns or Cities** means within one (1) mile of villages, towns, or cities.
- (3) **Location of Office** shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office.

- (4) **Occupation Tax** means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business and enacted by a local government as a revenue-raising ordinance or resolution.
- (5) **Regulatory Fees** means payments, whether designated as license fees, permit fees, or by another name, which are required by local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the local government. A regulatory fee may not include an administrative fee. Regulatory fees do not include development impact fees as defined by paragraph (8) of Code Section 36-71-2 or other costs or conditions of zoning or land development.
- (6) **Dominant Line** means the type of business, within a multiple-line business, that the greatest amount of income is derived from.
- (7) **Person** shall be held to include sole proprietors, corporations, partnerships, nonprofit, or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize fifty percent (50%) of their proceeds for charitable purposes.
- (8) **Practitioner of Profession or Occupation** is one who by state law requires state licensure regulating such profession or occupation.
- (9) **Practitioners of Professions and Occupations** shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.
- (10) **Employee** means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.
- (11) **Gross Receipts.**
 - (a) Means total revenue of the business or practitioner for the period, including without being limited to the following:
 - (i) Total income without deduction for the cost of goods sold or expenses incurred;
 - (ii) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
 - (iii) Proceeds from commissions on the sale of property, goods, or services;
 - (iv) Proceeds from fees charged for services rendered; and
 - (v) Proceeds from rent, interest, royalty, or dividend income.
 - (b) Gross receipts shall not include the following:
 - (i) Sales, use, or excise taxes;
 - (ii) Sales returns, allowances, and discounts;
 - (iii) Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations, as defined by 26 U.S.C. Section 1563(a)(1), between or among the units of a brother-sister controlled group of corporations, as defined by 26 U.S.C. Section 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities;
 - (iv) Payments made to a subcontractor or an independent agent;
 - (v) Governmental and foundation grants, charitable contributions, or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute eighty percent (80%) or more of the organization's receipts; and
 - (vi) Proceeds from sales to customers outside the state.

3. **Administrative and Regulatory Fee Structure; Occupation Tax Structure.**

A. A non-prorated, non-refundable administrative fee of five dollars (\$5.00) shall be required on all business and occupation tax accounts for the initial start-up, renewal, or reopening of those accounts.

B. A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.

C. The regulatory fee schedule for persons in occupations and professions is to be determined by the Board of Commissioners.

4. **Occupation Tax Levied; Restrictions.**

A. An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in Newton County and upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria:

- (1) The number of employees of the business or practitioner.

B. **Occupation Tax Schedule.**

- (1) **Number of Employees.** The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows and will be developed and updated from time to time by the Board of Commissioners.

Employees	Tax Liability
1-3	Flat Fee of \$50.00
4-9	\$14.00 per employee
10-99	\$140.00 plus \$3.00 for each employee in excess of 9
100-500	\$430.00 plus \$2.00 for each employee in excess of 99
over 500	\$1,250.00 plus \$1.00 for each employee in excess of 500

A. No export tax shall be imposed upon any item manufactured or produced in this state and shipped by the manufacturer or producer for sale outside the state.

B. No county, or district shall levy or collect any capitation tax whatsoever, except street tax.

C.

- (1) It shall be unlawful for the state or any county, airport authority, district, or other political subdivision to levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on:
 - (a) Persons traveling in air commerce, whether on regularly scheduled commercial airlines, chartered air flights, or in privately owned civil aircraft;
 - (b) The carriage of persons traveling in air commerce; or
 - (c) The sale of air transportation or on the gross receipts derived from air transportation.
- (2) This Code section shall not be construed to prohibit the state or any county, airport authority, district, or other political subdivision:
 - (a) From levying or collecting any property, income, franchise, sale, use, or other tax otherwise authorized by law; or
 - (b) Which owns or operates an airport from levying or collecting reasonable rental charges, landing fees, license fees, permit fees, and other service charges for the use of airport facilities and related facilities from aircraft owners, operators, persons selling or providing goods or services to the owners or operators or to the public, and others, when otherwise allowed by law.

2. **Paying Occupation Tax of Business with No Location in Georgia.**

A. Registration and assessment of an occupation tax are hereby imposed on those business and practitioners of professions with no location or office in the state of Georgia if the business's largest dollar volume of business in Georgia is in Newton County and the business or practitioner:

- (1) Has one or more employees or agents who exert substantial efforts within Newton County for the purpose of soliciting business or serving customers or clients; or
- (2) Owns personal or real property which generates income and which is located in Newton County.

B. **Reserved.**

C. This article supersedes any provisions of local law authorizing such taxes.

D. Local governments levying occupation tax according to section 4-114(5) shall comply with O.C.G.A. § 48-13-10 through 48-13-13, except that: gross receipts of a business or practitioner for purposes of this Code section shall include only those gross receipts reasonably attributable to sales or services in this state; employees shall include only those employees engaged in substantial efforts

within this state; and nation-wide profitability ratios shall apply only to types of business transacted within this state.

E. Businesses and practitioners subject to § 4-114(5) shall be required to pay occupation tax to only one (1) local government in this state, the local government for the municipal corporation or county in which the largest dollar volume of business is done or service is performed by the individual business or practitioner.

F. If a business or practitioner subject to § 4-114(5) provides to the local government in this state which is authorized to levy occupation tax on such business or practitioner proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in this state, the business or practitioner shall be exempt from local occupation tax in this state.

3. **Business With One or More locations in Georgia.**

A. Except as to those businesses and practitioners of professions and occupations excluded by subsection (a) of Code Section 48-13-16, the governing authority of each county is authorized but not required to provide by local ordinance or resolution for the levy, assessment, and collection of occupation tax on those businesses and practitioners of professions and occupations with one or more locations or offices in the unincorporated part of the county and to provide for the punishment of violation of such a local ordinance or resolution. The governing authority of each county is authorized to classify businesses and practitioners of professions and occupations and to assess different taxes on different classes of businesses and practitioners. The governing authority of each county is authorized to provide by local ordinance or resolution for requiring information from businesses and practitioners of professions and occupations doing business in the unincorporated part of the county regarding the site of any location or office and payment of occupation taxes or regulatory fees to other local governments and to provide for the punishment for violation of such a local ordinance or resolution. This article supersedes any provision of local law authorizing such taxes.

B. After the effective date of this Act, any local government shall conduct at least one (1) public hearing before adopting any ordinance or resolution regarding the occupation tax.

4. **Each Line of Business to Be Identified on Business Registration.** The business registration of each business operated in the County shall identify the dominant lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the County Clerk's Office and that line of business being noted by the County Clerk upon the business registration form which is to be displayed by the business owner.

5. **The Number of Businesses Considered to Be Operating In the County.** Where a person conducts business at more than one (1) fixed location, each location or place shall be considered a separate business for the purpose of occupation tax.

6. **Professionals As Classified in O.C.G.A. §48-13-9(c), Paragraphs 1 through 18.** Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1) through (18) shall elect as their entire occupation tax one of the following:

A. The occupation tax based on Number of Employees.

B. A fee of one hundred dollars (\$100.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

C. This election is to be made on an annual basis and must be done prior to December 1 each year.

7. **Practitioners Exclusively Practicing for a Government.** Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state, or a municipality or county of the state shall not be required to obtain a license or pay an occupation tax for that practice.

8. **Purpose and Scope of Tax.** The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade, or calling. The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

9. **When Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.**
- A. Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by March 15 of each year, be subject to penalties for delinquency as prescribed in this section. On any new profession, trade, or calling begun in Newton County in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a fifty percent (50%) penalty imposed. The tax registration herein provided for shall be issued by the County Clerk's Office and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in Newton County, any of the kind of profession, trade, or calling subject to this ordinance without having first obtained said registration, such offender shall, be punished by a fine not to exceed two hundred dollars (\$200.00), or imprisonment not to exceed sixty (60) days, either or both in the discretion of the presiding judge.
- B. In addition to the above remedies, the county may proceed to collect in the same manner as provided by law for tax executions.
10. **Exemption on Grounds That Business is Operated for Charitable Purposes.** No business on which a business registration or occupation tax is levied by this Ordinance shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless eighty percent (80%) or more of the entire proceeds from said business are devoted to such purpose.
11. **Evidence of State Registration Required If Applicable; State Registration to Be Displayed.**
- A. Each person who is licensed by the Secretary of State pursuant to Title 43 of the *O.C.G.A.* shall provide evidence of proper and correct state license before the Newton County registration may be issued.
- B. Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.
12. **Evidence of Qualification Required If Applicable.** Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory matter shall first, before the issuance of a county business registration, show evidence that such requirements have been met.
13. **Liability of Officers and Agents; Registration Required; Failure to Obtain.** All persons subject to the occupation tax levy pursuant to this ordinance shall be required to obtain the necessary registration for said business as described in this ordinance, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in Newton County after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in the county, any of the kinds of business, trade, profession, or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.
14. **When Registration and Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.**
- A. Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before January 31 of each year, and on January 31 each year hereafter. Every person commencing business in the county after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in the county any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in section 4-115(16). Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.
- B. The registration herein provided for shall be issued by the County Clerk's Office, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the county, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.
15. **Penalty.** Any person violating any provisions of this ordinance shall, upon conviction before the county judge, be fined in an amount not exceeding two hundred dollars (\$200.00) or imprisonment not exceeding sixty (60) days.

16. **Issuance; Denial of Occupational Tax Receipt.**

A. A Newton County Business License shall be issued by the Clerk hereunder upon the receipt of the application; payment of the application fee and all business and occupation taxes; and the determination that the provisions of this Ordinance have been satisfied.

B. The Clerk hereunder shall not issue a license to any business engaged in an unlawful activity or in such a manner as to violate lawful ordinances adopted by the Board of Commissioners. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and heating, electrical, health and building codes or ordinances of Newton County.

17. **Revocation of Business Tax Registration; Appeal.**

A. If any holder of a Newton County Business License issued by the Clerk is engaged in unlawful activities including the operation of the licensed business, including violations of the laws of the State of Georgia, appropriate county or municipal ordinances, applicable zoning regulations, or applicable heating, electrical, health or building codes, the business license may be revoked in the manner provided herein. Where it is reported to the Clerk that a holder of a Newton County Business License is engaged in unlawful activities, a preliminary investigation shall be conducted by the Clerk in order to attempt to determine that there may be a basis for the reports. If the Clerk's preliminary investigation reveals that there may be a basis for revocation or suspension of the license, the license holder will be notified to appear before the Clerk and show cause on a date certain why his or her business license should not be revoked or suspended.

The licensee may appear in person at the hearing or be represented by counsel. At the conclusion of the hearing, the Clerk, based upon evidence submitted at the hearing shall enter an order making a finding of fact and then:

- (1) Find that the evidence does not authorize revocation or suspension;
- (2) Issue a warning to licensee;
- (3) Suspend license and probate suspension;
- (4) Revoke license and probate revocation;
- (5) Suspend license; or revoke license.

B. Within thirty (30) days from the date of the order from the Clerk, the licensee may appeal the decision, by filing a notice of appeal with the Clerk, to the Newton County Business License and Tax Rate Review and Appeal Committee. The Clerk shall promptly notify the Chairman, who shall schedule a hearing before the Committee and notify the licensee of the time and date of the hearing. At the conclusion of the hearing the Committee shall enter an order which contains therein a finding of fact and a recommendation of appropriate action by the Board of Commissioners. The Board of Commissioners, without the necessity of a hearing, based on the file and order of the committee, may affirm, overrule or partially affirm and partially overrule the decision of the Clerk.

C. The Board of Commissioners is authorized to:

- (1) Find in favor of the licensee;
- (2) Issue a warning to licensee;
- (3) Suspend the license and probate suspension;
- (4) Revoke the license and probate revocation;
- (5) Suspend license;
- (6) Revoke license;
- (7) Take any other appropriate action regarding licensee.

D. In addition to the above, the Newton County Board of Commissioners shall have the right to revoke any license issued under this ordinance, whenever a person doing business under such license shall violate any law or ordinance of the United States, or of the State of Georgia or of the County in pursuance of such business conducted under such license, or when it shall be proved before the Newton County Board of Commissioners that the health, morals, interest and convenience of the public demand the revocation of such license.

E. All actions of the Board of Commissioners revoking, suspending, or otherwise affecting a Newton County Business License shall be spread upon the minutes of the Board at the time of the meeting at which such action was taken or hearing held.

F. A license may be suspended or revoked by the Clerk for failure of a licensee to comply with the provisions of this article or where the licensee furnished fraudulent or false information in the license application.

2. **Appeal.**

A. Appeals from any decision of the Clerk shall be made to the Newton County Business License and Tax Rate Review and Appeal Committee by any person aggrieved thereby in the manner provided in this Ordinance.

B. If an applicant is denied a Newton County Business License by the Clerk, the applicant may file a written appeal from the denial to the Newton County Business License and Tax Rate Review and Appeal Committee. An appeal must be filed with the Clerk within thirty (30) days from the denial. The Clerk shall promptly notify the Chairman, who shall schedule a hearing before the Committee and notify the applicant of the time and place of the hearing. The Committee shall hear evidence relating to the denial of the license and at the conclusion of the hearing enter an order which sets forth a finding of the facts and a recommendation as to appropriate action to be taken by the Board of Commissioners.

The Clerk shall transmit to the Board of Commissioners the official file and the order of the Committee. The Board of Commissioners shall have the authority to affirm the action of the Clerk or issue an order directing the Clerk to issue the business license upon the payment of the appropriate taxes and fees.

A. No license shall be denied, suspended or revoked without the opportunity for a hearing.

B. The Clerk shall provide written notice to the owner-applicant and licensee of his order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the owner-applicant and licensee of the right to appeal under the provisions of this article. Any owner-applicant or licensee who is aggrieved or adversely affected by a final action of the Clerk may have a review thereof in accordance with the appeals procedures specified in this Section.

2. **Newton County Business License and Tax Rate Review and Appeal Committee.**

A. As the need arises from time to time, the Chairman, on an ad hoc basis, shall create a committee to be known as the Newton County Business License and Tax Rate Review and Appeal Committee.

B. Two members of the Board of Commissioners, duly elected and serving shall be chosen to serve on the Committee.

C. The members can choose not to serve on the basis of schedule conflicts or conflicts in interest.

D. It shall be the duty of the Clerk to schedule the required hearing, within a reasonable time, such that two members of the Board of Commissioners will be able to attend the hearing appeal.

E. If a hearing cannot be scheduled and held within forty-five (45) days from the date of appeal, then the appeal shall be made directly to the Board of Commissioners and the hearing held during the next regularly scheduled meeting of the Board of Commissioners following the expiration of forty-five (45) days from the date of appeal.

F. The Committee shall not be compensated and its duties shall be as follows:

(1) The Board of Commissioners shall adopt rules and procedures for conducting the Committee's business.

(2) The Committee shall serve as an appeal Committee and all actions of the Clerk including denial, suspension or revocation of a license may be appealed to the Committee in the manner set forth herein.

(3) The Committee shall annually review all business license tax rates and categories of business subject to a business license tax and make recommendations to the Board of Commissioners as to adjustments, if any, the Committee considers appropriate in rate categories. The Board of Commissioners shall select the members to serve on the Committee for the purpose of making this review at its first regularly scheduled meeting in September of each year or as soon thereafter as is practicable. The Recommendations of the Committee shall be presented to the Board of Commissioners at its last regularly scheduled meeting in December of each year.

(4) If any individual, firm or corporation subject to the payment of a business license tax deems the tax to be unlawful, discriminatory or under protest and then file a written request for review with the Clerk of the Board of Commissioners. The request for review must be filed within forty-five (45) days from the date the tax is paid. The Clerk shall, within thirty (30) days from the date of receipt of the request for review from the licensee, schedule a conference with the licensee to review those matters set forth in the licensee's request for review. Within ten (10) days from the date of the conference, a determination shall be made by the Clerk in writing and a copy of the determination

shall be sent to the licensee by certified mail. In the event the licensee is dissatisfied with the determination made by the Clerk it may, within fifteen (15) days from the date of receipt of the determination of the Clerk, file its appeal to the Newton County Business License and Tax Rate Review and Appeal Committee. The appeal shall be in writing and shall be filed with the Clerk. The Clerk shall, upon receipt of an appeal, notify the Chairman, who shall schedule a hearing before the Committee and notify the licensee of the date of the hearing. The Committee shall hold a hearing and hear evidence and consider all matters relating to the licensee's appeal. Upon conclusion of the hearing, the Committee shall enter a written finding of fact and make a written recommendation to the Board of Commissioners. The Clerk shall transmit the Committee's findings and recommendations of the Committee's findings and recommendations of the Committee, but shall give the recommendations of the committee careful consideration in reaching its final decision.

As the report from the Committee to the Board of Commissioners shall contain a finding of fact, the Board of Commissioners shall not be required to conduct a hearing prior to making a final decision of the licensee's appeal. The Board of Commissioners shall notify the licensee taxpayer of its final decision.

1. **Display of License.** All persons shall exhibit and display all licenses and registrations issued to them under this Ordinance in some conspicuous place in their business establishment at which address the license or registration was issued. Any transient or nonresident person, firm or corporation doing business within the county shall carry the license or registration either upon his or her person or in any vehicle or other conveyance which is used in the business and the person shall exhibit the same to any authorized enforcement or police officer.
2. **Exception for Disabled Veterans.** Any Veterans with a ten percent (10%) or greater disability shall be exempt from any business and occupation tax under this section or any license fee required by this section; provided however, this exemption shall apply only to one (1) business at a time normally taxed hereunder and shall not apply to any additional businesses or locations to which this section applies.
3. **Businesses Not Covered by this Ordinance.** The following businesses are not covered by the provisions of this section but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by local law:
 - A. Those businesses regulated by the Georgia Public Service Commission.
 - B. Those electrical service businesses organized under Chapter 3 of Title 46 of the O.C.G.A.
 - C. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
 - D. Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
 - E. Insurance companies governed by O.C.G.A. § 33-8-8, et seq.
 - F. Motor common carriers governed by O.C.G.A. § 46-7-15.
 - G. Those businesses governed by O.C.G.A. § 48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)
 - H. Depository financial institutions governed by O.C.G.A. § 48-6-93.
 - I. Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
4. **Returns Confidential.** Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent, or clerk of Newton County, or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this Ordinance. All contents of said return shall be confidential and open only to the officials, employees, agents, or clerks of the Newton County using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the Newton County shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by Newton County officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia, the United States, and other local governments.
5. **Inspections of Books and Records.** In any case the County Clerk of Newton County, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made. The County Clerk shall have the right to inspect the books or records for the business of which the return was made in Newton County, Georgia, and upon demand of the County Clerk such books or records shall be submitted for inspection by a representative of the County Clerk within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the

tax registration currently existing to do business in Newton County. Adequate records shall be kept in Newton County, Georgia, for examination by the County Clerk at that officer's discretion.

6. Tax Registration to be Revoked for Failure to Pay Tax, File Returns, Permit Inspection of Books. Upon the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any business tax registration granted by Newton County under this Ordinance permitting the owner of said business to do business for the current year shall be, ipso facto, revoked. No new business tax registration shall be granted by Newton County for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to an individual, firm, or corporation who has failed to submit adequate records as requested by the County Clerk in accordance with provisions found in Paragraph 26. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupation tax.

7. Effect of Failure to Comply with Ordinance Provisions; Continuing in Business After Tax Registration Revocation. Any persons, their managers, agents, or employees, who do business in said Newton County after the registration for said business has been revoked as above, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any persons, their managers, agents, or employees who refuse to permit an inspection of books in their charge when the officers, agents, employees, or representatives of the Newton County request such inspection, during business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided herein. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupation tax. These penalties may consist of either a percentage of the amount due or a flat fee fine.

8. Lien Taken for Delinquent Occupation Tax. In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the County Clerk of Newton County, Georgia, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership, or corporation liable for said tax which said execution shall bear interest at the rate of ten percent (10%) per annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property in the Newton County of the person, partnership, or corporation liable for said tax, all as provided by the ordinances of said county and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the marshal or other appropriate officer of Newton County upon the property of defendant located in said jurisdiction, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by Ordinances of Newton County and the laws of Georgia, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the County Clerk against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona.

If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of the taxes.

1. **Amendment, Repeal of Provision.** This Ordinance shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the Commission to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.
2. **Applications of Provisions to Prior Ordinance.** This Ordinance does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines and penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.
3. **Provisions to Remain in Full Force and Effect Until Changed by Governing Body.** This Ordinance shall remain in full force and effect until changed by amendment adopted by the Commission. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.
4. **Requirement of Public Hearing Before Tax Increase.** After January 1, 1996, the Commission shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this ordinance.
5. **Option to Establish Exemption or Reduction in Occupation Tax.** The Commission may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious, and the reasons shall be set forth in (the minutes of the governing authority or a plan).
6. **Conflicts Between Specific and General Provisions.** Where there is an apparent conflict in this Ordinance between specific and general provisions, it is the intention hereof that the specific shall control.

(Adopted 1/3/95)

ARTICLE 2. **BUSINESSES REGULATED**

ARTICLE 2.1 **Alcoholic Beverage Ordinance**

1. **General Provisions.**
 - A. **Wine and Malt Beverages; License Required.** No wine, beer or other malt beverage may be manufactured, distributed, or sold in the unincorporated area of Newton County, Georgia, whether at wholesale or retail, by the package or by the drink, for on-premises consumption or off-premises consumption, except under a license granted by the Board of Commissioners of Newton County, Georgia (hereinafter referred to as the "Board"), upon the terms and conditions hereinafter provided.
 - B. **Sale of Distilled Spirits and Liquor For Consumption on Premises.** No distilled spirits may be sold by the drink for consumption only on the premises in the unincorporated area of Newton County, Georgia.
 - C. **Manufacture and Sale of Distilled Spirits by the Package.** No distilled spirits may be manufactured or sold in the unincorporated area of Newton County, Georgia.
 - D. **Definitions.** For the purpose of this Article, the following definitions shall apply:
 - (1) **Applicant.** The person, partner, firm or corporation, as owner, or other entity authorized to represent the business making application for the license.
 - (2) **Board.** The Board of Commissioners of Newton County, Georgia.
 - (3) **Clerk.** The Clerk serving the Board of Commissioners of Newton County, Georgia.
 - (4) **Distilled Spirits.** Any alcoholic beverage obtained by distillation or containing more than twenty-one percent (21%) alcohol by volume, including, but not limited to, all fortified wine as defined in Section 3-1-2(9) of the Official Code of Georgia as now or hereafter amended.
 - (5) **License.** The authorization by the Board to' engage in the manufacturing, distribution or sale of wine or malt beverages.
 - (6) **Licensee.** Any person, partner, firm or corporation, as owner, holding a license to engage in the manufacture, distribution, or sale of wine or malt beverages.

- (7) **Malt Beverage.** Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water containing not more than six percent (6%) alcohol by volume and including, but not limited to, ale, porter, brown, stout, lager beer, small beer, or strong beer and including hard cider as defined in Section 3-1-2(10.1) of the Official Code of Georgia as now or hereafter amended. The term "malt beverage" does not include Japanese rice wine known as sake.
- (8) **Minor.** As used herein, the term "minor" shall mean any person under the age of 21, who, by Federal, state or local law, is prohibited from possessing, purchasing or selling alcoholic beverages. Should Federal, State or local law change such that the legal drinking age is increased or decreased, then this provision shall be interpreted so as to incorporate such change herein without necessity of formal amendment.
- (9) **Owner.** Any person, corporation or partnership or any other entity having a financial interest in the income of the business. The term "owner" shall also include any person, corporation, or partnership operating a business under a management contract.
- (10) **Premises.** The definite closed or partitioned-in locality, whether room, shop or building, wherein wine or malt beverages are sold at retail.
- (11) **Private Club.** The same meaning as defined in Official Code of Georgia Annotated Section 3-7-1 as now or hereafter amended is incorporated herein by reference thereto for all intents and purposes.
- (12) **Wine.** Any alcoholic beverage containing not more than twenty-one percent (21%) alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.
- (13) All other terms shall have the same meaning as defined or used in the Georgia Alcoholic Beverage Code, Official Code of Georgia Annotated Section 3-1-1 et seq., as now or hereafter amended.

2. **Wine & Malt Beverages.**

- A. **Separate Licenses Required.** A separate application must be made for a license for each location where wine, beer, or other malt beverages, or a combination thereof, is to be sold at retail.
- B. **Limitation on Number of Licenses.** No person, partner, firm or corporation, as owner, shall hold a retail wine or malt beverage license and a wholesale wine or malt beverage license.
- C. **Those Prohibited From Acquiring Licenses.** It shall be unlawful for any elected, temporary, part-time or full-time employee or appointed official of Newton County, or his or her spouse or minor children, to acquire and hold any license hereunder. However, should any such person hold one or more licenses prior to the enactment of this Ordinance or prior to becoming a disqualified person by virtue of the election, employment or appointment of himself or herself or of his or her spouse or parent, then all licenses so held shall remain valid and shall be renewable as herein provided despite the licensees' disqualified status, provided no new licenses shall be acquired during the continuance of such disqualification.
- D. **When License Granted.**
 - (1) No license shall be granted under this article until the business establishment referred to in the license application has been opened for business, except as hereinafter provided.
 - (2) A conditional license may be granted no more than sixty (60) days prior to (1) a business establishment opening for business, or (2) a change in ownership of a licensed premises. Said conditional license does not authorize the manufacture, distribution or sale of wine, beer or other malt beverages until such time as the licensee provides the Inspection and Permits Department of the County with proof that the either (1) the establishment has opened for business, or (2) the proposed change in ownership of a licensed premises is final. A conditional license may be used to obtain any necessary licenses from the state. Upon written request of the licensee and prior to the expiration of the 60-day conditional license period, a conditional license may be renewed for a period of time not to exceed thirty (30) days.

E. Transferability.

- (1) Licenses hereunder shall not be transferable, except as hereinafter provided. A change in ownership shall require a new application and the issuance of a new license. No distance requirements shall apply if the location qualified for the original license. In case of the death of any person holding such license, or any interest therein, the same may be transferred to the administrator, executor, or the lawful heirs of the deceased person, if otherwise qualified.
- (2) Nothing in this section, however, shall prohibit one or more partners of a partnership holding a license, to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. Such a withdrawal however shall not serve to bring any new ownership into the partnership without a new application and payment of one hundred twenty-five dollars (\$125.00) investigation fee.
- (3) Should the license transfer to a new location approved by the Board, there shall be no additional license fee, and the new location shall not be considered as a new license hereunder.
- (4) If a Licensee disposes of any interest in the business without reporting same to the Clerk, the license shall be subject to revocation or suspension in accordance with this article. Any change of ownership, taking place unreported, shall also be subject to penalty of double the license fee plus investigation fee.

F. License Expiration and Renewal.

- (1) Each license granted hereunder shall expire on December 31 of the year in which it is granted. All licenses granted hereunder shall be for the calendar year and the full license fee shall be paid.
- (2) Licensees who desire to renew their license shall file a written application with the requisite fee on or before November 15 of each calendar year, which application shall contain substantially the same information as an initial application and a statement indicating that either the Licensee or an employee has attended a training program for retailers of alcoholic beverages approved, sponsored or conducted by the Newton County Sheriffs Department. Failure to attend such training program shall subject the Licensee's license to renewal subject to revocation or suspension in accordance with the procedure set forth in Section 32-101(2)(II) of this Ordinance.

G. Display at Place of Business. The license issued by Newton County shall at all times be kept plainly exposed to view at the place of business for which the license was granted.

H. In Certain Retail Establishments Only. Wine, beer or other malt beverage shall be sold at retail only in the original package in retail establishments devoted principally to the retail sale of groceries and food products and located in zoning districts in which food establishments are permitted as a conforming use or in districts where an existing food establishment exists as a nonconforming use.

I. Place of Business; Location.

- (1) No original license shall be issued hereunder where the place of business is located as follows:
 - (a) Within 100 feet of any private residence as measured in any direction, unless such residence is itself in a commercial district; however, should the proposed premises be located on a corner, said distance from the nearest point of any residential building in the rear of the proposed premises on the side street shall be no less than 50 feet; or
 - (b) Within 200 feet of a branch of any public library; or
 - (c) Within 300 feet of any church, shrine, or other place used primarily for religious services, except the chapel of a mortuary or cemetery; or
 - (d) Within 300 feet of any school building, educational building, school grounds or college campus; the term school building or educational building shall apply only to state, county, city, church school buildings and to such buildings at other schools in which are taught the subjects commonly taught in the common schools and colleges of this state and is a public school or a private school as defined in Section 20-2-690(b) of the Official Code of Georgia Annotated as now or hereafter amended, and shall not include private schools or colleges wherein only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations, and other special subjects are taught, except at the discretion of the Board; or

- (e) The building in which the proposed business is to be located shall not be within 200 feet of a regular stop as designated by the Newton County Board of Education where a school bus for the transportation of school children in the public schools of Newton County shall board or discharge school children. "Regular stop" shall mean a stop where the Board of Education shall certify that at least five (5) students board a school bus at such stop on a regular basis; or
 - (f) Within 300 feet of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.
- (2) Distances hereunder shall be measured from the main customer entrance of the premises to be licensed to the main entrance of the establishments described in subsections (2)(l)(1), (2) and (3) above.
 - (3) An applicant for a new license who has acquired a previously licensed location may, within one year after the expiration of the previous owner's license, obtain a license for that location even though the location may not meet the distance requirements set forth in this section.
- J. **Application.** All persons, firms or corporations desiring to sell beer or wine shall make a sworn application on a form to be prescribed by the County. Said applications, for new and renewal licenses, shall be a public record and open to inspection during normal office hours of the Clerk. Any false, misleading or omitted information may be grounds and due cause for the application to be denied or any license issued on such applications to be revoked or suspended. Applicant may also be subject to criminal sanctions for false swearing as provided by Georgia law.
- K. **Application; Required Information.**
- (1) The Inspection and Permits Department of the County shall have authority to prescribe forms for new or renewal applications hereunder. All applicants shall furnish all data, information and records required by the application and failure to furnish such data, information and records within thirty (30) days from the date of such application shall automatically void, with prejudice, the application.
 - (2) **Applications; Untrue Information.** Any untrue or misleading information contained in, or material omission left out of any original, renewal or transfer application for a license hereunder shall be cause for the denial thereof, and, if any license has been granted under such circumstances, same shall be subject to revocation.
 - (3) **Applications; Order of Consideration.** All applications filed with the Inspection and Permits Department shall be noted as to the date and exact time of filing, and such application shall be presented, heard and considered by the Board in the order of their filing.
 - (4) **Applications; Citizenship of Applicant.** No license hereunder shall be granted to any applicant/owner who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
 - (5) **Plat or Drawing of Area.** All applications for the original license for a particular location, except those licensed in the preceding year, shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed premises and the straight line distances required under this article.
- L. **Applicant Must Read Regulations; Certification.** Every Applicant for a license hereunder shall certify that Applicant has read these regulations and if license is granted the Licensee shall maintain a copy of said regulations on the licensed premises and shall require each and every employee to be familiar with said regulations.
- M. **Posting Notice.**
- (1) Newton County shall post, within three (3) days from the time of filing of an application with the Inspection and Permits Department, a printed notice not less than the size of 18" by 18", letters to be at least two inches in size, on the front door or entrance of the building of the proposed location, or on a billboard on a prominent place on the lot where the building is proposed to be constructed, stating that a license for sale of beer or wine at wholesale or retail has been applied for, as the case may be, together with the name of the owner. The cost of printing shall be borne by the Applicant. Said poster shall remain at the location until final action by Board upon the application.
 - (2) The Inspection and Permits Department shall also file with the Board a written verification that the printed notice required hereunder has been posted.
- N. **Publishing Notice.** Each Applicant must place an advertisement in the local newspaper authorized to public legal notices two (2) times in two weeks stating the purpose of the application,

the location of the business, the owner or owners of the business, and must supply an affidavit to the Clerk, together with a copy of the advertisement to the effect that such has appeared for two (2) times in two (2) weeks in such newspaper.

O. Fingerprints of Applicant, Moral Character; Criminal Record of Owners; Officers.

- (1) Fingerprints of Applicant shall be provided as required in Section 3-3-2(c) of the Official Code of Georgia Annotated, as now or hereafter amended.
- (2) The Sheriff shall make a character investigation concerning the applicants and make a written report thereof to the Chairman prior to the consideration of such application and such further investigation as the Chairman or Board might require. This provision is cumulative of any other provisions relating to investigations by the Sheriff relating to sale of beer and wine.
- (3) No person, partner, firm or corporation, as owner, shall be granted a wine or malt beverage license if the person or members of any such partnership or named officer of such corporation, as owners, have been convicted or have plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude, lottery or illegal possession or sale of narcotics or alcoholic beverages or possession or receiving stolen property within a period of five (5) years immediately prior to the filing of the Applicant. Should any such person, partner or named officer of such corporation, as owner, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude, or the violation of any of the laws regulating the sale of narcotics, alcoholic beverages, or the lottery laws of this state, or possession or receiving of stolen property, said license shall be subject to suspension and revocation in accordance with the provisions of this Ordinance.

P. Fee Scale. Before this license shall be granted the applicant therefor shall comply with all rules and regulations adopted by the Board regulating the sale of beer and wine and each applicant shall pay a license fee in accordance with the scale fixed from time to time by the Board and kept on file in the office of the Clerk.

Q. License Fee and Amount to Defray Investigative and Administrative Costs to Accompany Application; Penalty for Late Filing of Renewal Application.

- (1) Each application for license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of one hundred twenty-five dollars (\$125.00) to defray investigative and administrative costs. If the application is denied and the license refused, or if the Applicant withdraws his application prior to its being submitted to the Board, the deposit representing the license fee shall be refunded but the one hundred twenty-five dollars (\$125.00) cost paid for investigation shall be retained.
- (2) In addition to the license fee and administrative fee required by subsection (1) above, each renewal application received after the November 15 deadline shall be accompanied by a late filing penalty of 10% of the license fee.

R. Considerations for a License. In determining whether or not any license applied for hereunder shall be granted, in addition to all the provisions of this article, the following also may be considered in the public interest and welfare:

- (1) If Applicant and/or Owner is a previous holder of a license to manufacture or sell at wholesale or retail wine or malt beverages, whether or not Applicant and/or Owner violated any law, regulation, or ordinance relating to such business.
- (2) Whether Applicant/Owner has previously had any alcoholic beverage license suspended or revoked.
- (3) Whether Applicant/Owner appears to the satisfaction of the Board to be of good moral character.
- (4) The proximity of other establishments selling beer or wine to the proposed location.
- (5) The nature of the neighborhood immediately adjacent to the proposed location, that is whether the same is predominately residential, industrial or business.
- (6) The proximity of churches, schools, and playgrounds for children to the proposed location.
- (7) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
- (8) Whether the proposed location would tend to increase and promote traffic congestion and resulting hazards therefrom.

- (9) The criminal record of the Applicant and his financial responsibility. His general good character and reputation if an individual, or of the officers if a corporation, or of the partners if a partnership.
- (10) The approval or objection to the proposed location by citizens residing in the area adjacent thereto.
- (11) Report of Chairman and Sheriff.
- (12) The information required in the application or statement and whether all requirements as to notice and advertisement have been complied with.
- (13) Evidence presented at the public hearing before Board for or against the application. (n) The need for additional business facilities selling beer or wine in Newton County.
- (14) Whether or not the granting of the application would tend to promote the general welfare, safety, health, and morals of the citizens of Newton County.

S. **Chairman's Investigation.** The Clerk of The Board of Commissioners within ten (10) days from the time said proof of advertisement is presented to him, shall refer the application to the Chairman of the Board, and the Chairman shall investigate and make recommendations to the Board within fourteen (14) days of the receipt of the application by the Chairman. In making his recommendation, the Chairman shall be guided by the same factors applicable to the full Board as near as practicable. Said recommendation of the Chairman shall be read at a Board meeting at least one additional time prior to taking final action on the same by the full Board. The Applicant shall appear in person at the Board's meeting where the Chairman's recommendation is read on the first occasion in order to orally respond to any pertinent inquiries concerning the application from either the Chairman or the Board.

T. **Public Hearing on Application.** Prior to its final action on any application, the Board shall conduct a public hearing on said application and the Applicant shall be notified by the Clerk and permitted to present any evidence on behalf of his application as he shall see fit, and objectors to said application being granted shall likewise be accorded the same privilege. At the Board meeting at which the public hearing is held, the full Board may grant or deny said application. The decision of the Board granting or denying an application shall be in writing, with the reasons therefor stated and shall be mailed or delivered to the Applicant.

U. **Hours of Sale.** Retailers shall not engage in the sale of wine or malt beverages nor permit their place of business to be open for the sale of wine and malt beverages by the package except between the hours of 7:00 a.m. and 12:00 midnight on Monday through Saturday of each week; provided, however, that this provision shall not be construed to prohibit general retail establishments from otherwise being open for business so long as no wine or malt beverages are openly displayed or sold during the prohibited hours. No wine or malt beverages shall be sold on Sunday. The hours within which this business may be carried on shall be determined by Eastern Standard Time or Daylight Saving Time, whichever is applicable at the time in question.

V. **Days Allowed For Sale.**

- (1) Licenses hereunder shall not permit the sale of any wine or malt beverages on Sunday, or Christmas Day.
- (2) Licenses hereunder shall permit the sale of wine and malt beverages on the day of national, state or county elections, including any primary election or special election, within the political area in which such election is being held; provided however, that it shall be unlawful for any Licensee to sell wine or malt beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established on primary or election days during the hours commencing one (1) hour prior to the opening of the polls and ending one (1) hour after the closing of the polls.

W. **Compliance With State and Federal Law.** No Licensee, Owner or agent or employee of a Licensee shall permit the sale of wine or malt beverages in violation of any local, state or federal law, ordinance or regulation.

X. **Outdoor Advertising.** No outdoor advertising with respect to the promotion of the sale of beer or wine shall be permitted on the exterior of any wholesale or retail outlet or elsewhere in the unincorporated area of the County.

Y. **Condition of Premises, Restrictive Acts.**

- (1) The licensed premises shall be kept clean and shall be in full compliance with all regulations of Newton County governing the conditions of premises; and
 - (a) The Newton County Health Department shall periodically inspect such licensed premises where applicable to determine that such licensed premises are in

compliance with all Newton County and state health rules and regulations and report any violation to the Clerk.

- (b) The Newton County Fire Department shall periodically inspect the premises to see that they are in compliance with all Newton County and state fire regulations and report any violation to the Clerk.
- (c) The Newton County Inspection and Permits Department shall periodically inspect the licensed premises to determine if the premises are in compliance with all technical codes of Newton County and report any violation to the Clerk.
- (d) The Newton County Sheriffs Department and/or Newton County Code Enforcement Officer shall periodically inspect the premises to determine if the licensed premises are in compliance with all provisions of this chapter and report any violation to the Clerk.

Z. **Visual Obstruction - Selling by the Package Only.** No visual obstruction shall be erected to prevent a clear view into the premises where sales are by the package only.

AA. **Conflicting Interests.** No financial aid or assistance to any Licensee hereunder from any wholesaler or manufacturer of wine or malt beverages or other alcoholic beverages shall be permitted.

BB. **Sales & Purchases from Licensed Businesses Only.** No retailer under this article shall purchase any malt beverages, beer or wine from any person, firm or corporation other than a wholesaler licensed or registered under this article. No wholesaler shall sell any beer or wine to any person other than a retailer licensed under this article.

CC. **Employment of Minor.** No Licensee hereunder shall allow any minor employed by Licensee to sell or otherwise handle alcoholic beverages except as provided in Section 3-3-24 of the Official Code of Georgia Annotated, as now or hereafter amended.

DD. **Minors Prohibited on Licensed Premises Unless Accompanied by Parent, Guardian or Custodian.** No person who holds a license to sell wine or malt beverages shall allow any minors to be in, frequent or loiter about the licensed premises unless such minors are accompanied by a parent, legal guardian, or custodian; provided, however, that such minors shall be permitted in grocery stores or convenience stores where other products of a non-alcoholic nature are offered for sale to the public or private clubs as defined herein without being accompanied by a parent, legal guardian, or custodian, and, provided further, that this section shall not apply to minors who are employees under the terms of this article.

EE. **No Sales To Minors; Physically or Mentally Incapacitated Persons.**

- (1) Licensee shall sell or permit to be sold alcoholic beverages to a minor or a person under the legal drinking age as established by Official Code of Georgia Annotated Section 3-3-23, or to any person who is physically or mentally incapacitated due to the consumption of beverage alcohol.
- (2) Except as otherwise authorized by law:
 - (a) No person knowingly, by himself or through another, shall furnish, cause to be furnished, or permit any person in his employ to furnish any alcoholic beverage to any person under 21 years of age.
 - (b) No person under 21 years of age shall purchase or knowingly possess any alcoholic beverages.
 - (c) No person under 21 years of age shall misrepresent his age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage.
 - (d) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
- (3) The prohibitions contained in paragraphs (2)(A), (2)(B) and (2)(D) of this section shall not apply with respect to the sale, purchase, or possession of alcoholic beverages for consumption in the following circumstances:
 - (a) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this State.
 - (b) At a religious ceremony.
- (4) The prohibition contained in paragraph (2)(A) of this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes,

without being limited to, a passport, military identification card, driver's license, or an identification card authorized under Chapter 40-5, Article 5 of the Official Code of Georgia Annotated, requiring the Department of Public Safety to issue identification cards to handicapped persons who do not have a motor vehicle driver's license. "Proper identification" shall not include a birth certificate.

- (5) **Reserved.**
- (6) If such conduct is not otherwise prohibited, nothing contained in this section shall be construed to prohibit any person under 21 years of age from:
 - (a) Selling, or handling alcoholic beverages as a part of employment in any licensed establishment.
 - (b) Being employed by any establishment in which alcoholic beverages are manufactured.
 - (c) Taking orders for, and having possession of, alcoholic beverages as a part of employment in a licensed establishment.
- (7) Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this section, shall not be used in any administrative or judicial proceeding brought against such testifying person under 21 years of age.
- (8) Nothing in this section shall be construed to modify, amend, or supersede Chapter 15, Title 11, (pertaining to juvenile proceedings). Nor shall any licensee violate Code Section 3-3-22 of the Official Code of Georgia Annotated, as amended, which provides as follows: "No alcoholic beverage shall be sold, bartered, exchanged, given, provided, or furnished, to any person who is in a state of noticeable intoxication." A violation of this section shall be cause for revoking such license.

FF.

Zoning Restrictions. No license hereunder shall be issued for the manufacture or sale either at wholesale or retail of such wine or malt beverages unless the location has been zoned to permit such use under the Newton county zoning Ordinance; provided that this shall not apply to private clubs as defined herein.

GG. Violations - Misdemeanor.

- (1) A violation of any section of this article shall be unlawful, the penalty shall be as provided by law for misdemeanors. In addition, the License of any licensee contribution thereto shall be subject to suspension or revocation.
- (2) Any such violation may be tried in the Magistrate Court of Newton County if no jury trial is demanded, otherwise trial shall be in the Superior Court of Newton County.

HH. Automatic Forfeiture. Any holder of any license hereunder who shall for a period of three (3) consecutive months after the license has been issued cease to operate the business and sale of the product or products authorized shall after three (3) months period automatically forfeit his license without the necessity of any further action.

II. Revocation or Suspension.

- (1) Any license which is issued or which may hereafter be issued by Newton County to any Licensee may be suspended or revoked, as hereinafter set out:
 - (a) The Sheriff of Newton County shall report to the Clerk the accusation, indictment, and/or conviction of any Licensee, Owner, employee, or assignee of the Licensee or the licensed establishment, for any infractions or violations of the ordinances of the County of Newton relating to the use, sale, taxability, possession of beer and/or wine, or violations of laws of the State and Federal governments pertaining to the manufacture, possession, transportation, or sale of beer, wine, or intoxicating liquors, or taxability thereof. Wherever used in this Ordinance, conviction shall be held to include a plea of nolo contendere and such plea shall be considered and treated as equivalent to a conviction.
 - (b) Upon receiving notice of an occurrence giving rise to any first such conviction, the Licensee shall be notified by certified mail, return receipt requested, addressed to the licensed place of business, or by personal service upon the Licensee at the licensed place of business, that a public hearing will be held no sooner than ten (10) days from the date of the notice and no later than thirty (30) days from the date of the notice to determine if the license of the Licensee should be suspended. The notice shall state the nature of the conviction, the date of the conviction, the date of the occurrence, the name of the individual charged, and shall specify the witnesses who will testify as to the conviction and the disposition

thereof, and shall state that the Licensee has the right to present evidence on his behalf, to cross-examine witnesses and to be represented by legal counsel if it elects. The hearing by the Board shall be conducted in a manner consistent with said notice. The Board shall consider all evidence properly brought before it. Should the Board find that the Licensee, Owner or employee of the Licensee or the licensed establishment, did have an occurrence resulting in a conviction, in the discretion of the Board, the license of the Licensee may be suspended for a period of time not to exceed ninety (90) days or the license may be permitted to continue until the next renewal date when it shall be renewed subject to revocation for any additional conviction which might occur within the five year period beginning on the date of the occurrence giving rise to the first conviction as herein described.

- (c) Upon receiving notice of an occurrence giving rise to any second such conviction within a five year period as set out herein the Board shall notify the Licensee by certified mail, return receipt requested, addressed to the licensed place of business, or by personal service upon the Licensee at the licensed place of business, that a public hearing will be held no sooner than ten (10) days from the date of the notice and no later than thirty (30) days from the date of the notice to determine if the license of the Licensee should be revoked. The notice shall state the nature of five (5) year period, the Licensee's license shall not be renewed by the Board and the Licensee shall not be eligible to reapply for a license under this Ordinance for a period of two (2) years beginning on the date of non-renewal as set out herein. If the Licensee, Owner or employee of the Licensee or licensed premises is convicted of violating this Ordinance during the time the license was renewed subject to suspension or revocation or during any period of suspension. Licensee's failure to comply with the training requirements of Section 32-101(2)(F) shall be deemed a conviction for purposes of this Ordinance.
- (2) Whenever the state shall revoke any permit or license to sell at wholesale or retail any beer or wine, the county license to sell beer or wine shall thereupon be automatically revoked.
- (3) Any decision of the Board suspending, revoking or renewing any license subject to suspension or revocation shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the Licensee.
- (4) The Sheriff, upon notice of a license revocation or suspension from the Clerk of a license revocation or suspension, shall take such action as may be necessary to ensure all beer and wine signage is removed from the formerly licensed premises and that all beer and wine sales cease at the formerly licensed premises.

JJ. **Excise Taxes.**

- (1) There is imposed and levied a specific excise tax upon all wholesale dealers in malt beverages and/or wine within the limits of unincorporated Newton County, as follows:

Upon all malt beverages:

Five (.05) cents per bottle or container of not over 14 ounces;

Seven (.07) cents per bottle or container of not less than 15 ounces nor more than 16 ounces;

Ten (.10) cents per bottle or container of not less than 17 ounces nor more than 32

ounces;

\$1.20 per two and one-half (2-1/2) gallon container;

\$4.50 per one-fourth (1/4) barrel (25-1/4 gallons).

Upon wine:

Seven (.07) cents on each one-half pint bottle;

Fourteen (.14) cents on each pint bottle;

Twenty-one (.21) cents on each 4/5 quart bottle;

Twenty-eight (.28) cents on each quart bottle;

Fifty-five (.55) cents on each one-half gallon bottle;
\$ 1.10 on each gallon bottle.

The convictions, the dates of the convictions, the dates of the occurrences, the names of the individuals charged, and shall specify the witnesses who will testify as to the convictions and the dispositions thereof, and shall state that the Licensee has the right to present evidence on his behalf, to cross-examine witnesses, to be represented by legal counsel if it elects, and that the hearing will be recorded by electronic means or by a licensed court reporter and that a transcript may be obtained by the Licensee at his expense. The hearing by the Board shall be conducted in a manner consistent with said notice. The Board shall consider all evidence properly brought before it. Should the Board find that the Licensee, Owner or employee of the Licensee or the licensed establishment did have two occurrences within a five year period resulting in convictions it shall revoke the Licensee's license and the Licensee shall not be eligible to reapply for a license under this ordinance for a period of two years beginning on the date of the revocation as set out herein.

- (1) 1. When an application for the renewal of a license under this Ordinance is received by the Clerk from the Inspection and Permits Department, the Clerk shall request a report from the Sheriff of Newton County concerning occurrences giving rise to convictions, if any, which have not previously been reported to the Board for violations of ordinances of the County of Newton relating to the use, sale, taxability, possession of beer and/or wine, or violations of laws of the State or Federal governments pertaining to the manufacture, possession, transportation, or sale of beer, wine, or intoxicating liquors, or taxability thereof within the previous five calendar years and shall provide notice and a public hearing in the same manner and using the same procedures as set out herein above. For the first such conviction, the Board may suspend the license for a period of time not to exceed ninety (90) days or renew the license subject to revocation for any additional conviction which might occur within the five year period beginning on the date of the occurrence giving rise to the first conviction as herein described. For the second such conviction in a five year period, the Board shall not renew the Licensee's license and the Licensee shall not be eligible to reapply for a license under this Ordinance for a period of two years beginning on the date of the revocation as set out herein.
2. When an application for renewal of a license under this Ordinance is received by the Clerk from the Inspections and Permits Department, the Clerk shall request a report from the Inspections and Permits Department and the Sheriff of Newton County concerning the Licensee's compliance with the training requirements set forth in Section 6 of this Ordinance. Upon receiving a report indicating that the Licensee has not complied with the training requirements of Section 32-101(2)(F) of this Ordinance, the Board shall provide notice and a public hearing in the same manner and using the same procedure as set out herein above. Upon the first finding by the Board in any five (5) year period that the Licensee failed to comply with the training requirements of Section 6 of this Ordinance, the Board shall renew the Licensee's license subject to suspension or revocation until such time as the Licensee submits proof that he has complied with the training requirement of Section 6 of this Ordinance, and the Board receives a report from the Sheriff of Newton County that the Licensee is not alleged to have violated any provision of this Ordinance during the time that such license was renewed subject to suspension or revocation. If the Licensee is found by the Board to have failed to comply with the training requirements of Section 6 twice in any five (5) year period, the Licensee's license may be suspended by the Board for a period not to exceed ninety (90) days and thereafter renewed subject to suspension or revocation. If the Licensee is found by the Board to have failed to comply with the training requirements of Section 32-101(2)(F) more than twice in any
 - (a) Said taxes shall be in addition to all other taxes and/or license fees heretofore or hereafter imposed upon such wholesale dealers.
 - (b) No wholesale or retail dealer in malt beverages and/or wine in the County of Newton shall offer for sale or for gift any malt beverages and/or wine unless the excise tax levied herein has been paid on the item sold or given away, or otherwise transferred.

- (c) In addition to all penalties otherwise provided, any malt beverages and/or wine found on the premises of any retail dealer shall be confiscated if it appears that the County of Newton excise tax has not been paid.

(Adopted 8/15/00)

ARTICLE 2.1 **Pedestrian Solicitation**

- 1. **Title.** This Ordinance shall be entitled the "Pedestrian Solicitation Ordinance of Newton County, Georgia."
- 2. **Permit.**
 - A. Any person, organization, business or other entity shall be required to obtain a permit from the Clerk of the Newton County Board of Commissioners prior to soliciting employment, business or contributions from the occupant of any vehicle. The applicant shall provide the Clerk with the following information:
 - (1) The name under which the person, organization, business or other entity intends to solicit employment, business or contributions;
 - (2) The applicant's name, address, telephone number and signature and, in the case of an organization, business or other entity, the name, address, and telephone number of that organization, business or other entity;
 - (3) In the case of an organization, business or other entity, the general purpose for which the organization, business or other entity is organized;
 - (4) The purposes for which the employment, business or contributions will be used;
 - (5) The period of time during which the solicitation shall be made; and
 - B. A permit shall not be issued to any person, organization, business or other entity unless:
 - (1) Each individual who will be participating in the solicitation is over the age of sixteen (16) years old; or
 - (2) Each individual between the ages of twelve (12) and sixteen (16) years old who will be participating in the solicitation will have full time adult supervision;
 - C. A permit shall not be issued to any person, organization, business or other entity where any individual participating in the solicitation is under the age of twelve (12) years old;
 - D. Every permit issued under this ordinance is subject to the right, which is hereby expressly reserved, to revoke the same should the solicitation occur contrary to the provisions of this or any other ordinance of Newton County or the State of Georgia.
- 3. **Prohibited.** Except as provided for in Section 32-202(4), notwithstanding any permit issued as provided for in Section 32-202(2), it shall be unlawful for any person to stand on the right-of-way of any State Highway or County Road for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle during the hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 7:00 p.m. Monday through Friday.
- 4. **Exceptions.** The provisions of Section 32-202(3) shall not apply:
 - A. On any Holiday as defined in Section 1-4-1 of the Official Code of Georgia Annotated; or
 - B. To any charitable organization registered in accordance with the provisions of Section 43-17-5 of the Official Code of Georgia Annotated or any charitable organization exempt from registration in accordance with the terms of Section 43-17-9 of the Official Code of Georgia Annotated so long as such charitable organization is solely soliciting contributions and not soliciting employment or business from the occupant of a motor vehicle.
- 5. **Penalty.** The penalty for violating this Ordinances shall not exceed a fine of one thousand dollars (\$1,000.00) or sixty (60) days imprisonment.

(Adopted and effective 10/7/97)

ARTICLE 2.1 **Adult Entertainment Ordinance**

1. **Purpose.** The purpose of this article is to regulate certain types of businesses including, but not limited to, adult entertainment establishments, to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed. However, it is recognized that such regulation cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. As to adult dance establishments, this article represents a balancing of competing interests: reduced criminal activity and protection of neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons.

2. **Definitions.** The following terms used in this article defining adult entertainment establishments shall have the meanings indicated below:

A. **Adult Bookstore** means an establishment having a substantial or significant portion of its stock in trade as books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent (5%) of its total floor space, devoted to the sale or display of such materials or five percent (5%) of its net sales consisting of printed materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

B. **Adult Dancing Establishment** means a business that features dancers displaying or exposing specified anatomical areas.

C. **Adult Entertainment Establishment** shall mean an adult bookstore, adult motion picture theater, adult minimotion picture theater, adult video store, adult hotel or motel, adult motion picture arcade, cabaret, encounter center, escort bureau, adult business, adult dancing establishment or erotic dancing establishment.

D. **Adult Motion Picture Theater** means an enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

E. **Adult Minimotion Picture Theater** means an enclosed building with a capacity of less than fifty (50) persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

F. **Reserved.**

G. **Adult Motion Picture Arcade** means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

H. **Adult Video Store** means an establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent (5%) of its total floor space, devoted to the sale or display of such material or which derives more than five percent (5%) of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

I. **Erotic Dance Establishment** means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

J. **Reserved.**

K. **Escort Bureau; Introduction Services** means any business, agency or persons who, for a fee, commission, hire, reward or profit, furnished or offer to furnish names of persons, or who introduce, furnish or arrange for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

L. **Good Moral Character.** A person is of good moral character according to this article if that person has not been convicted of a felony, or any crime not a felony if it involves moral turpitude, in the past five (5) years. The County may also take into account such other factors as are necessary to determine the good moral character of the applicant or employee. Conviction shall include pleas of nolo contendere or bond forfeiture when charged with such crime.

M. **Minor** means, for the purposes of this article, any person who has not attained the age of eighteen (18) years.

N. **Specified Sexual Activities** means and shall include any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
- (6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

O. Specified anatomical areas shall include any of the following:

- (1) Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top to the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

3. **Erotic Dance Establishment.**

A. No person, firm, partnership, corporation or other entity shall advertise or cause to be advertised an erotic dance establishment without a valid adult entertainment establishment license issued pursuant to this article.

B. No later than March first (1) of each year, an erotic dance establishment licensee shall file a verified report with the license officer showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.

C. An erotic dance establishment licensee shall maintain and retain for a period of two (2) years the names, addresses and ages of all persons employed as dancers.

D. No adult entertainment establishment licensee shall employ or contract with as a dancer a person under the age of eighteen (18) years or a person not licensed pursuant to this article.

E. No person under the age of eighteen (18) years shall be admitted to an adult entertainment establishment.

F. An erotic dance establishment may be open only between the hours of 8:00 a.m. and 2:00 a.m. Monday through Friday, and Saturday from 8:00 a.m. through 2:55 a.m. No licensee shall permit his place of business to be open on Christmas Day.

G. No erotic dance establishment licensee shall serve, sell, distribute or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.

H. An adult entertainment establishment licensee shall conspicuously display all licenses required by this article.

I. All dancing shall occur on a platform intended for that purpose which is raised at least eighteen (18) inches from the level of the floor.

J. No dancing shall occur closer than four (4) feet to a patron.

K. No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.

L. No patron shall directly pay or give any gratuity to any dancer.

M. No dancer shall solicit any pay or gratuity from any patron.

N. All areas of an establishment licensed hereunder shall be fully lighted at all times patrons are present. Full lighting shall mean illumination equal to three and five tenths (3.5) foot candles per square foot.

O. If any portion or subparagraph of this section of this article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder or application to other persons or circumstances shall not be affected.

4. **Certain Activities Prohibited.** No person, firm, partnership, corporation or other entity shall publicly display or expose or suffer the public display or exposure, with less than a full opaque covering, of any portion of a person's genitals, pubic area or buttocks in a lewd and obscene fashion.

5. **Permit Required.** It shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on in or upon any premises within Newton County any of the adult entertainment establishments defined in this article without a permit so to do. No permit so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States.

6. **Operation of Unlicensed Premises Unlawful.** It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, adult minimotion picture theater, adult hotel or motel, adult motion picture arcade, cabaret, encounter center, escort bureau or adult business or adult dancing establishment unless such business shall have a currently valid license or shall have made proper application for renewal within the time required thereof under this article, which license shall not be under suspension or permanently or conditionally revoked.

7. **Admission of Minors Unlawful.** It shall be unlawful for a licensee to admit or permit the admission of minors within a licensed premises.

8. **Sales to Minors Unlawful.** It shall be unlawful for any person to sell, barter or give or to offer to sell, barter or give to any minor any service, material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult massage parlor or adult dancing establishment or other adult entertainment facility.

9. **Location.** No adult business or use restricted hereunder shall be located:

A. Within one thousand (1,000) feet of any parcel of land which is either named or used for residential uses or purposes;

B. Within one thousand (1,000) feet of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located;

C. Within one thousand (1,000) feet of any parcel of land upon which another establishment regulated or defined hereunder is located;

D. Within one thousand (1,000) feet of any parcel of land upon which any other establishment selling alcoholic beverages is located;

E. On less than three (3) acres of land containing at least one hundred (100) feet of road frontage.

For the purposes of this paragraph, distance shall be by airline measurement from property line, using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

1. **Adult Entertainment Establishment Employees.**

A. **Qualifications.** Employees of an adult entertainment establishment shall be not less than eighteen (18) years of age. Every employee must be of good moral character as defined in this article. Any employee who is convicted of a crime constituting a felony or a crime not a felony involving moral turpitude while employed as an adult entertainment establishment employee shall not thereafter work on any licensed premises for a period of five (5) years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "convicted" shall include an adjudication of guilt on a plea of guilty or nol contendere or the forfeiture of a bond when charged with a crime, and the terms "employed on the licensed premises" and "work on any licensed premises" shall include as well work done or services performed while in the scope of employment elsewhere than on the licensed premises.

B. **Approval for Employment.** Before any person may work on a licensed premises, he shall file a notice with the licensing officer of his intended employment on forms supplied by the licensing officer and shall receive approval of such employment from the licensing officer. The prospective employee shall supply such information as the licensing officer requires, including a set of fingerprints, on regular Newton County or United States Department of Justice forms. Upon approval, the employee may begin working on the licensed premises. If approval is denied, the

prospective employee may, within ten (10) days of said denial, apply to the licensing officer for a hearing. The decision of the licensing officer after hearing may be appealed to the Board of Commissioners which may issue such order as is proper in the premises. An investigation fee of fifty dollars (\$50.00) shall accompany the notice of intended employment or a receipt of the licensing officer evidencing the payment of such fee at the time the notice is filed.

C. **Suspension, Revocation of License.** Violation of the provisions of this Code, the ordinances of Newton County, laws and regulations of the State of Georgia or the rules and regulation of the county shall subject an employee to suspension or revocation of license.

D. **Independent Contractors.** For the purpose of this article, independent contractors shall be considered as employees and shall be licensed as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

2. **Application of Permit.**

A. Any person, association, partnership or corporation desiring to obtain a permit to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the chairman of the Board of Commissioners or designated representative. Prior to submitting such application, a nonrefundable fee, established by resolution of the Board of Commissioners, shall be paid to the county clerk to defray, in part, the cost of investigation and report required by this article. The county clerk shall issue a receipt showing that such application fee has been paid. The receipt or a copy thereof shall be supplied to the Board of Commissioners chairman at the time such application is submitted.

B. The application for permit does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.

3. **Application Contents.** Each application for an adult entertainment establishment permit shall contain the following information:

A. The full true name and any other names used by the applicant;

B. The present address and telephone number of the applicant;

C. The previous addresses of the applicant, if any, for a period of five (5) years immediately prior to the date of the application and the dates of the residence at each;

D. Acceptable written proof that the applicant is at least eighteen (18) years of age;

E. The applicant's height, weight, color of eyes and hair and date and place of birth;

F. Two (2) photographs of the applicant at least two (2) inches by two (2) inches taken within the last six (6) months;

G. Business, occupation or employment history of the applicant for the five (5) years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, directors and officers of a corporation and, if a corporation, all shareholders holding more than five percent (5%) of the shares of corporate stock outstanding;

H. The business license history of the applicant and whether such applicant, in previous operations in this or any other county, state or territory under license, has had such license or permit for an adult entertainment business or similar type of business revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

I. All convictions, including ordinance violations, exclusive of traffic violations, stating the dates and places of any such convictions;

J. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the sock in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this article, but only one application fee shall be charged.

K. The names and addresses of the owner and lessor of the real property upon which the business is to be conducted and a copy of the lease or rental agreement.

L. Such other identification and information as the police department may require in order to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

M. The age and date of birth of the applicant, of any partners, or of any and all officers, of any stockholders of more than five percent (5%) of the shares of the corporation stock outstanding, directors of the applicant if the applicant is a corporation.

N. If the applicant, any partners or any of the officers or stockholders holding more than five percent (5%) of the outstanding shares of the corporation, or the directors of the applicant if the applicant is a corporation, have ever been convicted of any crime constituting a felony, or any crime on a felony involving moral turpitude, in the past five (5) years and, if so, a complete description of any such crime, including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been full completed.

O. The county shall require the individual applicant to furnish fingerprints of the applicant.

P. If the applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name affidavit, if any, last annual report, if any.

Q. At least three (3) character references from individuals who are in no way related to the applicant or individual shareholders, officers or directors of a corporation and who are not or will not benefit financially in any way from the application if the license is granted and who have not been convicted of any felony or a violation not a felony involving moral turpitude in the past five (5) years. The licensing officer shall prepare forms consistent with the provisions of this subsection for the applicant, who shall submit all character references on such forms.

R. Address of the premises to be licensed.

S. Whether the premises are owned or rented and, if the applicant has a right to legal possession of the premises, copies of those documents giving such legal right.

T. A plat by a registered engineer, licensed by the State of Georgia, showing the location of the proposed premises in relation to the neighborhood, the surrounding zoning, its proximity to any church, school, public park, governmental building or site or other business hereunder regulated.

U. Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:

- (1) If the applicant is an individual, the individual;
- (2) If by a partnership, by the manager or general partner;
- (3) If a corporation, by the president of the corporation;
- (4) If any other organization or association, by the chief administrative official.

4. **Applicant to Appear.** The applicant, if an individual, or designated responsible managing officer, if a partnership or corporation, shall personally appear before the Newton County Board of Commissioners and produce proof that a nonrefundable application fee, established by a resolution of the Board of Commissioners, has been paid and shall present the application containing the aforementioned and described information.

5. **Application; Investigation.** The Board of Commissioners shall have thirty (30) days to investigate the application and the background of the applicant. Upon completion of the investigation, the Board of Commissioners may grant the permit if it finds:

- A. The required fee has been paid;
- B. The application conforms in all respects to the provisions of this article;
- C. The applicant has not knowingly made a material misrepresentation in the application;
- D. The applicant has full cooperated in the investigation of his application;
- E. The applicant, if an individual, or any of the stockholders of the corporation, any officers or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense involving conduct or convicted of an attempt to commit any of the above-mentioned offenses, or convicted in any state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, or any crime involving dishonesty, fraud, deceit or moral turpitude;
- F. The applicant has not had an adult entertainment establishment permit or other similar license or permit denied or revoked for cause by this county or any other county located in or out of this state prior to the date of application;
- G. The building, structure, equipment or location of such business as proposed by the applicant would comply with all applicable laws, including but not limited to health, zoning, distance, fire and safety requirements and standards;
- H. The applicant is at least twenty-one (21) years of age;
- I. That the applicant, his or her employee, agent, partner, director, officer, stockholder or manager has not, within five (5) years of the date of the application, knowingly allowed or permitted

any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located or to be used as a place in which solicitations for the specified sexual activities as defined herein openly occur;

J. That on the date the business for which a permit is required herein commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open;

K. That the proposed premises is not to be located too close to any church, school, library, governmental building or site or any other business restricted hereunder;

L. That the grant of such license will not cause a violation of this article or any other ordinance or regulation of Newton County, the State of Georgia or the United States;

M. Any other inquiry deemed necessary or desirable by the Board of Commissioners of Newton County to insure the health, safety and welfare of the citizens of Newton County or the preservation of its neighborhoods.

6. **Persons Prohibited as Licensees.**

A. No license provided for by this article shall be issued to or held by:

- (1) An applicant who has not paid all required fees and taxes for a business at that location or property taxes;
- (2) Any person who is not a good moral character;
- (3) Any corporation, any of whose officers, directors or stockholders holding over five percent (5%) of the outstanding issued shares of capital stock are not of good moral character;
- (4) Any partnership or association, any of whose officers or members holding more than five percent (5%) interest therein are not of good moral character;
- (5) Any person employing, assisted by or financed in whole or in part by any person who is not of good moral character;
- (6) Any applicant who is not qualified to hold and conduct a business according to the laws of the United States, the State of Georgia or the County of Newton.

B. Should there be a sufficient number of current licensees to meet the need and desires of the inhabitants of the county, no new licenses shall issue. In determining the needs and desires of the inhabitants, the standard of review shall be that the market is virtually unrestrained as defined in *Young v. American Mini Theaters, Inc.*

7. **Permit Refusal; Appeal.** If the county, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this article, it shall notify the county clerk of such opinion and, within thirty (30) days of the date of application, provide copies of the investigation report to the county clerk. The county clerk shall, within ten (10) days, notify the applicant by certified mail of such denial. Any applicant who is denied a permit may appeal such denial to the chairman and the Board of Commissioners.

8. **Permit Renewal.** Permits for adult entertainment establishments may be renewed on a year-to-year basis, provided that the permittees continue to meet the requirements set out in this article. The renewal fees for the adult entertainment establishment permits shall be established by resolution of the Board of Commissioners.

9. **Permit Nontransferable.** No adult entertainment establishment permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such permit, and such permit shall there after be null and void; provided and excepting, however, that if the permittee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case the permit, upon notification to the county, shall be placed in the name of the surviving partner. An adult entertainment establishment permit issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a permit or any stock authorized but not issued at the time of the granting of a permit is thereafter issued and sold, transferred or assigned.

10. **Change of Location or Name.**

A. No adult entertainment establishment shall move from the location specified on its permit until a change of location fee, established by resolution of the Board of Commissioners, has been deposited with the county and approval has been obtained from the chairman of the Board of Commissioners and the zoning department. Such approval shall not be given unless all requirements and regulation as contained in the County Ordinances have been met.

B. No permittee shall operate, conduct, manage, engage in or carry on an adult entertainment establishment under any name other than his name and the name of the business as specified on his permit.

C. Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this article.

11. **Appeal - Procedure.** The permittee shall, within ten (10) days after he has been notified of an adverse determination, submit a notice of appeal to the county clerk.

The notice of appeal shall be addressed to the Board of Commissioners and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the Board and the commissioners and the name and address of the applicant.

The clerk shall place the appeal on the agenda of the next regular commissioners meeting occurring not less than five (5) nor more than thirty (30) days after receipt of the application for Board action.

1. **Appeal Board.** When an appeal is placed on the Board's agenda, the Board may take either of the following actions:

A. Set a hearing date and instruct the county clerk to give such notice of hearing as may be required by law;

B. Appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a county employee and may be appointed for an extended period of time. The clerk shall assume responsibility for such publication of notice of the hearings as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this article.

2. **Board of Commissioners Hearing.** Whenever the county has scheduled an appeal before the Board of Commissioners, at the time and date set therefor, the Commissioners shall receive all relevant testimony and evidence from the permittee, from interested parties and from county staff. The Board of Commissioners may sustain, overrule or modify the action complained of. The action of the Board of Commissioners shall be final.

3. **Powers of Hearing Officer.** The hearing officer appointed pursuant to the procedure set out in this article may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable.

4. **Rules of Evidence Inapplicable.** The Board of Commissioners and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this article. Rules of evidence as applied in an administrative hearing shall apply.

5. **Hearing Officer - Report.** The hearing officer shall, within a reasonable time not to exceed thirty (30) days from the date such hearing is terminated, submit a written report to the Board of Commissioners. Such report shall contain a brief summary of the evidence considered and state findings, conclusions and recommendations. All such reports shall be filed with the county clerk and shall be considered public records. A copy of such report shall be forwarded by certified mail to the permittee/appellant the same day it is filed with the county clerk, with additional copies furnished the Chairman of the Board of Commissioners and Sheriff of Newton County, Georgia.

6. **Hearing Officer - Action by Commissioners.** The Commissioners may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the Commissioners do not adopt the hearing officer's recommendation, it may:

A. Refer the matter to the same or another hearing officer for a completely new hearing or for the taking of additional evidence on specific points; in either of such cases, the hearing officer shall proceed as provided in this article;

B. Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.

7. **Violations; Penalty.** Any person violating the provisions of this article shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. In addition to such fine or imprisonment, violation of this article shall also be grounds for immediate suspension or revocation of the license issued hereunder.

8. **Unlawful Operation Declared Nuisance.** Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance. The county may, in addition to or in lieu of prosecuting a criminal

action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof in the manner provided by law. It shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment establishment contrary to the provisions of this article. In addition, violation of the provisions of this article shall be per se grounds for suspension or revocation of a license granted hereunder.

9. **Cleaning of Licensed Premises.** Each licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the licensed premises. There shall be provided adequate facilities, equipment and supplies on the licensed premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or as often as collections permit.

10. **Self-inspection of Licensed Premises.** The licensee of a licensed premises or his designated representative shall make sanitary inspections of the licensed premises at least once a month and shall record his findings on a form supplied by the licensing officer. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

11. **Sealing for Unsanitary or Unsafe Conditions.** A licensed premises or any part thereof may be sealed by order of the licensing officer on his finding of a violation of this article resulting in an unsanitary or unsafe condition. Prior to sealing, the licensing officer shall serve on the licensee, by personal service on him or by posting in a conspicuous place on the licensed premises, a notice of the violation and an order to correct it within twenty-four (24) hours after service. If the violation is not so corrected, the licensing officer may physically seal that portion of the licensed premises causing the violation and order the discontinuance of use thereof until the violation has been corrected and the seal removed by the licensing officer. The licensing officer shall affix to the sealed premises a conspicuous sign labeled "Unclean" or "Unsafe" as the case may be.

12. **Abatement as Sanitary Nuisance.** A licensed premises or any part thereof may be abated as a sanitary nuisance.

(Adopted 8/17/93)

ARTICLE 2.1 **Reserved**

ARTICLE 2.1 **Reserved**

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ARTICLE 2.1 **Charitable Solicitors**

All charitable solicitors shall comply with O.C.G.A. § 43-17-1 et seq.

ARTICLE 2.1 **Reserved**

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CHAPTER 33: **NUISANCES**

CHAPTER 34:

CHAPTER 35:

Section

33-101	Title
33-102	Definitions
33-103	Enforcement



ARTICLE 2.1 **Title**

This Ordinance shall be known and may be cited as "The Nuisance Abatement Ordinance of Newton County, Georgia."

ARTICLE 2.1 **Definitions**

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense; the singular shall include the plural, and the plural the singular; and the use of masculine or feminine gender is for convenience only, and the use of each shall include the other.

As used in this Ordinance, the term:

1. **Closing** means securing and causing a dwelling, building, or structure to be vacated.
2. **Dwellings, Buildings, or Structures** means any building or structure or part thereof used and occupied for human habitation, commercial, industrial, or business uses, or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. However, as used in this Ordinance, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.
3. **Governing Body** means the Board of Commissioners of Newton County, Georgia.
4. **Owner** means the holder of the title in fee simple and every mortgagee of record.
5. **Parties in Interest** means persons in possession of said property and all individuals, associations and corporations who have interest of record in Newton County in a dwelling, building, or structure, including executors, administrators, guardians, and trustees.
6. **Public Authority** means any housing authority or any officer who is in charge of any department or branch of the government of the County or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in Newton County.
7. **Public Officer** means the officer or officers who are authorized by O.C.G.A. Code Sections 41-2-7 through 41-2-17 and by this Ordinance to exercise the powers prescribed by such ordinances or any agent of such officer or officers.
8. **Repair** means closing a dwelling, building, or structure or the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.
9. **Resident** means any person residing in Newton County on or before the date on which the alleged nuisance arose.

ARTICLE 2.1 **Enforcement**

1. The Zoning Administrator or his designee is designated and appointed to exercise the powers presented by this Ordinance.

2. Whenever a request is filed with the Zoning Administrator or his designee by a public authority or by at least five residents of the unincorporated area of the county if the property in question is located in the unincorporated area of the county charging that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use or whenever it appears to the Zoning Administrator or his designee (on his own motion) that any dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use, the Zoning Administrator or his designee shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and any parties in interest in such dwelling, building, or structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Zoning Administrator or his designee at a place within Newton County, fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Zoning Administrator or his designee.

3. If, after such notice and hearing, the Zoning Administrator or his designee determines that the dwelling, building, or structure under consideration is unfit for human habitation or is unfit for its current commercial, industrial, or business use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

A. If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the value of the dwelling, building, or structure, requiring the owner or parties in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to render it fit for human habitation or for current commercial, industrial, or business use or to vacate and close the dwelling, building, or structure as a human habitation; or

B. If the repair, alteration, or improvement of the said dwelling, building, or structure cannot be made at a reasonable cost in relation to the value of the dwelling, building, or structure, requiring the owner or parties in interest, within the time specified in the order, to remove or demolish such dwelling, building, or structure.

4. In no event shall the Board of Commissioners of Newton County, Georgia, require demolition of any dwelling, building, or structure except upon a finding that the cost of repair, alteration, or improvement thereof exceeds one-half (½) the value such dwelling, building, or structure will have when repaired to satisfy the minimum requirements of this law.

5. If the owner or parties in interest fail to comply with an order to vacate and close or demolish the dwelling, building, or structure, the Zoning Administrator or his designee may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished; and the Zoning Administrator or his designee may cause to be posted on the main entrance of any building, dwelling, or structure so closed a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use; the use or occupation of this building for human habitation or for commercial, industrial, or business use is prohibited and unlawful."

1. If the owner fails to comply with any order to remove or demolish the dwelling, building, or structure, the Zoning Administrator or his designee may cause such dwelling, building, or structure to be removed or demolished; provided, however, that the duties of the Zoning Administrator or his designee, set forth in this Code section and this paragraph, shall not be exercised until the Board of Commissioners of Newton County, Georgia, shall have by ordinance ordered the Zoning Administrator or his designee to proceed to effectuate the purpose of Code Sections 41-2-7 through 41-2-17 with respect to the particular property or properties which the Zoning Administrator or his designee shall have found to be unfit for human habitation or unfit for its current commercial, industrial, or business use, which property of properties are described in this Ordinance.

2. The amount of the cost of such vacating and closing or removal or demolition by the Zoning Administrator or his designee shall be a lien against the real property upon which such cost was incurred. Said lien shall attach to the real property upon the payment of all costs of demolition by Newton County and the filing of an itemized statement of the total sum of said costs by the Zoning Administrator or his designee in the Office of the Clerk of the Board of Commissioners of Newton County, Georgia, on a lien docket maintained by said Clerk for such purpose. If the dwelling, building, or structure is removed or demolished by the Zoning Administrator or his designee, he shall sell the materials of such dwellings, buildings, or structures and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court of Newton

County by the Zoning Administrator or his designee, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

3. Nothing in this Ordinance shall be construed to impair or limit in any way the power of Newton County, Georgia, to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

4. Newton County, Georgia shall enforce the collection of any amount due on such lien for removal or demolition of dwellings, buildings, or structures in the following manner:

A. The owner or parties at interest shall be allowed to satisfy the amount due on such lien by paying to Newton County, Georgia, within thirty (30) days after the perfection of said lien, a sum of money equal to twenty-five percent (25%) of the total amount due and by further paying to Newton County, Georgia, the remaining balance due on such lien, together with interest at the rate of seven percent (7%) per annum, in three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed, said payments shall be made to the Clerk of the Board of Commissioners of Newton County, Georgia;

B. Should the property upon which such lien is perfected be sold, transferred, or conveyed by the owner or parties at interest at any time prior to the termination of the said three-year (3) period, then the entire balance on such lien shall be due and payable to Newton County, Georgia; and

C. Should the amount due on such lien, or any portion thereof, be unpaid after the passage of said three-year (3) period, or upon the occurrence of the contingency provided for in subparagraph B of this paragraph, Newton County may enforce the collection of any amount due on such lien for alteration, repair, removal, or demolition of dwellings, buildings, or structures in the same manner as provided in O.C.G.A. Code Section 48-5-358 and other applicable state statutes. This procedure shall be subject to the right of redemption by any person having any right, title or interest in or lien upon said property, all as provided by Article 3 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated.

5. The Zoning Administrator or his designee may determine under this Ordinance that a dwelling, building or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of Newton County, Georgia; such conditions may include the following (without limiting the generality of the foregoing):

- A. Defects therein increasing the hazards of fire, accidents, or other calamities;
- B. Lack of adequate ventilation, light, or sanitary facilities;
- C. Dilapidation;
- D. Disrepair;
- E. Structural defects; and
- F. Uncleanliness.

6. The Zoning Administrator or his designee shall exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Ordinance and of O.C.G.A. Code Sections 41-2-7 through 41-2-17, including the following powers in addition to others herein granted:

- A. To investigate the dwelling conditions in the unincorporated area of the county in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use;
- B. To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- C. To enter upon premises for the purpose of making examinations provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- D. To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the Ordinances; and
- E. To delegate any of his functions and powers under this Ordinance to such officers and agents as he may designate.

7.

A. Complaints or orders issued by the Zoning Administrator or his designee pursuant to this Ordinance shall, in all cases, be served upon each person in possession of said property, each owner, and each party in interest; and the return of service signed by the Zoning Administrator or his designated agent or an affidavit of service executed by any citizen of this state, reciting that a copy of such complaint or orders was served upon each person in possession of said property, each owner, and each party in interest personally or by leaving such copy at the place of his residence, shall be sufficient evidence as to the service of such person in possession, owner, and party in interest.

B. If any of the owners and parties in interest shall reside out of Newton County, Georgia, service shall be perfected by causing a copy of such complaint or orders to be served upon such party or parties by the sheriff or any lawful deputy of the county of the residence of such party or parties or such service may be made by any citizen; and the return of such sheriff or lawful deputy or the affidavit of such citizen, that such party or parties were served either personally or by leaving a copy of the complaint or orders at the residence, shall be conclusive as to such service.

C. Nonresidents of this state shall be served by publishing the same once each week for two (2) successive weeks in the Covington News or its successor legal organ. A copy of such complaint or orders shall be posted in a conspicuous place on premises affected by the complaint or orders. Where the address of such nonresidents is known, a copy of such complaint or orders shall be mailed to them by registered or certified mail.

D. In the event either the owner or any party in interest is a minor or an insane person or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside Newton County, Georgia, or is a nonresident of the State of Georgia, he shall be served as provided for in subsection 12(C) of this Ordinance in such cases. If such minor or insane person or person laboring under disabilities has no guardian or personal representative or in the event such minor or insane person lives outside Newton County, Georgia or is a nonresident, service shall be perfected by serving such minor or insane person personally or by leaving a copy at the place of his residence which shall be sufficient evidence as to the service of such person or persons; in the case of other persons who live outside of Newton County, Georgia, or are nonresidents, service shall be perfected by serving the Judge of the Probate Court of Newton County, Georgia, who shall stand in the place of and protect the rights of such minor or insane person or appoint a guardian ad litem for such person.

E. In the event the whereabouts of any owner or party in interest in unknown and the same cannot be ascertained by the Zoning Administrator or his designated agent in the exercise of reasonable diligence the Zoning Administrator or his designee shall make an affidavit to that effect, then the service of such complaint or order upon such person shall be made in the same manner as provided in subsection 12(C) of this Code section or service may be perfected upon any person, firm, or corporation holding itself out as an agent for the property involved.

F. A copy of such complaint or orders shall also be filed in the lis pendens docket of the Office of the Clerk of the Superior Court of Newton County, Georgia, and such filing of the complaint or orders shall have the same force and effect as other lis pendens notices provided by law. Any such complaint or orders or an appropriate lis pendens notice may contain a statement to the effect that a lien may arise against the described property and that an itemized statement of such lien is maintained on a lien docket maintained by the Clerk of the Board of Commissioners of Newton County, Georgia.

8. The Board of Commissioners of Newton County, Georgia shall make such appropriations from County revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted hereunder.

9. Nothing in this Ordinance shall be construed to abrogate or impair the powers of the courts or of any department of Newton County, Georgia, to enforce any provisions of the Newton County Enabling Act or its Ordinances or regulations nor to prevent or punish violators thereof; and the powers conferred by this Ordinance shall be in addition to and supplemental to the powers conferred by any other law.

(Adopted 8/2/88)

CHAPTER 34: **FLOOD DAMAGE PREVENTION ORDINANCE**

CHAPTER 35:

CHAPTER 36:

Section

- 34-101 Statutory Authorization, Findings of Fact, Purpose and Objectives
- 34-102 Definitions
- 34-103 General Provisions
- 34-104 Administration
- 34-105 Provisions for Flood Hazard Reduction



ARTICLE 2.1 **Statutory Authorization, Findings of Fact, Purpose and Objectives**

1. **Statutory Authorization.** The Legislature of the State of Georgia has in the Constitution of the State of Georgia of 1983 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of Newton County, Georgia does ordain as follows:

2. **Findings of Fact.**

A. The flood hazard areas of unincorporated Newton County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. The flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-protected, or otherwise unprotected from flood damages.

3. **Statement of Purpose.** It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses to flood conditions in specific areas by provisions designed to:

A. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

D. Control filling, grading, dredging and other development which may increase erosion or flood damage, and;

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

4. **Objectives.** The objectives of this ordinance are:

A. to protect human life and health;

B. to minimize expenditure of public money for costly flood control projects;

C. to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. to minimize prolonged business interruptions;

E. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;

A. to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and,

B. to insure that potential home buyers are notified that property is in a flood area.

ARTICLE 2.1 **Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. **Addition (to an existing building)** means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.
2. **Appeal** means request for a review of the county building inspector's interpretation of any provision of this ordinance or a request for a variance.
3. **Area of Shallow Flooding** means a designated AO or VO Zone on a community's Flood Insurance Rate Map (Firm) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
4. **Area of Special Flood Hazard** is the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
5. **Base Flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.
6. **Basement** means that portion of the building having its floor sub grade (below ground level) on all sides.
7. **Break Away Wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
8. **Building** means any structure built for support, shelter, or enclosure for any occupancy or storage.
9. **Development** means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or permanent storage of materials.
10. **Elevated Building** means a non basement built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls, or break away walls.
11. **Existing Construction.** Any structure for which the "start of construction" commenced before (the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date).
12. **Existing Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads is completed before the effective date of the floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which established the area of special flood hazard) or (specific date).
13. **Expansion of an Existing Manufactured Home Park or Subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads).
14. **Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - A. the overflow of inland or tidal waters;
 - B. the unusual and rapid accumulation or runoff of surface waters from any source.
15. **Flood Hazard Boundary Map (FHBM)** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.
16. **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
17. **Flood Insurance Study** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.
18. **Flood Way** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

19. **Floor** means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
20. **Functionally Dependent Facility** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.
21. **Highest Adjacent Grade** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
22. **Historic Structure** means any structure that is:
 - A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed in the Georgia Register; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior, or
 - (2) Directly by the Secretary of the Interior in states without approved programs.
23. **Lowest Floor** means the lowest floor of the lowest enclosed areas, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
24. **Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.
25. **Mean Sea Level** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).
26. **National Geodetic Vertical Datum (NGVD)** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
27. **New Construction** means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
28. **New Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed including as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads is completed on or after the effective date of floodplain management regulations adopted by a community.
29. **Recreational Vehicle** means a vehicle which is:
 - A. Built on a single chassis;
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
30. **Start of Construction** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of

temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

31. **Structure** means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

32. **Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

33. **Substantial Improvement** means any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during the life of a structure, in which the cumulative cost equals or exceeds fifty percent (50%) of a market value of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alterations of a structure listed in the National Register of Historic Places or the Georgia Register.

34. **Substantially Improved Existing Manufactured Home Parks or Subdivisions** is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before repair, reconstruction or improvement commenced.

35. **Variance** is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

ARTICLE 2.1 **General Provisions**

1. **Lands to Which This Ordinance Applies.** This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Newton County.

2. **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated July 5, 1983, with accompanying maps and other supporting data and any revisions thereto are adopted by reference and declared to be part of this ordinance.

3. **Establishment of Development Permit.** A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

4. **Compliance.** No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

5. **Abrogation and Greater Restrictions.** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6. **Interpretation.** In the interpretation and application of this ordinance all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

7. **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability in the part of Newton County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance of any administrative decision lawfully made thereunder.

8. **Penalties for Violation.** Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof, be fined not more than two hundred dollars (\$200.00) or imprisoned for not more than ten (10) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Newton County from taking such other lawful action, as is necessary to prevent or remedy any violation.

ARTICLE 2.1 **Administration**

1. **Designation of Building Inspector.** The county building inspector is hereby appointed to administer and implement the provisions of this ordinance.

2. **Permit Procedures.** Application for a Development Permit shall be made to the county building inspector on forms furnished by him, prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage of materials, drainage facilities, and the locations of the foregoing. Specifically, the following information is required:

A. **Application Stage.**

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed.
- (3) Certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure will meet the flood-proofing criteria in § 34-105(2)(B).
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. **Construction Stage.**

- (1) Provide a flood elevation or flood proofing certification after the lowest floor is completed. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the county building inspector a certification of the elevation of the lowest floor, flood proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The county building inspector shall review the Flood Elevation Survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

3. **Duties and Responsibilities on the County Building Inspector.** Duties of the county building inspector shall include, but not limited to:

- A. Review all development permits to assure that the permit requirements of this ordinance have been satisfied.
- B. Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

C. Notify adjacent communities and the Department of Natural Resources, Georgia Geologic Survey, Flood Plan Management Unit, State of Georgia, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 34-104(2)(B).

F. Verify and record the actual elevations (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with Section 34-104(2)(B).

G. When flood-proofing is utilized for a particular structure, the county building inspector shall obtain certification from a registered professional engineer or architect, in accordance with Section 34-105(2)(B).

H. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example) there appears to be a conflict between a mapped boundary and actual field conditions: the county building inspector shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

I. When base flood elevation data has not been provided in accordance with Section 34-103(2), then the county building inspector shall obtain, review and reasonable utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of Section 34-105.

J. All records pertaining to the provisions of this ordinance shall be maintained in the office of the county building inspector and shall be open for public inspection.

4. **Variance Procedures.**

A. The Newton County Planning Commission as established by Newton County shall hear and decide appeals and request for variances from the requirements of this ordinance.

B. The Newton County Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the county building inspector in the enforcement or administration of this ordinance.

C. Any person aggrieved by the decision of the Newton County Planning Commission, or any taxpayer may appeal such decision to the Superior Court of Newton County, as provided by law.

D. Variances may be issued for the repair or rehabilitation of historic structures upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

E. In passing upon such applications, the Newton County Planning Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance and;

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The comparability of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

F. Upon consideration of the factors listed above and the purpose of this ordinance, the Newton County Board of Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

G. Variances shall not be issued within any designated flood way if any increase in flood levels during the base flood discharge would result.

H. **Conditions for Variances.**

- (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (2) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (4) The county building inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

ARTICLE 2.1 **Provisions for Flood Hazard Reduction**

1. **General Standards.** In all areas of special flood hazard the following provisions are required:

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. Manufactured homes shall be anchored to prevent floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

C. All new construction or substantial improvement shall be constructed with material and utility equipment resistant to flood damage.

D. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

E. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within components during conditions of flooding.

F. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

I. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

J. Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.

2. **Specific Standards.** In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 34-103(2), or Section 34-104(3)(K), the following provisions are required:

A. **Residential Construction.** New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 34-105(2)(C).

B. Nonresidential Construction. New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to the level of the base flood elevation. Buildings located in all A-zones, together with attendant utility and sanitary facilities, may be flood-proofed in lieu of being elevated provided that all areas of the building below the base flood level are water tight with walls substantially impermeable to the passage of water, and use structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 34-104(3)(l).

C. Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (a) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - (b) the bottom of all openings shall be no higher than one foot above grade; and,
 - (c) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (2) Electrical plumbing and other utility connections are prohibited below the base flood elevation;
- (3) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
- (4) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

D. Standards for Manufactured Homes and Recreational Vehicles.

- (1) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all requirements for new construction, including elevation and anchoring.
- (2) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
 - (a) The lowest floor of the manufactured home is elevated to or above the level of the base flood elevation, or
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than thirty-six (36) inches in height above grade.
 - (c) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, and manufactured home place or substantially improved must meet the standards of Section 34-105, Paragraph 2-D-(2)(a) and (b) above.
- (3) All recreational vehicles placed on sites must either:
 - (a) Be fully licensed and ready for highway use or,
 - (b) The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of Section 34-105, Paragraph 2-D(1) or (2)(a) and (c), above.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

A. Flood Ways. Located within areas of special flood hazard established in Section 34-103(2), are areas designated as flood ways. Since the flood way is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
- (2) If Section 34-105(2)(E)(1), is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 34-105.
- (3) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured home (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Section 34-105(1)(B), and the elevation standards of Section 34-105, (2)(A) and the encroachment standards of Section 34-105(2)(E)(1), are met.

2. Standards for Streams Without Established Base Flood Elevations And/or Flood Ways.

Located within the areas of special flood hazard established in Section 34-103(2), where streams exist but where no base flood data have been provided or where no flood ways have been provided, the following provisions apply:

- A. No encroachments, including fill material or structures shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- B. New construction or substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with Section 34-104(3)(K).

3. Standards for Subdivision Proposals.

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres.

4. Standards for Areas of Shallow Flooding (A0 Zones). Located within the areas of special flood hazard established in Section 34-103(2), are areas designed as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- A. All new construction and substantial improvements of residential shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.
- B. All new construction and substantial improvements of nonresidential buildings shall:
 - (1) have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two (2) feet above the highest adjacent grade, or;
 - (2) together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Adopted 1/18/94)

CHAPTER 35: **SOIL EROSION AND SEDIMENTATION CONTROL**

CHAPTER 36:

CHAPTER 37:

Section

35-101	Title
35-102	Definitions
35-103	Exemptions
35-104	Minimum Requirements For Erosion and Sedimentation Control Using Best Management Practices
35-105	Application/Permit Process
35-106	Inspection and Enforcement
35-107	Penalties and Incentives
35-108	Administrative Appeal, Judicial Review
35-109	Effectivity, Validity and Liability



ARTICLE 2.1 **Title**

This ordinance will be known as the Newton County Soil Erosion and Sedimentation Control Ordinance.

ARTICLE 2.1 **Definitions**

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

1. **Best Management Practices (BMP'S)**. A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a twenty-five (25) year, twenty-four (24) hour rainfall event.
2. **Board**. The Board of Natural Resources.
3. **Buffer**. The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
4. **Commission**. The State Soil and Water Conservation Commission.
5. **Cut**. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.
6. **Department**. The Department of Natural Resources.
7. **Director**. The Director of the Environmental Protection Division of the Department of Natural Resources.
8. **District**. The Upper Ocmulgee River Soil and Water Conservation District.
9. **Division**. The Environmental Protection Division of the Department of Natural Resources.
10. **Drainage Structure**. A device composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.
11. **Erosion**. The process by which land surface is worn away by the action of wind, water, ice or gravity.
12. **Erosion and Sedimentation Control Plan**. A plan for the control of soil erosion and sedimentation resulting from land-disturbing activity. Also known as the "plan."
13. **Ground Elevation**. The original elevation of the ground surface prior to cutting or filling.
14. **Fill**. A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

15. **Finished Grade.** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
16. **Grading.** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
17. **Issuing Authority.** The governing authority of the county which has been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an Issuing Authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended, or the Division in those instances where an application for a permit is submitted to the Division.
18. **Land-Disturbing Activity.** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 35-103-5.
19. **Metropolitan River Protection Act (MRPA).** A state law referenced as O.C.G.A. § 12-5-440 *et seq.*, which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
20. **Natural Ground Surface.** The ground surface in its original state before any grading, excavation or filling.
21. **Nephelometric Turbidity Units (NTU).** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.
22. **Permit.** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
23. **Person.** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.
24. **Project.** The entire proposed development project regardless of the size of the area of land to be disturbed.
25. **Roadway Drainage Structure.** A device, such as a bridge, culvert, or ditch, composed of a virtually nonerrodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
26. **Sediment.** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.
27. **Sedimentation.** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
28. **Soil and Water Conservation District Approved Plan.** An erosion and sedimentation control plan approved in writing by the Upper Ocmulgee River soil and water conservation district.
29. **Stabilization.** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
30. **State Waters.** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
31. **Structural Erosion and Sedimentation Control Measures.** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

32. **Trout Streams.** All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, *O.C.G.A. § 12-5-20 et seq.* Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

33. **Vegetative Erosion and Sedimentation Control Practices.** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- A. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- B. Temporary seeding, producing short-term vegetative cover; or
- C. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia.*

1. **Watercourse.** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

2. **Wetlands.** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

ARTICLE 2.1 Exemptions

This ordinance shall apply to any land disturbing activity undertaken by any person on any land except for the following:

- 1. Surface mining, as the same is defined in *O.C.G.A. § 12-4-72, "Mineral Resources and Caves Act"*;
- 2. Granite quarrying and land clearing for such quarrying;
- 3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion;

4. The construction of single-family residences, when such are constructed by or under contract with the owner for his or her own occupancy, or the construction of single-family residences not a part of a platted subdivision, a planned community, or an association of other residential lots consisting of more than two (2) lots and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Section 35-104 of this ordinance. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the Director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters which are streams into which no other streams flow except for springs, the buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 35-104 of this ordinance and the buffer zones provided by this paragraph shall be enforced by the Issuing Authority.

5. Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chicken, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;

6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (O) and (P) of Section 35-104(3) of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;

7. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

8. Any project involving one and one-tenth (1-1/10) acres or less; provided, however, that this exemption shall not apply to any land-disturbing activity within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves one and one-tenth (1-1/10) acres or less, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainageway must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Issuing authority from regulating any such project which is not specifically exempted by paragraphs A,B,C,D,E,F,H, or I of this section;

9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that such projects shall conform to the minimum requirements set forth in section 35-104 (2) and (3) of this ordinance; provided further that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb five or more contiguous acres of land shall be subject to provisions of Code Section 12-7-7.1; and;

10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, provided that any such land-disturbing activity shall conform to the minimum requirements set forth in Section 35-104 (2) and (3).

Where this section requires compliance with the minimum requirements set forth in Section 35-104 (2) and (3) of this ordinance, issuing authorities shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

ARTICLE 2.1 **Minimum Requirements For Erosion and Sedimentation Control Using Best Management Practices**

1. **General Provisions.** Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section 35-104 (2) and (3) of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

2.

Minimum Requirements/BMP'S.

A. Best management practices as set forth in Section 35-104 (2) and (3) of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of *O.C.G.A. § 12-5-30*, "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed to control soil erosion and sedimentation for all rainfall events up to and including a twenty-five (25) year, twenty-four (24) hour rainfall event.

B. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or by the Division or of any general permit for construction activities issued by the Division pursuant to subsection (f) of *O.C.G.A. § 12-5-30*, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director.

C. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local Issuing Authority or by the Division or of any general permit for construction activities issued by the Division pursuant to subsection (f) *O.C.G.A. § 12-5-30*, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

D. The Director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

3.

The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

A. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;

B. Cut-fill operations must be kept to a minimum;

C. Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;

D. Whenever feasible, natural vegetation shall be retained, protected and supplemented;

E. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;

F. Disturbed soil shall be stabilized as quickly as practicable;

G. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;

H. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;

I. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of *O.C.G.A. § 12-7-1 et seq.*;

J. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;

K. Cuts and fills may not endanger adjoining property;

L. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;

M. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;

N. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 35-104 (2)(B) of this ordinance;

O. Except as provided in paragraph (P) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to *O.C.G.A. § 12-2-8*, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of a least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

No Land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

A. There is established a fifty (50) foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five (25) foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

No Land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her

own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

1. Nothing contained in this chapter shall prevent an Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements in Section 35-104 (2) and (3) of this ordinance.
2. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

ARTICLE 2.1 Application/Permit Process

1. **General.** The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the Issuing Authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and other ordinances which regulate the development of land within the jurisdictional boundaries of the Issuing Authority. However, the property owner is the only party who may obtain a permit.

2. **Application Requirements.**

- A. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the Newton County without first obtaining a permit from the Planning and Zoning Department of Newton County to perform such activity.

B. The application for a permit shall be submitted to the Planning and Zoning Department of Newton County and must include the applicant’s erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 35-105 (3) of this ordinance. Soil erosion and sedimentation control plans shall conform to the provisions of Section 35-104 (2) and (3) of this ordinance. Applications for a permit will not be accepted unless accompanied by three copies of the applicant’s soil erosion and sedimentation control plans.

C. A fee, in the amount of as set by the Newton County Board of Commissioners shall be charged for each acre or fraction thereof in the project area.

D. Immediately upon receipt of an application and plan for a permit, the Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The results of the District review shall be forwarded to the Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 35-104 (3)(O) and (P) and bonding, if required as per Section 35-105 (2)(E)(2), have been obtained. Such review will not be required if the Issuing Authority and the District have entered into an agreement which allows the Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District.

E. (a) If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended within three (3) years prior to the date of filing of the application under consideration, the Issuing Authority may deny the permit application.

(b) The Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Issuing Authority with respect to alleged permit violations.

1. **Plan Requirements.**

A. Plans must be prepared to meet the minimum requirements as contained in Section 35-104 (2) and (3) of this ordinance. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for*

Erosion and Sediment Control in Georgia, published by the State Soil and Water Conservation Commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. *The Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and State laws.

B. Data Required for Site Plan.

- (1) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
- (2) Description of existing land use at project site and description of proposed project.
- (3) Name, address, and telephone number of the property owner.
- (4) Name and telephone number of twenty-four (24) hour local contact who is responsible for erosion and sedimentation controls.
- (5) Size of project, or phase under construction, in acres.
- (6) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that “the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities.”
- (7) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.
- (8) Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
- (9) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.
- (10) Maintenance statement - “Erosion and sedimentation control measures will be maintained at all times. Additional erosion and sedimentation control measures and practices will be installed if deemed necessary by onsite inspection.”

C. Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. The certified plans shall contain:

- (1) Graphic scale and north point or arrow indicating magnetic north.
- (2) Vicinity maps showing location of project and existing streets.
- (3) Boundary line survey.
- (4) Delineation of disturbed areas within project boundary.
- (5) Existing and planned contours, with contour lines drawn with an internal in accordance with the following:

Map Scale	Ground Slope	Contour Interval, ft.
1 Inch = 100 ft. or larger scale	Flat 0 - 2%	0.5 or 1
	Rolling 2 - 8%	1 or 2
	Steep 8% +	2, 5 or 10

- (1) Adjacent areas and features areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.
- (2) Proposed structures or additions to existing structures and paved areas.
- (3) Delineate the twenty-five (25) foot horizontal buffer adjacent to state waters and the specified width in MRPAs areas.
- (4) Delineate the specified horizontal buffer along designated trout streams, where applicable.
- (5) Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, Chapter 6.

B. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

2. **Permits.**
 - A. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary.
 - B. No permit shall be issued by the Issuing Authority unless the erosion and sedimentation control plan has been approved by the District and the Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section 35-104 (3)(O) and (P) are obtained, bonding requirements, if necessary, as per Section 35-105 (2)(E)(2) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 - C. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
 - D. The permit may be suspended, revoked, or modified by the Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
 - E. No permit shall be issued unless the applicant provides a statement by the Newton County Tax Commissioner's Office certifying that all ad valorem taxes levied against the property and due and owing have been paid.

ARTICLE 2.1 Inspection and Enforcement

1. The Building and Inspections Department of Newton County will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.
2. The Building and Inspections Department of Newton County shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
3. No person shall refuse entry or access to any authorized representative or agent of the Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
4. The Districts or the Commission or both shall periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to *O.C.G.A. § 12-7-8(a)*. The Districts or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The Districts or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
5. The Division may periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the District and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to *O.C.G.A. § 12-7-8(a)* has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to *O.C.G.A. § 12-7-7(d)*, the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have thirty (30) days within which to take the necessary corrective action to retain certification as an Issuing Authority. If the county or municipality does

not take necessary correction action within thirty (30) days after notification by the Division, the Division may revoke the certification of the county or municipality as an Issuing Authority.

ARTICLE 2.1 Penalties and Incentives

1. **Failure to Obtain a Permit for Land-Disturbing Activity.** If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Issuing Authority.

2. **Stop-Work Orders.**

A. For the first and second violations of the provisions of this ordinance, the Director or the Issuing Authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the Director or the Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or Issuing Authority shall issue an immediate stop-work order in lieu of a warning;

B. For a third and each subsequent violation, the Director or Issuing Authority shall issue an immediate stop-work order; and;

C. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

3. **Bond Forfeiture.** If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 35-105 (B)(5)(b). The Issuing Authority may call the bond or any party thereof to be forfeited any may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

4. **Monetary Penalties.**

A. Except as provided in paragraph (B) of this subsection, any person who violates any provisions of this ordinance, the rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this ordinance or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this ordinance shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any legislative act to the contrary, municipal courts shall be authorized to impose penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

B. The following penalties shall apply to land-disturbing activities performed in violation of any provision of this ordinance, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this ordinance;

(1) There shall be a minimum penalty of two hundred fifty dollars (\$250.00) per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and

(2) There shall be a minimum penalty of one thousand dollars (\$1,000.00) per day for each violation involving land-disturbing activities other than as provided in subsection (1) of this paragraph.

ARTICLE 2.1 Administrative Appeal, Judicial Review

1. **Administrative Remedies.** The suspension, revocation, modification or grant with condition of a permit by the Issuing Authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Newton County Planning Commission within fifteen (15) days after receipt by the Issuing Authority of written notice of appeal.

2. **Judicial Review.** Any person, aggrieved by a decision or order of the Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of Newton County.

ARTICLE 2.1 **Effectivity, Validity and Liability**

1. **Effectivity.** This ordinance shall become effective on the 16 day of January, 2001.

2. **Validity.** If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not effect the remaining portions of this ordinance.

3. **Liability.**

A. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Issuing Authority or District for damage to any person or property.

B. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

C. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

CHAPTER 36: **STATE MINIMUM STANDARD CONSTRUCTION CODES**

CHAPTER 37:

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Section

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NOTE: The word "department" shall refer to the state Department of Community Affairs.

ARTICLE 2.1 State Minimum Standard Codes

"State Minimum Standard Codes" shall mean the following codes:

- 1. Standard Building Code;
- 2. National Electrical Code and published by the National Fire Protection Association;
- 3. Standard Gas Code;
- 4. Standard Mechanical Code;
- 5. Georgia State Plumbing Code or the Standard Plumbing Code;
- 6. Council of American Building Officials One and Two Family Dwelling Code, with the exception of Part 5 - Plumbing;
- 7. Georgia State Energy Code for Buildings;
- 8. Standard Fire Prevention Code;
- 9. Standard Housing Code;
- 10. Standard Amusement Device Code;
- 11. Excavation and Grading Code;
- 12. Standard Existing Buildings Code;
- 13. Standard Swimming Pool Code;
- 14. Standard Unsafe Building Abatement Code.

ARTICLE 2.1 Statewide Application

The state minimum standard codes enumerated in sections 1 through 8 of Sections 36-101 of this code shall have statewide application and shall not require adoption by county. The governing authority of county in this state is authorized to enforce the state minimum standard codes.

ARTICLE 2.1 Adoption of Codes by Counties

It is the intent of Newton County to enforce the latest edition of the following Georgia State Minimum Standard Codes, as adopted and amended by the Georgia Department of Community Affairs:

- Standard Building Code (SBCCI)
- National Electrical Code as published by the National Fire Protection Association;
- Standard Gas Code (SBCCI);

Standard Mechanical Code (SBCCI);
Standard Plumbing Code (SBCCI);
Council of American Building Official's One- and Two-Family Dwelling-Code, with the exception of Part V- Plumbing (Chapters 20-25) of said code; and,
Standard Fire Prevention Code(SBCCI).

The following Codes, the latest edition as adopted by the Department of Community Affairs, and the following standards are hereby adopted by reference as though they were copied herein fully:

Standard Amusement Device Code (1985 Edition);
Standard Housing Code (1994 Edition);
Standard Swimming Pool Code (1994 Edition);
Standard Unsafe Building Abatement Code (1985 Edition);
SBCCI Bylaws;
SBCCI Interpretations (1993 Edition); and,
SBCCI Standards
Standard for Proscenium Curtains (1988 Edition);
Standard for Existing High Rise Buildings (1984 Edition);
Standard for Floodplain Management (1984 Edition);
Standard for Soil Expansion (1986 Edition);
Standard for Sound Control (1987 Edition);
Standard for Textile Wall Covering Test (1988 Edition);
Standard for Roof Tile Test (1993 Edition); and, Standard for Determining Impact Resistance from Windborne Debris (1994 Edition).

(Adopted 9/7/99)

ARTICLE 2.1 Local Amendments to State Minimum Codes

1. In the event that the governing authority of any county finds that the state minimum standard codes do not meet its needs, the local government may provide requirements not less stringent than those specified in the state minimum, standard codes when such requirements are based on local climatic, geologic, topographic, or public safety factors; provided, however, that there is a determination by the local governing body of a need to amend the requirements of the state minimum standard code based upon a demonstration by the local governing body that local conditions justify such requirements not less stringent than those specified in the state minimum standard codes for the protection of life and property. All such proposed amendments shall be submitted by the local governing body to the Department of Community Affairs sixty (60) days prior to the adoption of such amendment. Concurrent with the submission of the proposed amendment to the department, the local governing body shall submit in writing the legislative findings of the governing body and such other documentation as the local governing body deems helpful in justifying the proposed amendment. The department shall review and comment on a proposed amendment. Such comment shall be in writing and shall be sent to the submitting local government with a recommendation:

- A. That the proposed local amendment should not be adopted, due to the lack of sufficient evidence to show that such proposed local amendment would be as stringent as the state minimum standard codes and the lack of sufficient evidence to show that local climatic, geologic, topographic, or public safety factors require such an amendment;
- B. That the proposed local amendment should be adopted, due to a preponderance of evidence that such proposed local amendment would be as stringent as the state minimum standard codes and a preponderance of evidence that the local climatic, geologic, topographic, or public safety factors require such an amendment; or
- C. That the department has no recommendation regarding the adoption or disapproval of the proposed local amendments, due to the lack of sufficient evidence to show that such proposed local amendment would or would not be as stringent as the state minimum standard codes and the lack of sufficient evidence to show that local climatic, geologic, topographic, or public safety factors require or do not require such an amendment.

- 2. The department shall have sixty (60) days after receipt of a proposed local amendment to review the proposed amendment and make a recommendation as set forth in Section 36-104(1). In the event that the department fails to respond within the time allotted, the local governing body may adopt the proposed local amendment.
- 3. In the event that the department recommends against the adoption of the proposed local amendment, a local governing body shall specifically vote to reject the department's recommendations before any local amendment may be adopted.
- 4. No local amendment shall become effective until the local governing body has caused a copy of the adopted amendment to be filed with the department. A copy of an amendment shall be deemed to have been filed with the department when it has been placed in the United States mail, return receipt requested.
- 5. Nothing in this subsection shall be construed so as to require approval by the department before a local amendment shall become effective.
- 6. The department shall maintain a file of all amendments to the state minimum standard codes adopted by the various municipalities and counties in the state, which information shall be made available to the public upon request. The department may charge reasonable fees for copies of such information. An index of such amendments shall be included in each new edition of a state minimum standard code.
- 7. Except as otherwise provided in this section, building related codes or sections dealing with the subjects of historic preservation, high-rise construction, or architectural design standards for which a state minimum standard code does not exist may be adopted by a local jurisdiction following review by the department. The department's review shall be limited to a determination that the proposed code or ordinance is consistent with the approved state minimum standard codes when common elements exist and is not less restrictive than the requirement of said codes. Changes to all other state minimum standard codes shall be approved only pursuant to the provisions of this section regarding local amendments.

ARTICLE 2.1 Revision of State Minimum Standard Codes

The Department of Community Affairs may from time to time revise and amend the state minimum standard codes.

At the time of issuing a building permit, Newton County shall notify the holder of the permit of any local amendments to the state minimum standard codes which are in effect for that county and that any such amendments are on file with the department. A county may satisfy this notice requirement by posting or providing a summary of the topic of such local amendment or amendments and the address and telephone number of the department.

ARTICLE 2.1 Enforcement of Codes

- 1. The governing body of any county adopting any state minimum standard code shall have the power:
 - A. To adopt by ordinance or resolution any reasonable provisions for the enforcement of the state minimum standard codes, including procedural requirements, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other provisions or procedures necessary to the proper administration and enforcement of the requirements of the state minimum standard codes;
 - B. To provide for inspection of buildings or similar structures to ensure compliance with the state minimum standard codes;
 - C. To employ inspectors, including chief and deputy inspectors, and any other personnel necessary for the property enforcement of such codes and to provide for the authority, functions, and duties of such inspectors;
 - D. To require permits and to fix charges therefor;
 - E. To contract with other municipalities or counties adopting any state minimum standard code to administer such codes and to provide inspection and enforcement personnel and services necessary to ensure compliance with the codes; and
 - F. To contract with any other county or municipality whereby the parties agree that the inspectors of each contracting party may have jurisdiction to enforce the state minimum standard codes within the boundaries of the other contracting party.

2. No local inspector shall require any person performing work in compliance with a state minimum standard code or variations thereto which are in conformity with the provisions of this part to comply with the standards of any other building code not covered by this part.

ARTICLE 2.1 **Inspectors, Inspections, and Violations**

1. As used in this Code section, the term:

A. **CABO** means the Council of American Building Officials.

B. **Qualified Inspector** means:

(1) A person inspecting for compliance with the Standard Building Code or the building portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a building inspector;

(2) A person inspecting for the compliance of residential buildings with the National Electrical Code or the electrical portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a residential electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;

(3) A person inspecting for the compliance of nonresidential buildings with the National Electrical Code who holds a certification from the SBCCI as a commercial electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;

(4) A person inspecting for compliance with the Standard Gas Code who holds a certification from the SBCCI as a mechanical inspector or plumber, or master plumber license from the State Construction Industry Licensing Board;

(5) A person inspecting for compliance with the Standard Mechanical Code or the mechanical portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a mechanical inspector or a conditioned air contractor license from the State Construction Industry Licensing Board;

(6) A person inspecting for compliance with the Georgia State Plumbing Code, the Standard Plumbing Code, or the plumbing portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a plumbing inspector or a journeyman plumber or master plumber license from the State Construction Industry Licensing Board;

(7) A person inspecting for compliance any portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a one and two-family dwelling inspector;

(8) A person inspecting for compliance with the Georgia State Energy Code for Buildings who has completed eight (8) hours of training that is conducted or approved by the department; or

(9) A person inspecting for compliance with any of the codes listed in subparagraphs 1 through 8 of this paragraph who holds a certificate of registration as a professional engineer issued under *O.C.G.A.* Chapter 15 of Title 43 and is practicing within the scope of his or her branch of engineering expertise while conducting such inspection.

C. **SBCCI** means the Southern Building Code Congress International.

D. **State Construction Industry Licensing Board** means that board created pursuant to *O.C.G.A.* § 43-14-3.

2. The governing authority of any county which has adopted provisions for the enforcement of the state minimum standard codes shall post a notice stating whether the personnel employed by that governing authority to conduct inspections for compliance with such codes are qualified inspectors. Such notice shall separately address each minimum standard code enumerated in subdivisions (9)(B)(i)(I) through (9)(B)(i)(VII) of *O.C.G.A.* § 8-2-20 and the building, electrical, mechanical, and plumbing portions of the CABO One- and Two-Family Dwelling Code, and state whether all personnel assigned to conduct inspections for the particular code or portion of the code are qualified inspectors for that code or portion of the code.

3. If such notice states that not all personnel assigned to conduct inspections for a particular state minimum standard code or portion of such code are qualified inspectors for that code or portion of the code, then the governing authority may retain qualified inspectors not employed by the governing authority to conduct inspections. If the County does not so retain qualified inspectors, then any

person, firm, or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a person who is a qualified inspector for that code or portion of the code and who is not an employee of or otherwise affiliated with or financially interested in such person, firm or corporation to provide the required inspection.

4. The person, firm, or corporation retaining a qualified inspector to conduct an inspection pursuant to this section shall be required to pay to the county which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county inspector.

5. A qualified inspector retained pursuant to this section shall be empowered to perform any inspection required by the governing authority of any county or municipality, including but not limited to inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air condition (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the governing authority of any county; provided, however, that the qualified inspector must possess the qualifications described in paragraph (B) of subsection (1) of this section for the particular type of inspection. Any inspection conducted pursuant to this section shall be no less extensive than an inspection conducted by a county inspector.

6. Upon submission by the qualified inspector of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the qualified inspector without the necessity or further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the qualified inspector, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the qualified inspector with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

7. Nothing in this section shall be construed to apply to inspections for compliance with a state or local fire safety standard or erosion control standard.

8. Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

ARTICLE 2.1 Code Compliance Inspections

1. If the Board of Commissioners cannot provide inspection services within two (2) business days of receiving a valid written request for inspection, then in lieu of inspection by inspectors or other personnel employed by such governing authority, any person, firm or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a professional engineer who holds a certificate of registration issued under *O.C.G.A. § Chapter 15 of Title 43*, and who is not an employee of or otherwise affiliated with or financially interested in such person, firm, or corporation, to provide the required inspection.

2. Any inspection conducted by a registered professional engineer shall be no less extensive than an inspection conducted by a county inspector.

3. The person, firm, or corporation retaining a registered professional engineer to conduct an inspection shall be required to pay to the county which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county inspector.

4. The registered professional engineer shall be empowered to perform any inspection required by the governing authority of any county, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the Board of Commissioners of any county, provided that the inspection is within the scope of such engineer’s branch of engineering expertise.

5. The registered professional engineer shall submit a copy of his or her inspection report to the county.

6. Upon submission by the registered professional engineer of a copy of his or her inspection report to Newton County, the county shall be required to accept the inspection of the registered professional engineer without the necessity of further inspection or approval by the inspectors or other personnel employed by the county unless the county has notified the registered professional engineer, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the registered professional engineer with a

written description of the deficiencies and specific code requirements that have not been adequately addressed.

7. The County may provide for the prequalification of registered professional engineers who may perform inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered professional engineer on the basis of the engineer's expertise with respect to the objectives of the inspection, as demonstrated by the engineer's experience, education, and training.

8. Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

ARTICLE 2.1 **Plumbing Code**

1. **Adoption.** There is hereby adopted by the Board of Commissioners, for the purpose of establishing standards and procedures affecting the installation of plumbing and plumbing materials, the Georgia State Plumbing Code, being particularly that code published by the State Building Administrative Board, of which code not less than one (1) copy has been and now is filed in the office of the county clerk/treasurer, and the same is adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect, the provisions thereof shall be controlling within the corporate limits of the county.

2. **Definitions of Terms Used in State Plumbing Code.**

A. Wherever the term "plumbing inspector" is used in the State Plumbing Code, it shall mean the person designated by the Board of Commissioners to administer and enforce the provisions of said code.

B. Wherever the term "corporate counsel" is used in the State Plumbing Code, it shall mean the County Attorney of this county.

C. Wherever the term "municipality" is used in the State Plumbing Code, it shall mean this county.

3. **Enforcement.** The Georgia State Plumbing Code adopted herein shall be enforced by the Building and Inspections Department of Newton County.

4. **Penalties.** Any person who shall violate any of the provisions of the Georgia State Plumbing Code or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, shall, for each such failure or violation or noncompliance, be punished by a fine not to exceed five hundred dollars (\$500.00) and costs, or by imprisonment not to exceed ninety (90) days or both, any and all of such penalties to be imposed in the discretion of the Judge of the Superior Court.

ARTICLE 2.1 **Electrical Code**

The National Electric Code is adopted, with the following amendments:

1. Disconnects are not required in residential dwellings where the electrical panel is within fifteen (15) horizontal feet of the meter (Disconnect are required otherwise as per code);

2. All bond wires shall be crimped in boxes;

3. Any circuit with a capacity of forty (40) amperes or less is required to be copper wire only (no aluminum or copper clad aluminum wire allowed);

4. Each of the following appliances must be placed on an individual circuit with a minimum #12 size wire: refrigerators, freezers, well pumps, attic fans, garbage disposals, window air conditioners, microwave ovens, etc.;

5. A minimum of #14 size wire must be used in bedrooms, hallways, living rooms, dens, bathrooms and outside areas, including carports;

6. A minimum of #12 size wire must be used in utility rooms, laundry rooms, dining rooms, kitchens and breakfast areas;

7. Ground fault interrupter (GFI) protection shall be required as follows:

A. **Kitchen Circuits.** One GFI protection device required. (NOTE: Not more than two outlets are allowed per circuit in kitchens)

B. **Bathrooms.** One GFI protection device required for each level of multi story dwellings. (NOTE: GFI protection shall be sufficient for up to five (5) outlets on a single circuit);

C. **Outside Receptacles** (including garages and carports). one GFI protection device required. *NOTE: GFI protection shall be sufficient for up to five (5) outlets on a single circuit;*

8. No more than two (2) outlets may be placed on any circuit serving the kitchen area;

9. A minimum of #10 size wire with ground must be used on any circuit serving a water heater; a minimum of #10-3 size wire must be used on any circuit serving a clothes dryer, surface unit or oven;

The following is the minimum size for any residential service:

Dwelling size less than 1,000 square feet - minimum 100 amp main service

Dwelling size 1,000 to 2,000 square feet - minimum 150 amp main service

Dwelling size over 2,000 square feet - minimum 200 amp main service

Total electric dwellings (except multi family units of less than 1,000 square feet in size) must have a minimum of 200 amp main service.

Temporary services (saw services) may be allowed for up to twelve (12) months. If additional time is needed, applicants may apply for continuance of service. Substantial progress must be demonstrated at this time.

(Adopted 9/4/90; Effective 1/1/91)

ARTICLE 2.1 Housing Code

1. **Administration.**

A. **Title and Scope.**

(1) **Title.** Provisions in the following sections and paragraphs shall constitute and be known and may be cited as "The Newton County Housing Code" hereinafter referred to as "this Code."

(2) **Code Remedial.** This Code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof - which are public safety, health, and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of residential buildings.

(3) **Scope.**

(a) The provisions of this Code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation, regardless of when such building may have been constructed.

(b) This Code establishes minimum standards for occupancy, and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this Code.

(c) Buildings or structures moved into or within the jurisdiction shall comply with the requirements in the Standard Building Code for new Buildings.

(4) **Existing Buildings.**

(a) Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of this Code provided that the alteration, repair or rehabilitation work conforms to the requirements of this Code for new Construction. The Housing Official shall determine, subject to appeal to the Board of Adjustments and Appeals, the extent, if any, to which the existing building shall be made to conform to the requirements of this Code for new construction.

(b) Alterations, repairs or rehabilitation work shall not cause an existing building to become unsafe as defined in Paragraph C(2).

(c) If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of this Code for the new occupancy classification as established by the Housing Official.

- (d) Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this Code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed.
- (5) **Special Historic Buildings and Districts.** The provisions of this Code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as Historic Buildings when such buildings or structures are judged by the Housing Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts. The applicant may be required to submit complete architectural and engineering plans and specifications bearing the seal of a registered professional engineer or architect.
- (6) **Maintenance.** All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code in a building when erected, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises.
- (7) **Application of Zoning Ordinance.** Nothing in this Code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance of Newton County, Georgia.
- B. **Organization.**
 - (1) **Enforcement Officer.** There is hereby established by the governing body provisions for the enforcement of this Code by the Housing Official.
 - (2) **Restrictions on Employees.** An officer or employee connected with the department, except one whose only connection is as a member of the board, established by this act, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the department.
 - (3) **Records.** The Housing Official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.
- C. **Power and Duties of Housing Official.**
 - (1) **Right of Entry.** The Housing Official shall enforce the provisions of this Code, and he, or his duly authorized representative upon presentation of proper identification to the owner, agent, or tenant in charge of such property, may enter any building, structure, dwelling, apartment, apartment house, or premises, during all reasonable hours, except in cases of emergency where extreme hazards are known to exist which may involve the potential loss of life or severe property damage, in which case the above limitations shall not apply.
 - (2) **Unsafe Residential Buildings.**
 - (a) All residential buildings or structures used as such which are unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress; or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are considered unsafe buildings, All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the following procedure:
 - (b) Whenever the Housing Official determines that there are reasonable grounds to believe that there has been a violation of any provision of this Code or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor and such alleged violations shall constitute a nuisance. Such notice shall:

- (i) Be put in writing;
 - (ii) Include a statement of the reasons why it is being issued;
 - (iii) Allow one hundred twenty (120) days time for the performance of any act it requires;
 - (iv) State that, if such repairs; reconstruction, alterations, removal or demolition, are not voluntarily completed within the stated time as set forth in the notice, the Housing Official shall institute such legal proceedings charging the person or persons, firm, corporation, or agent with a violation of this Code.
- (c) Service of Notice shall be as follows:
- (i) By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
 - (ii) By depositing the notice in the United States Post Office, certified mail, return receipt requested, addressed to the owner at his last known address with postage prepaid thereon; or
 - (iii) By posting and keeping posted for twenty-four (24) hours a copy of the notice in a conspicuous place on the premises to be repaired.
- (d) When a residential building is to be demolished, it shall be done so in accordance with the provisions of the Standard Code for Elimination or Repair of Unsafe Buildings.

(3) **Requirements Not Covered by Code.** Any requirement, not specifically covered by this Code, found necessary for the safety, health, and general welfare of the occupants of any dwelling, shall be determined by the Housing Official subject to appeal to the Housing Board of Adjustments and Appeals.

(4) **Liability.** Any officer or employee, or member of the Housing Board of Adjustments and Appeals, charged with the enforcement of this Code, in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of this Code shall be defended by the County Attorney until the final termination of the proceedings.

(5) **Reports.** The Housing Official shall upon request submit a report to the Chairman of the governing body covering the work of the department during the preceding year. He shall incorporate in said report a summary of the decisions of the Housing Board of Adjustments and Appeals during said year.

(6) **Letter of Compliance.** A letter compliance with the provisions of this Code may be issued by the Housing Official.

D. **Inspections.** Upon receipt of an appropriate complaint or request, the Housing Official shall make or cause to be made inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants of such buildings and of the general public. For the purpose of making such inspections, the Housing Official, or his agent, is hereby authorized to enter, examine, and survey at all reasonable times all residential buildings and premises. The owner or occupant of every residential building or the person in charge thereof shall give the Housing Official free access to such residential building and its premises, at all reasonable times for the purpose of such inspection, examination, and survey.

E. **Hardships.** Where the literal application of the requirement of this Code would appear to cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of this Code or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal the decision of the Housing Official to the Housing Board of Adjustments and Appeals, as set forth in Paragraph 7 hereof.

F. **Housing Board of Adjustments and Appeals.**

(1) **Appointment.**

- (a) There is hereby created by the governing body a Board to be known as the Housing Board of Adjustments and Appeals, which shall consist of

five (5) members appointed by the governing body. The members shall be residents of Newton County. Members of the Board shall be appointed for two-year (2) terms, except that on the initial appointment, three (3) shall be appointed for one (1) year, two (2) for two (2) years. Any one (1) or more members of said Board shall be subject to removal or replacement by the appointing authority at any time, and a vacancy on said Board shall be filled by the appointing authority for the unexpired term of such vacancy. The members of said Board shall serve with such compensation as the governing body may from time to time establish.

- (b) As soon as practical after their appointment, the members of the Housing Board of Adjustments and Appeals shall meet and organize by electing a Chairman, Vice-Chairman, and Secretary. Thereafter, officers of the Board shall be elected by the members at the first annual meeting of the Board.
- (2) **Meetings.** The Board shall meet at intervals to be determined by the Chairman but in any event, the Board shall meet within ten (10) days after notice of appeal has been received. Reasonable notice of the place, time and date of such meetings shall be given all the members of the Board and all interested parties in each case to be heard by the Board.
- (3) **Records.** All minutes of the Board meetings shall be public records and the Secretary of the Board, or his designee, shall keep all records and perform such additional duties as the Board may deem proper.
- (4) **Duties.**
 - (a) The duties of the Housing Board of Adjustments and Appeals shall be:
 - (i) To consider and determine appeals whenever it is claimed that the true intent and meaning of this Code or any of its regulations have been misconstrued or wrongly interpreted.
 - (ii) To permit, in appropriate cases where the application of the requirement of this Code in the allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship of an owner, one or more extensions of time, not to exceed one hundred twenty (120) days each, from the date of such decision of the Board. Applications for additional extensions of time shall be heard by the Board. Such requests for additional extensions of time shall be filed with the Housing Official not less than thirty (30) days prior to the expiration of the current extension.
 - (iii) To permit, in appropriate cases where strict application of the ordinance would create practical difficulty or undue hardship, variances from the provisions of this Code or modifications of orders of the Housing Official.
 - (b) An appeal should not be considered where an appeal case has been previously decided involving the same premises.
- (5) **Procedure.** The Housing Board of Adjustments and Appeals shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of this Code and the laws of the state.
- (6) **Decisions.** All decisions of the Housing Board of Adjustments and Appeals to vary the application of any provision of this Code or to modify an order of the Housing Official shall specify in what manner such variance or modification is made, the conditions upon which it is made, and the reasons therefor. Every decision shall be in writing and shall indicate the vote upon the decision. A copy of all decisions shall be promptly filed in the office of the Housing Official and shall be open to public inspection. The Secretary shall notify the appellant in writing of the final action of the Board.

G. **Appeals.** Any person receiving written notice from the Housing Official of deficiencies in his property under this Code may within fifteen (15) days following the date of such notice enter an appeal in writing to the Housing Board of Adjustments and Appeals. Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the variance or modification requested, the reasons therefor, and the hardship or conditions upon which the appeal is made. Any person dissatisfied with the final

decision of the Housing Board of Adjustments and Appeals may appeal said decision to Superior Court.

H. **Violations and Penalties.** Any person, firm, corporation or agent, who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of this Code shall be prosecuted within the limits provided by state or local laws. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, or continued and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

I. **Validity.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not effect the validity of the remaining portions of this Code.

J. **Permits.** Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change a residential building or structure or to cause any such work to be done, shall first make application to the Housing Official and obtain the required permit therefor. Ordinary minor repairs may be made with the approval of the Housing Official without a permit; provided that such repairs shall not violate any of the provisions of this Code.

2. **Definitions.**

A. **General.**

- (1) **Tense, Gender and Number.** For the purpose of this Code, certain abbreviations, terms, phrases, words, and their derivatives, shall be construed as set forth in this Paragraph 2.

Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and plural number includes the singular.

- (1) **Special Meaning.** Whenever the words "dwelling," "dwelling units," "rooming house," "rooming units," "premises," are used in this Code, they shall be construed as though they were followed by the words, "or any part thereof."

B. **Definitions.**

- (1) **Abandoned Motor Vehicle.** any wrecked or non-operable automobile, truck or other vehicle which does not bear a current license plate.
- (2) **Addition.** an extension or increase in floor area or height of a building or structure.
- (3) **Alter or Alteration.** any change or modification in construction or occupancy. A
- (4) **Apartment.** a dwelling unit as defined in this Code.
- (5) **Apartment House.** any building or portion thereof used as a multiple dwelling for the purpose of providing three or more separate dwelling units which may share means of egress and other essential facilities.
- (6) **Governing Body.** the Board of Commissioners of Newton County, Georgia.
- (7) **Approved.** approved by the Housing Official or other authority having jurisdiction. B
- (8) **Basement.** that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling, provided, however, that the distance from grade to ceiling shall be at least 4 ft. 6 in.
- (9) **Building.** any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind which has enclosing walls for fifty percent (50%) of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." (For the purpose of this Code each portion of a building separated from other portions by a fire wall shall be considered as a separate building.)
- (10) **Cellar.** that portion of a building, the ceiling of which is entirely below grade or less than 4 ft. 6 in. above grade.

- (11) **Dormitory.** a space in a unit where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room, or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges.
- (12) **Dwelling.** when used in this Code without other qualifications, means a structure occupied exclusively for residential purposes by not more than two families.
- (13) **Dwelling Unit.** a single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (14) **Extermination.** the control and extermination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods.
- (15) **Family.** one (1) or more persons living together, whether related by blood, marriage or adoption, and having common housekeeping facilities.
- (16) **Floor Area.** the total area of habitable space in a building or structure.
- (17) **Garbage.** the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.
- (18) **Habitable Room.** a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.
- (19) **Hotel.** any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.
- (20) **Housing Official.** the officer, or other person, charged with the administration and enforcement of this Code or his duly authorized representative.
- (21) **Infestation.** the presence within or around a dwelling, of any insects, rodents, or other pests.
- (22) **Multiple Dwelling.** any building or portion thereof which is occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.
- (23) **Nuisance.** The following shall be defined as nuisances:
- (a) Any public nuisance known at common law or in equity jurisprudence.
 - (b) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
 - (c) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
 - (d) Overcrowding a room with occupants.
 - (e) Insufficient ventilation or illumination.
 - (f) Inadequate or unsanitary sewage or plumbing facilities.
 - (g) Uncleanliness, as determined by the health officer.
 - (h) Whatever renders, air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.
- (24) **Openable Area.** that part of window or door which is available for unobstructed ventilation and which opens directly to the outdoors.
- (25) **Operator.** any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.
- (26) **Owner.** the holder of the title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the

property are submitted. It shall also mean any person who, alone or jointly or severally with others:

- (a) shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
 - (b) shall have charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, or assignee of rents, lessee, or other person, firm or corporation in control of a building; or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Code, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner. It is his responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property which apply to the owner.
- (27) **Person.** any individual, firm, corporation, association or partnership.
- (28) **Plumbing.** the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building structure, or conveyance; also, the practice and materials used in the installation, maintenance, extension, or alteration of stormwater, liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.
- (29) **Premises.** a lot, plot or parcel of land including the buildings or structures thereon.
- (30) **Public Areas.** an unoccupied open space adjoining a building and on the same property that is permanently maintained accessible to the Fire Department and free of all encumbrances that might interfere with its use by the Fire Department.
- (31) **Repair.** the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations, or that would be in violation of a provision of law or ordinance. The term "Repair" or "Repairs" shall not apply to any change of construction.
- (32) **Required.** required by some provision of this Code.
- (33) **Residential Buildings.** buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories, shall be classified as "Residential Occupancy." Such buildings include, among others, the following: dwellings, multiple dwellings, and rooming houses.
- (34) **Rooming House.** any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.
- (35) **Rooming Unit.** any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- (36) **Rubbish.** combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, or other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass crockery, and dust.
- (37) **Stairway.** one (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one (1) story to another in a building or structure.
- (38) **Story.** that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.
- (39) **Structure.** that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together

in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

- (40) **Supplied.** paid for, furnished, or provided by or under control of, the owner or operator.
- (41) **Temporary Housing.** any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities' system on the same premises for more than thirty (30) consecutive days.
- (42) **Valuation or Value.** as applied to a building, the estimated cost to replace the building in kind.
- (43) **Ventilation.** the process of supplying and removing air by natural or mechanical means to or from any space.
- (44) **Yard.** an open unoccupied space on the same lot with a building extending along the entire length of a street, or rear, or interior lot line.

2.

Minimum Standards for Basic Equipment and Facilities.

A. **General.** No person shall occupy as owner-occupant or let or sublet to another for occupancy and dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements.

B. **Facilities Required.**

- (1) **Sanitary Facilities.** Every dwelling unit shall contain not less than the following plumbing fixtures from and after the following dates:

Effective Date	Fixtures Required
January 1, 1988	One (1) water closet and one (1) of the following: kitchen sink, lavatory, or tub or shower.
January 1, 1989	One (1) water closet and two (2) of the following: kitchen sink, lavatory, or tub or shower.
January 1, 1990	One (1) water closet and an adequate supply of hot water connected to the plumbing fixtures otherwise required under this ordinance.
January 1, 1991	One (1) water closet and three (3) of the following: kitchen sink, lavatory, and tub or shower.

Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition free from defects, leaks, and obstructions.

- (1) **Location of Sanitary Facilities.** All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user and such room shall have a minimum floor space of 20 sq. ft. Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas.
- (2) **Water Supply.** Every dwelling unit shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of water. All water shall be supplied through an approved distribution system connected to a potable water supply.
- (3) **Heating Facilities.**
 - (a) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working conditions, and are capable of safely and adequately heating all habitable rooms, and bathrooms in every dwelling unit located therein to a temperature of at least 70 degrees F at a distance of 3 ft. above floor level, under ordinary minimum winter conditions.
 - (b) Where a central heating system is not provided, each dwelling unit shall be provided with facilities whereby heating appliances may be connected.

- (c) Unvented fuel burning heaters shall be prohibited except for gas heaters listed for unvented use and the total input rating of the unvented heaters is less than thirty (30) btu per hour per cubic foot of room content. Unvented fuel burning heaters shall be prohibited in bedrooms.
- (4) **Cooking and Heating Equipment.** All cooking and heating equipment and facilities shall be installed in accordance with the building, mechanical, gas or electrical code and shall be maintained in a safe and good working condition. Portable cooking equipment employing flame is prohibited.
- (5) **Garbage Disposal Facilities.** Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, or a type and location approved by the governing body.
- (6) **Fire Protection.** A person shall not occupy as owner-occupant or shall let to another for occupancy, any building or structure which does not comply with the applicable provisions of the fire prevention code of the governing body.
- (7) **Smoke Detector Systems.** Every dwelling unit shall be provided with an approved listed smoke detector installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217, Single and Multiple Station Smoke Detectors.
- B. **Minimum Requirements for Light and Ventilation.**
 - (1) **Windows.** Every habitable room is encouraged to have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight percent (8%) of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such an window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.
 - (2) **Ventilation.**
 - (a) Every habitable room shall be adequately ventilated.
 - (b) Year round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window type air-conditioning units are not included in this exception.
 - (3) **Bathroom.** Every bathroom shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilating system.
 - (4) **Electric Lights and Outlets.** Where there is electric service available to the building structure, every habitable room or space shall contain at least two (2) separate and remote convenience outlets and bedrooms shall have, in addition, at least one (1) wall switch controlled ceiling or wall type light fixture. In kitchens, three (3) separate and remote convenience outlets shall be provided, and a wall or ceiling type light fixture controlled by a wall switch shall be required. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one (1) electric fixture. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one (1) convenience outlet. Any new bathroom outlet shall have ground-fault circuit interrupter protection. Every such outlet shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.
 - (5) **Light in Public Halls and Stairways.** Every common hall and inside stairway in every building, other than one-family dwellings, shall be adequately lighted at all times with an illumination of at least one (1) foot candle intensity at the floor in the darkest portion of the normally traveled stairs and passageways.
- C. **Minimum Requirements for Electrical Systems.** Every electrical outlet and fixture required by this Code shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the electrical code of the governing body.
- D. **General Requirements for the Exterior and Interior of Structures.**

- (1) **Foundation.** The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.
- (2) **Exterior Walls.** Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain, or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding material shall be kept in repair.
- (3) **Roofs.** Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.
- (4) **Means of Egress.** Every dwelling unit shall have safe, unobstructed means of egress with minimum ceiling height of 7 ft. leading to a safe and open space at ground level. Stairs shall have a minimum head room of 6 ft. 8 in.
- (5) **Stairs, Porches and Appurtenances.** Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
- (6) **Protective Railings.** Protective railings shall be required on any unenclosed structure over thirty (30) inches from the ground level or on any steps containing four (4) risers or more.
- (7) **Windows and Doors.** Every window, exterior door and basement or cellar door and hatchway shall be substantially weather-tight, watertight and rodent proof; and shall be kept in sound working condition and good repair.
- (8) **Windows to be Glazed.** Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes.
- (9) **Window Sash.** Window sash shall be properly fitted and weather-tight within the window frame.
- (10) **Windows to be Openable.** It is considered desirable that every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware.
- (11) **Hardware.** Every exterior door shall be provided with proper hardware and be maintained in good condition.
- (12) **Door Frames.** Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.
- (13) **Protective Treatment.** All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding shall be weather resistant and water tight. All masonry joints shall be sufficiently tuck pointed to insure water and air tightness.
- (14) **Accessory Structures.** Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.
- (15) **Interior Floors, Walls, and Ceilings.**
 - (a) Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
 - (b) Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- (16) **Structural Supports.** Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying normal loads.
- (17) **Protective Railings and Interior Stairs.** Interior stairs and stairwells more than four (4) risers high shall have handrails located in accordance with the requirements of the Building Code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition.
- (18) **Firestopping and Draftstopping.**

- (a) Firestopping shall be maintained to cut off all concealed draft openings both horizontal and vertical and to form a fire barrier between floors and between the upper floor and the roof space.
 - (b) Draftstopping shall be maintained to cut off all concealed draft openings in floor/ceiling assemblies and in attics.
- E.
- (1) **Minimum Dwelling Space Requirements.**
Required Space in Dwelling Unit. Every dwelling unit shall contain at least one hundred fifty (150) sq. ft. of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
 - (2) **Required Space in Sleeping Rooms.** In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) sq. ft. of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) sq. ft. of floor space for each occupant thereof.
 - (3) **Minimum Ceiling Height.**
 - (a) Habitable (space) rooms other than kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than seven (7) ft. Hallways, corridors, bathrooms, water closet rooms and kitchens shall have a ceiling height of not less than seven (7) ft. measured to the lowest projection from the ceiling.
 - (b) If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half (½) the room area. No portion of the room measuring less than five (5) ft. from the finished floor to the finished ceiling shall be included in any computation of the minimum room area.
 - (4) **Occupancy of Dwelling Unit Below Grade.** No basement or cellar space shall be used as a habitable room or dwelling unit unless:
 - (a) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness; and
 - (b) The total window area in each room is equal to at least the minimum window area size as required in Paragraph 3-C(1); and
 - (c) Such required minimum window area is located entirely above the grade of the ground adjoining such window area; and
 - (d) The total of openable window area in each room is equal to at least the minimum as required under Paragraph 3-C(2)(a), except where there is supplied some other device affording adequate ventilation.
- F.
- (1) **Sanitation Requirements.**
Sanitation. Every owner of a multiple dwelling shall be responsible for maintaining a clean and sanitary condition the shared or common areas of the dwelling and premises thereof.
 - (2) **Cleanliness.** Every tenant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or which is provided for his particular use.
 - (3) **Garbage Disposal.** Every tenant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.
 - (4) **Care of Premises.** It shall be unlawful for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from Housing Official.
 - (5) **Extermination.** Every occupant of a single dwelling building and every owner of a building containing two (2) or more dwelling units shall be responsible

for the extermination of any health endangering insects, rodents, or other pests within the building or premises.

- (6) **Use and Operation of Supplied Plumbing Fixtures.** Every tenant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

G.

Rooming Houses.

- (1) **Compliance Exceptions.** No person shall operate a rooming house, or shall occupy or let to another for occupancy and rooming unit in any rooming house, except in compliance with the provisions of every section of this Code except the provisions of paragraphs A, B, and G.

- (2) **License Required.** No person shall operate a rooming house unless he holds a valid rooming house license.

- (3) **Water Closet, Lavatory and Bath Facilities.** At least one (1) flush water closet, lavatory basin, and bathtub or shower properly connected to a water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

- (4) **Water Heater Required.** Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

- (5) **Minimum Floor Area for Sleeping Purposes.** Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) sq. ft. of floor space and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) sq. ft. of floor space for each occupant thereof.

- (6) **Exit Requirements.** Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the building code of the applicable governing body.

- (7) **Sanitary Conditions.** The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for maintenance of all sanitary condition in every other part of the rooming house, and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

H.

Condemnation.

Designation of Unfit Dwellings and Legal Procedure for

- (1) **Dangerous Structures.** Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and declared to be a nuisance and shall be so designated and placarded by the Housing Official.

- (a) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.

- (b) One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or the public.

- (2) **Form of Notice.**

- (a) Be in writing;

- (b) Include a description of the real estate sufficient for identification;

- (c) State the time occupants must vacate the dwelling units;

- (d) State that, if such repairs, reconstruction, alterations, removal, or demolition are not voluntarily completed within the stated time as set forth in the notice, the Housing Official shall institute such legal proceedings charging the person or persons, firm, corporation, or agent with a violation of this Code.

- (3) **Service of Notice.** Service of notice to vacate shall be as follows:

- (a) By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or

- (b) By depositing the notice in the United States Post Office by Certified Mail. Return Receipt Requested addressed to the owner at his last known address with postage prepaid thereon; or
 - (c) By posting and keeping posted for twenty-four (24) hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.
- (4) **Vacating of Condemned Building.** Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Housing Official, shall be vacated within thirty (30) days after notice of such condemnation has been given by the Housing Official to the owner and/or occupant of the building.
- (5) **Occupancy of Building.** No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until approval is secured from and such placard is removed by the Housing Official. The Housing Official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- (6) **Removal of Placard or Notice.** No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in Paragraph I(6).

(Passed and Approved 1/20/87; Effective 4/1/87)

ARTICLE 2.1 **Minimum Efficiency Standards for Plumbing Fixtures**

1. **Purpose.** It is the purpose of this ordinance to require the use of ultra-low-flow plumbing fixtures in all new construction, or when replacing plumbing fixtures during renovation or remodeling of existing buildings, and to require the labeling of plumbing fixtures with information regarding the flow rates for the purpose of conserving water to maintain the integrity of drinking water supplies and reduce wastewater flows.

2. **Definitions.**

- A. **Plumbing Fixtures**, as referred to in this ordinance, shall mean any toilet, urinal, showerhead, bathroom, lavatory and kitchen faucet and replacement aerators.
- B. **Toilet**, as referred to in this ordinance, shall mean any fixture consisting of a water flushed bowl with a seat, used for the disposal of human waste.
- C. **Urinal**, as referred to in this ordinance, shall mean any fixture consisting of a water flushed bowl used for the disposal of human waste.
- D. **Residential Building**, as referred to in this ordinance, means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.
- E. **Commercial Building** as referred to in this ordinance, means any type of building other than residential.

3. **Standards.** No plumbing fixture shall be installed which does not meet the standards listed in Paragraph 3(A). This includes all plumbing fixtures installed in newly constructed buildings or when replacing plumbing fixtures during remodeling or renovation of existing buildings, except as noted in Paragraph 5. The effective date of this requirement for residential buildings shall be April 1, 1992, and for commercial buildings shall be July 1, 1992.

A. All plumbing fixtures installed as referred to above should not exceed the following maximum water use rates;

Toilets	1.6 gallons per flush
Urinals	1.0 gallons per flush
Showerheads	2.5 gallons per minute
Kitchen Faucets	2.5 gallons per minute
Bathroom and Lavatory Faucets	2.0 gallons per minute

A. The flow restriction device in a showerhead must be a permanent and an integral part of the showerhead and must not be removable to allow flow rates in excess of that stated in Paragraph 3(A) above.

B. Lavatory faucets located in restrooms intended for use by the general public shall be of the metering or self-closing type, in addition to the flow requirement listed in Paragraph 3(A).

2. **Product Labeling.** Effective July 1, 1991, all toilets, urinals, showerheads or faucets shall be clearly labeled by the manufacturer to indicate the maximum flow rate or water usage of the fixture. The water use rate of the fixture shall be certified by the manufacturer based on independent test results and using sixty (60) psi for showerheads. The label shall be affixed to the fixture and remain there until the proper building and/or plumbing inspections have been conducted. Also, the product packaging must be clearly marked to identify water use rates when offered for retail sale.

3. **Exceptions.** The following fixture uses or applications shall be exempt from the standards established in Paragraph 3.

A. Showers and faucets installed for safety purposes, such as emergency eye wash stations, etc.

B. Plumbing fixtures specifically designed for use by the physically handicapped.

C. Fixtures specifically designed to withstand unusual abuse or for installation in correctional institutions which may require more water for proper operation.

D. Instances of building renovation where significant plumbing modifications would be required to accommodate the lower flows or for specialized purposes which cannot be accommodated by existing technology. Permission for the exceptions listed here must be obtained from the director of the appropriate governmental department administering these rules.

4. **Penalties for Violations.**

A. Any person who violates any provision of this ordinance shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each violation. Each violation shall constitute a separate offense and each day that such violation continues shall constitute a separate offense.

B. Any building or plumbing contractors, developers, etc., who violate the provisions of this ordinance shall be subject to suspension of their business license for a period of up to ninety (90) days.

5. **Compliance and Enforcement.** In addition to the penalty provided in Paragraph 6, (Jurisdiction) may take other actions as described below to compel compliance and may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain any violation of this ordinance.

A. Compliance with the requirements for installation and labeling at the time of installation in Paragraph 3 shall be determined by the Director of Building Inspection or his agent in cases of new or replacement plumbing fixture installations and compliance shall be a condition for receipt of any occupancy permit.

B. The appropriate water authority or water service agency may deny any service connection to an establishment which does not comply with the standards set forth in Paragraph 3.

C. Compliance with the requirements in Paragraph 4, regarding the labeling of plumbing fixtures offered for retail sale, shall be determined by the Director of Building Inspection or his/her agent. The agency shall have access to all establishments which offer for retail sale or sell plumbing fixtures at retail for purposes of determining compliance with Paragraph 4.

(Adopted 5/7/91; Effective 4/1/92)

ARTICLE 2.1 Fire Sprinkler Systems

1. The following codes are hereby adopted by reference as though they were copied herein fully and that said codes shall enforced in all new multi-family residential occupancies and commercial building 2000 square feet and greater and to existing multi-family residential occupancies and commercial buildings 2000 square feet and greater when such structure is being upgraded twenty percent (20%) or greater of the buildings estimated value:

A. NFPA 13: Installation of Sprinkler Systems. 1999 Edition

- (1) Installation of Sprinkler Systems in Small Commercial Buildings.
- (2) Installation of Sprinkler System in Multi-family Residential Occupancies.
- (3) Fire Sprinkler Installer Competency Act.
- (4) Reinspection Fee Program
- (5) Plan Review Fee Program

2. **Enforcement.** Within said Codes when reference is made to the duties of certain officials named therein that designated official of Newton County who has duties corresponding to those of the named official in said Codes shall be deemed to be the responsible official insofar as enforcing provisions of said Codes are concerned.

3. **Exceptions.** All duplexes, as that term is defined by the Zoning Ordinance of Newton County, shall be excepted from this Ordinance provided they are not served by a public water supply system.

(Adopted 5/15/01)

CHAPTER 37: **BLASTING OR EXCAVATING NEAR UNDERGROUND GAS PIPES AND UTILITY FACILITIES**

CHAPTER 38:
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Section

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37-108	Treatment of Gas Pipes and Other Underground Utility Facilities by Blasters and Excavators
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37-110	Effect of Ordinance Upon Rights, Powers, Etc., of Utilities
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37-112	Applicability of Ordinance in the Event of Emergencies
37-113	Penalties



ARTICLE 2.1 **Purpose**

The purpose of this ordinance is to prevent injury to persons and property and interruptions of utility and cable television service resulting from damage to gas pipes and other underground utility facilities caused by blasting or excavation operations by providing a method whereby the location of underground gas pipes and other utility facilities will be made known to persons planning to engage in blasting or excavation operations so that such persons may observe proper precautions with respect to such underground gas pipes and other utility facilities.

ARTICLE 2.1 **Definitions**

As used in this ordinance, the term:

1. **Blasting** means any operation by which the level of grade of land is changed or by which earth, rock, buildings, structures, or other masses or materials are rendered, torn, demolished, moved, or removed by the detonation of dynamite or any other explosive agent.
2. **Business Days** means Monday through Friday, excluding the following holidays: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Friday following Thanksgiving Day, Christmas Eve, and Christmas Day. Any such holiday that falls on a Saturday shall be observed on the preceding Friday. Any such holiday that falls on a Sunday shall be observed on the following Monday.
3. **Business Hours** means the time from 7:00 a.m. to 4:30 p.m. local time on business days.
4. **Corporation** means any corporation, municipal corporation, county, joint-stock company, partnership, association, business trust, cooperative, organized group of persons, whether incorporated or not, or receiver(s) or trustee(s) of any of the foregoing.
5. **Distribution of Gas** means the distribution or furnishing of gas to the ultimate consumer through the use of underground pipes or other facilities and includes, but is not limited to, the distribution of gas pursuant to a certificate of public convenience and necessity issued by the Public Service Commission.
6. **Excavating** means any operation by which the level or grade of land is changed and includes, without limitation, grading, trenching, digging, ditching, auguring, scraping and pile driving. Such term,

however, does not include public road maintenance activities within the rights of way of a public road on the state highway system, the county road system, or the city street system.

7. **Gas** means any flammable gaseous matter and includes, but is not limited to, natural gas, manufactured gas, liquefied petroleum gas, and any material composed predominantly of any of the following hydrocarbons or mixtures of the same: methane, propane, propylene, butane, or butylene. The term "gas" shall also include liquid petroleum products.

8. **Mechanized Excavating Equipment** means all equipment which is powered by any motor, engine, or hydraulic or pneumatic device and which is used for excavating, including, without limitation, bulldozers, backhoes, power shovels, scrapers, draglines, clamshells, augurs, drills and pile drivers.

9. **Persons** means an individual or corporation. Such term, however, does not include and no provision of this ordinance shall apply to any excavating done by a railroad when excavating is made entirely on the land which the railroad owns or on which the railroad operates or, in the event of an emergency, on adjacent land. Such term, however, also does not include and shall not apply to the Department of Transportation or its officers or employees when excavating, blasting, or operating mechanized excavating equipment anywhere within public road rights of way.

10. **Railroad** means all corporations, companies, or individuals owning or operating any railroad line or railroad company in this state.

11. **Service Area** means a contiguous area or territory which encompasses the underground distribution system or network of gas pipes or other underground utility facilities by means of which a utility provides utility service.

12. **Transmission of Gas** means the transmission or transportation of gas through the use of underground pipes or other facilities and includes, but is not limited to, the transportation or transmission of gas in interstate commerce pursuant to a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission and the transmission or transportation of gas in interstate commerce pursuant to a certificate of public convenience and necessity issued by the Public Service Commission.

13. **Utilities Protection Center or Center** means the corporation or other organization formed by utilities to provide a joint telephone number notification service for the purpose of receiving advance notification from persons planning to blast or excavate and distributing such notifications to its affected utility members.

14. **Utility** means any person operating or maintaining gas pipes or other underground utility facilities.

15. **Utility Facility** means underground mains, pipes, conduits, cables, ducts, wires, fiber optic or photonic lines, or other structures operated or maintained by utilities in connection with the storage, conveyance, distribution, or transmission of gas, electric energy, telephone or telegraphic, or cable television or video communications.

ARTICLE 2.1 **Reserved**

ARTICLE 2.1 **One-call Notification Centers**

1. All utilities operating or maintaining underground utility facilities within the unincorporated area of the county shall participate as members in and cooperate with the Utilities Protection Center. No duplicate center shall be established. The activities of the Center shall be funded by the participating utilities.

2. The Utilities Protection Center shall maintain a list showing the counties within which its participating utilities maintain gas pipes and other underground utility facilities. The Center shall also maintain a list of the name, address, and telephone number of the office, department, or other source from or through which information respecting the location of gas pipes and other underground utility facilities of its participating utilities may be obtained during business hours on business days.

ARTICLE 2.1 **Reserved**

ARTICLE 2.1 **Prerequisites to Blasting or Excavating**

1. No person shall commence, perform or engage in blasting or in excavating with mechanized excavating equipment on any tract or parcel of land in the unincorporated area of Newton County unless and until the person planning the blasting or excavating, at least seventy-two (72) hours prior to commencement of the work, excluding hours during days other than business days, has given actual notice to the Utilities Protection Center, which notice shall:

- A. Describe the tract or parcel of land upon which the blasting or excavation is to take place with sufficient particularity to enable the utility to ascertain the precise tract or parcel of land involved;
 - A. State the name, address, and telephone number of the person who will engage in the blasting or excavating and state whether such person desires to be notified in the event there are no utility facilities present on the tract or parcel specified;
 - B. Describe the type of blasting or excavating to be engaged in by the person; and,
 - C. Designate the date upon which the blasting or excavating will commence.
2. Whenever any blasting or excavating with mechanized excavating equipment is undertaken on a project on the public road system under contract with the Department of Transportation, the notice required under subsection (1) shall be deemed to have been given for all utility facilities other than gas which are shown on the project plans and for which a notice of contract award and notice of preconstruction conference have been mailed to the utility by the Department of Transportation. Nothing contained in this subsection shall be construed to relieve any person under contract with the Department of Transportation of the duties set forth in Section 8 as to all underground utility facilities.
3. In the event the blasting or excavation work which is the subject of the notice given pursuant to subsection (1) will not be completed within seventeen (17) days following the date of such notice, then no later than fourteen (14) days following such date of notice an additional notice must be given in accordance with subsection (1).
4. If, subsequent to giving the notice required by subsection (1), a person planning excavating determines that such work will require blasting, then such person shall promptly so notify the Utilities Protection Center.

ARTICLE 2.1 Duty of Utility Notified of Proposed Blasting or Excavating

1. Within seventy-two (72) hours, excluding hours during days other than business days, following receipt by the Utilities Protection Center of actual notice filed in accordance with Section 6, each utility shall stake or otherwise mark the surface of the tract or parcel of land to indicate the location of gas pipes or other underground utility facilities. Such markings shall be in accordance with the following color code:
- A. Safety Red shall be used to mark electric power distribution and transmission facilities;
 - B. High Visibility Safety Yellow shall be used to mark gas and oil distribution and transmission facilities;
 - C. Safety Alert Orange shall be used to mark telephone, telegraph, cable television, video, and other telecommunications facilities;
 - D. Safety Precaution Blue shall be used to mark water systems facilities; and,
 - E. Safety Green shall be used to mark sewer systems facilities.
2. If the person planning the blasting or excavating has stated, pursuant to Section 37-106(1)(B), that he desires to be notified in the event there are no utility facilities present on the tract or parcel specified, then each utility shall attempt to so notify such person by telephoning such person at the number furnished pursuant to Section 37-106(a)(2).

ARTICLE 2.1 Treatment of Gas Pipes and Other Underground Utility Facilities by Blasters and Excavators

Persons engaged in blasting or excavating with mechanized excavating equipment shall not strike, damage, injure, loosen, or remove lateral support from or around any gas pipe or other underground utility facility which has been staked or marked in accordance with this chapter; provided, however, that nothing in this chapter shall be construed or applied to limit or reduce the duty of a person engaged in blasting or excavating in the vicinity of gas pipes or other underground utility facilities, irrespective of whether the same have been staked or marked as provided in this chapter.

ARTICLE 2.1 Degree of Accuracy Required in Pipe or Underground Utility Facility Location; Effect of Inaccurate Information on Liability of Blaster or Excavator; Liability of Gas Company for Losses Incurred for Lack of Accurate Information, Etc.

1. For the purposes of this Ordinance, information concerning the location of gas pipes and other underground utility facilities which is given by a utility to any person must be accurate to within twenty-four (24) inches measured horizontally from the outer edge of either side of such facilities. If any gas pipe or

other underground utility facilities become damaged due to the furnishing or inaccurate information as to their location by the utility, the liabilities imposed by this Ordinance shall not apply.

2. Upon documented evidence that the person seeking information as to the location of gas pipes or other underground utility facilities has incurred losses or expenses due to inaccurate information, lack of information, or unreasonable delays in supplying information by the utility, the utility shall be liable to that person for his losses.

ARTICLE 2.1 Effect of Ordinance Upon Rights, Powers, Etc., of Utilities

This ordinance does not affect and is not intended to affect any right, title, power, or interest which any utility may have with relation to any facility or any easement, right of way, license, permit, or other interest in or with respect to the land on which the facility is located.

ARTICLE 2.1 Effect of Ordinance Upon Rights, Powers, Etc., of State, Counties, or Municipalities Concerning Facilities Located on Public Road or Street Rights of Way

This Ordinance does not affect and is not intended to affect any rights, powers, interest or liability of the state or the Department of Transportation with respect to the state highway system, the county road system or the municipal street system, or of a county with respect to the county road system or a municipality with respect to a city street system, with relation to any gas pipe or other underground utility facility which is or may be installed within the limits of any public road or street right of way, whether the installation is by written or verbal permit, easement, or any form of agreement whatsoever.

ARTICLE 2.1 Applicability of Ordinance in the Event of Emergencies

If any emergency arises which presents an immediate and substantial danger to life, health, or property or which requires the establishment or restoration of gas, electric, communication, rail or other essential public services, it shall be lawful for the person who undertakes to prevent such damage to life, health, or property or who is responsible for the establishment or restoration of such gas, electric, communication, rail, or other essential public services to engage in blasting or excavating with mechanized excavating equipment for such purpose without complying with Section 37-106, provided that, before commencing the same or as soon thereafter as is reasonably practical, the person shall give notice thereof to any utility which the person, in the exercise of reasonable judgement, believes may have gas pipes or other underground utility facilities within such proximity as to be affected by the blasting or excavating with mechanized excavating equipment.

ARTICLE 2.1 Penalties

1. Any person who violates the requirements of Section 37-106 shall be guilty of a crime punishable by payment of a fine of one thousand dollars (\$1,000.00). The fine provided for in this subsection shall not be imposed on a person engaged in farming activities on land he owns or leases.

2. Any person who violates the requirements of Section 37-106 and whose subsequent excavating or blasting damages gas pipes or other underground utility facilities shall be strictly liable for:

A. Any cost incurred by the utility in repairing or replacing its damaged facilities; and,

B. Any injury or damage to persons or property resulting from damaging the underground gas pipe or other utility facilities.

Any such person shall also indemnify the affected utility against all claims, if any, for personal injury, property damage, or service interruptions resulting from damaging the underground gas pipes or other utility facilities.

1. Subsections (1) and (2) shall not apply to any person who shall commence, perform or engage in blasting or in excavating with mechanized equipment on any tract or parcel of land in the unincorporated area of Newton County if the utility to which the notice was given respecting such blasting or excavating with mechanized equipment as prescribed in Section 37-106(1) has failed to comply with Section 37-107 or has failed to become a member of the Utilities Protection Center as required by Section 37-104.

(Adopted and Approved 11/4/97)

CHAPTER 38: **FRANCHISE ORDINANCE**

CHAPTER 39:

CHAPTER 40:

Section

- 38-101 Cable Television Franchise Ordinance - City of Covington
- 38-102 Cable Television Franchise - Newton County
- 38-103 Regulations for Community Antenna Television Systems
- 38-104 Cable Television Franchise - Newton County
- 38-105 Cable Television Franchise - Newton County



ARTICLE 2.1 **Cable Television Franchise Ordinance - City of Covington**

1. **Definitions.** For the purpose of this Ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. **County** shall mean the County of Newton in the State of Georgia.
- B. **Board of Commissioners** shall mean the governing body of the County.
- C. **City** shall mean the City of Covington, a municipal corporation of the State of Georgia.
- D. **Person** shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- E. **Franchise Area** shall mean all unincorporated areas within the boundaries of Newton County.
- F. **Property of the City** shall mean all property owned, installed or used by the City in the conduct of a CATV business in the County.
- G. **CATV** shall mean a cable television system as hereinafter defined.
- H. **Cable Television System** shall mean a system composed of, without limitation, antennae, cables, wires, lines, towers, wave guides, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable audio and/or radio, television, electronic or electrical signals to and from persons, subscribers and locations in the Franchise Area.
- I. **Cable Television Service** shall mean either or both "Basic CATV Service" or "Expanded CATV Service" as hereinafter defined.
- J. **Basic CATV Service** shall mean the distribution of broadcast television and radio signals.
- K. **Expanded CATV Service** shall mean any communications service in addition to Basic CATV Service provided by the City either directly or as a carrier for the subsidiaries, affiliates of any other person engaged in communication or any other person engaged in communications service, including, but not by way of limitation, pay TV, burglar alarm service, data or other electronic transmission services, facsimile reproduction services, meter reading services, home shopping services or other services beneficial to the subscriber.
- L. **Subscriber** shall mean any person or entity that has contracted to receive Basic CATV Service.
- M. **Designee and Designee of the Board of Commissioners** shall mean the duly elected Chairman of the Board of Commissioners and any person designated by the Chairman in writing.
- N. **Standard Connection** shall mean the providing of cable television service to a subscriber by means of an overhead service line of no more than two hundred (200) feet in length from the City's nearest distribution cable and shall otherwise be in accordance with the City's operating rules and regulations applicable to the City's cable TV subscriber within the corporate limits of the City.
- O. **Multiple Use Subscriber** shall mean a subscriber who has more than one outlet for and uses Cable Television Service for the benefit and enjoyment of persons other than the subscriber and the subscriber's employees and includes, but is not limited to, hotels, motels, boarding houses, apartments, nursing homes, hospitals and schools.

2. **Grant of Authority.** The County hereby grants to the City, under the terms, conditions and limitations herein prescribed, the right, privilege, authority and franchise within the Franchise Area to install,

lay down, maintain and operate underground pipes and conduits with the necessary manholes or other appliances therefor and to erect standard utility poles with or without crossarms, stretch wires and cable, and antennas or other appurtenances thereof, in, over, upon and under the streets, alleys, public highways of the County and to maintain and use the same for the purpose of operating a cable television system for public establishments, apartments, hotels, motels, residences, and other premises as may also desire such service. When practical, the City shall make use of existing telephone and power poles in conformity with such arrangements as may be had with the telephone and power companies in the Franchise Area.

3. **Conditions.** As a condition precedent for the granting of this franchise, the City has previously presented for approval by the County, the City's proposal for providing Cable Television Service within the Franchise Area as well as documentation of its legal, character, financial and technical qualifications for providing such service. The City has displayed to the County a map designating the location and general time schedules for areas to be served.

4. **Conditions of Street Occupancy.** The poles used for the City's Cable Television System shall be those erected and maintained by the County, the City, Southern Bell Telephone Company, the Georgia Power Company or Snapping Shoals E.M.C., when and where practicable, provided mutually satisfactory rental agreements can be entered into with said owners. Where the use of poles owned by owners stated above is not practicable or mutually satisfactory rental agreements cannot be entered into with said companies following a good-faith effort on the part of the City to obtain such agreements, the City shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the Cable Television System.

The City's Cable Television System poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property; removal of poles to avoid such interference will be at the City's expense. Approval of all construction sites by the Board of Commissioners or their designee shall be required prior to erection of any Cable Television System facilities other than utility poles, wires and antennae. Any change in the location of these facilities shall also be subject to prior approval by the Board of Commissioners or their designee. Construction and maintenance of the Cable Television System, including house connections, shall be in accordance with the provisions of the National Electric Safety Code, as amended, prepared by the National Bureau of Standards, the National Electric Code of the National Board of Fire Underwriters, as amended, and such applicable ordinances and regulations of the County, affecting electrical installations, which may be presently in effect, or changed by future ordinances.

Installation and housedrop hardware shall be uniform throughout the Franchise Area except that the City shall be free to change its hardware and installation procedure as the art progresses.

In the maintenance and operation of its Cable Television System in the streets, alleys, and other public places, and in the course of any new construction or addition to its facilities within the Franchise Area, the City shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by the City in the course of its operations shall be made only after having obtained prior written permission from the Board of Commissioners or their designee to do so, and shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by appropriate warning lights.

All work in any way necessitated by the business of the City which may involve the opening, breaking up or tearing up of a portion of a street, sidewalk or other part of any county-owned or county-controlled property, shall be done and repaired in a manner approved by the County and may be done by the County at the expense of the City, if mutually agreed upon by the County and the City. When a cut or disturbance is made in a section of sidewalk paving, rather than replacing only the area cut by the City, the City shall replace the full width of the existing walk and the length of the section or sections cut, a section being determined as that area marked by expansion joints or scoring; provided however, if a section is longer than six (6) feet, the City may create a section by creating a section no more than six (6) feet in length. The City shall maintain, repair and keep in good condition for a period of one (1) year following its disturbance, all portions of a sidewalk or street disturbed by it or its agents, provided that maintenance and repairs shall be made necessary because of defective workmanship or materials supplied by the City or its agents.

Installation shall be maintained so as not to interfere with TV reception already in existence.

1. **Relocation.** If the County, at any time deems it advisable to improve any of its streets, alleys, avenues, thoroughfares and/or public highways by grading or regrading or paving the same, or altering, changing, repairing or re-improving the same, the City, upon written notice by the County, shall, at its expense, immediately so raise, lower or move its line or cables or poles or wires, conduits or improvements to conform to such new grades as may be established, or place the facilities in such location or positions as shall cause the least interference with any such improvements or other work thereon and contemplated by the County. The County shall in no way be liable for any damages to the City that may occur by reason of the County's improvements, repairs or maintenance or by the exercise of any rights so reserved in this section or ordinance. If the County shall improve such streets, alleys, avenues, thoroughfares, and/or public highways, the City shall on written notice by the County, at its own expense, replace such cable, wires, poles or other property of the City as may be in or through the improved subgrade of such improvements with material which shall conform to the specifications for the improvement of such streets, alleys, avenues, thoroughfares and/or public highways or public places.

2. **Tree Trimming.** Where tree trimming is deemed necessary on public streets or places for the operation of the lines, wires, cables and antennas or other appurtenances and property of City, such trimming shall be done by competent employees, agents or contractors of the City after application for, and granting of a permit by the Chairman of the Board of Commissioners of the County or his designee and it shall be done without cost or expense to the County

3. **Minimum Channels.** Twelve viewing channels shall be furnished as a minimum and installation and maintenance of equipment shall be such that standard color signals shall be transmitted. All basic and movie services offered by the City to the residents of the City of Covington shall be offered to the subscribers in the Franchise Area.

4. **Rates.** The following provisions shall apply to rates and charges imposed by the City in the Franchise Area only. All rates and charges exacted by the City shall be subject to review by the County and shall be fair, reasonable, just and uniform.

Until changed in the manner herein specified, the maximum installation charge shall be twenty-five dollars (\$25.00) per single-outlet standard connection. Should, however, underground installation be required, and for all installations in excess of the allowances for a standard connection, the charge will be equal to the actual cost including an overhead factor incurred by the City in said installation. Installation charges for each additional outlet shall be at the same rate the City charges Subscribers within the City of Covington for similar installations.

Initially, the monthly service rate charge to a Subscriber for Basic CATV Service shall not exceed six dollars (\$6.00) for a single-outlet residential installation, two dollars (\$2.00) for each additional outlet and eight dollars (\$8.00) for each movie service through Home Box Office or a similar service and shall otherwise be the same rates the City charges Subscribers within the City of Covington for the same services.

The aforesaid monthly service rates and installation charges as are herein provided for shall be in effect upon the signing of this agreement and shall continue thereafter, unless changed as hereinafter proved. The installation charge and monthly service rates charged multiple user subscribers as herein defined shall be the same rates and charges then imposed by the City for multiple user service within the City of Covington.

The City shall give the County written notice of any proposed increase of subscriber rates and/or installation charges at least sixty (60) days before the proposed rates and/or charges are to go into effect. The increase shall be approved, unless within said sixty (60) days, the County notifies the City in writing of its intention to investigate the proposed increase. At no time will any monthly service rates exceed those charged by the City to subscribers for service within the City of Covington. In the event the County notifies the City of its intention to investigate a proposed rate increase, the procedures for investigation and action thereon by the County shall be in accordance with the provisions of Paragraph 23 hereof.

The rates and charges for the services provided hereunder shall be fair, reasonable and nondiscriminatory. The City shall not be denied an increase in its rates if it can demonstrate to the County's satisfaction that the City cannot make a fair return on its investment without a rate increase.

1. **Term of Franchise.** The County having determined the term to be reasonable, the term of the Franchise is as follows:

A. The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof and shall terminate fifteen (15) years from the date of the grant, and may be renewed for successive ten (10) year terms, following a public proceeding affording due process, on the same terms or conditions as contained herein, or such different or additional terms and conditions as may be lawfully specified by the County and consistent with the requirements of the Federal Communications Commission. These additional terms or conditions may only be adopted following notification to the City which shall specify the proposed changes in the Franchise Ordinance.

B. The franchise term may be extended for one period of six (6) months provided that proceedings for renewal of the franchise have been commenced by giving public notice thereof and the City has accepted such extension prior to the expiration date of the franchise.

2. **Franchise Fee.** In consideration of the rights, privileges and franchise hereby granted, said City, its permitted successors and assigns, shall pay to the County, from and after the effective date of this franchise ordinance and until its expiration or until such earlier time as the rate herein provided may be renegotiated, three percent (3%) per annum of the Basic CATV Service receipts derived from the operation of the Basic Cable Service including receipts from multiple outlets utilized by any subscriber in the Franchise Area. Any and all sums received by the City for any installation or connection work shall not be included in the term "receipts" for calculation of the franchise fee. No other expenditures, however, of any kind shall be deducted from the gross receipts of the City in determining gross Basic CATV Service receipts; provided however, all applicable sales and use taxes imposed by any governmental authority on the City's gross Basic CATV Service receipts shall be excluded from calculations of the applicable franchise fees.

Payment of said franchise fee shall be made on or before the first day of March of each year for the calendar year preceding.

The County, by its Board of Commissioners or such other officers or representatives of the Board of Commissioners as the Board of Commissioners may designate, shall at all times have access to the books, records, papers, files and property of the City relating only to the City's Cable Television System operations in the Franchise Area; provided, that the County shall give the City forty-eight (48) hours written notice in advance of its intent to exercise the right of review of said documents and/or property, which notice shall contain a description of the documents and/or property to be reviewed.

1. **Service Policies.** The City contemplates extending its energized trunk cable throughout the Franchise Areas that have the potential of meeting the City's minimum density requirement of at least thirty (30) cable subscribers per mile of energized trunk cable by December 31, 1983, so that Basic CATV Service will be available to all Subscribers in the Franchise Areas that meet the City's aforesaid density requirements for trunk cable extensions. By January 31, 1982, the City shall:

A. Extend energized trunk cable along Georgia Highway 81 from the Porterdale City Limits to Salem Road (Georgia Highway 162) and along Salem Road to the Newton-Rockdale County Line and make Basic CATV Service available to Subscribers in that immediate area;

B. Submit to the Board of Commissioners the City's proposed schedule for the installation of energized trunk cable throughout all other portions of the Franchise Area that meet the City's density requirement of at least thirty (30) cable Subscribers per mile of energized trunk cable. The City and the County agree to cooperate in modifying the City's proposed schedule of energized trunk cable extensions as necessary to permit extensions of CATV in areas of high Subscriber density.

C. Upon the County's approval of the City's proposal for extension of energized trunk cable or after mutual modification thereof, the City shall proceed in installing its energized trunk cable in accordance with the approved schedules and provide Basic CATV Service to the Subscribers of the Franchise Areas covered by such extensions.

If at any time the City is not in compliance with the schedules specified in this section, the County shall be authorized to terminate the City's rights under this agreement as to all portions of the Franchise Area not then served by the City.

1. **Indemnification and Insurance.**

A. **Insurance.** So long as the City shall exercise any right or privilege granted by this ordinance and as a condition of the franchise herein granted becoming effective, the City shall provide and maintain in full force and effect public liability insurance. The amounts of such insurance against liability due to physical damage to property shall be not less than one hundred thousand dollars (\$100,000.00) for all damage arising out of injury to or destruction of property in any one occurrence and against liability due to bodily injury or to death of person of not less than three hundred thousand

dollars (\$300,000.00) as to any one accident. A copy of such policy or certificate evidencing the same shall be filed in the office of the Clerk of the County and shall provide for ten (10) days advance notice to the County of any change, cancellation or lapse thereof.

B. **Indemnity.** The City, by its acceptance of this ordinance and the rights, privileges and franchise hereby granted, does covenant and agree for itself, its successors and assigns, with the County, to at all times protect and save harmless the County from all claims, actions, suits, liability, loss, costs, expenses or damages of every kind or description which may accrue to, or be suffered by, any person or persons or property arising out of the City's operation of the Cable Television System in the Franchise Area, and to appear and to defend at its own cost and expense any such action or suit instituted or begun against the County for damages, by reason of the construction, reconstruction, readjustment, repair, maintenance, operation, or use of said streets or anything that has been done or may at any time be done by City, its employees or agents, by virtue of this ordinance, and in case judgement shall be rendered against said County in any suit or action, said City shall fully satisfy such judgement within ninety (90) days after such action or suit shall have been finally determined (including all applicable appeals), if determined adversely to the County.

By its acceptance of the franchise, the City agrees that it shall pay all necessary and reasonable expenses incurred by the County in defending itself with regard to all damages and penalties mentioned in this section, including County's reasonable attorneys' fees.

1. **Default.** In the event the City fails to renew its option at the termination of the franchise period, or in the event that the franchise is forfeited due to the failure of the City to fully comply with all terms and conditions of this agreement, the City's Cable Television System in the Franchise Area shall be placed up for sale at the fair market value and the Count shall have first option of refusal on the purchase of the system.

2. **Audits.** The City shall, during each year of this agreement, have prepared, by an independent certified public accountant, an annual financial audit which shall be sufficient to ascertain the financial condition of the City. Such audit report shall be submitted to the Board of Commissioners on or before the first day of June of each year.

3. **Violations.**

A. From and after the effective date of this Ordinance, it shall be unlawful for any person to construct, install or maintain within any public street, or within any privately-owned area within the County which has not yet become a public street on any preliminary subdivision plat approved by the County, any equipment or facilities for distributing any television signals or radio signals through a Cable Television System, unless a franchise authorizing such use of street or property or area has first been obtained, and unless such franchise is in full force and effect.

B. It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised Cable Television System within the County for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said Cable Television System.

C. It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound of a cable Television System.

4. **Penalties.** Any person violating any of the provisions or failure to comply with any of the mandatory requirements of Paragraph 16 of this Ordinance shall be guilty of violating this Ordinance. Any person convicted of a violation of Paragraph 15 of this Ordinance shall be punished by a fine of not more than five hundred dollars (\$500.00). Each such person shall be guilty of a separate offense for each and every day during and portion of which any violation of Paragraph 15 of this Ordinance is committed, continued or permitted by any such person, and such person shall be punished accordingly.

5. **Severability.** If any paragraph, subsection, sentence, clause or phrase of this Section is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board of Commissioners hereby declares that it would have passed this Ordinance and each paragraph, subsection, sentence, clause, phrase hereof, regardless of the fact that any one or more paragraphs, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this Ordinance shall no abate, reduce or otherwise affect any consideration or other obligation required of the City.

6. **Applicability of Federal Communications Rules and Regulations.** There shall be imposed as a condition of the grant of the franchise to or for the operation and maintenance of a Cable Television System the requirement that the City holding this franchise comply with all applicable regulations and standards promulgated now or hereafter by the Federal Communications Commission, the latter to include, but not be limited to, FCC regulations or standards in regard to maintenance of signal quality, channel capacity ability in functioning, requirements for community antenna system for television to make a channel or channels available for educational use, local governmental use, and for use in the event of any public emergency or disaster, and any requirements imposed by the FCC for the origination of Cable Television System for television of local programs in the public interest.

7. **Limitation.** The County is not and never shall be liable to any creditor of the City or to any claimant against the property of the City, its transferees or assignees for any debt, loss, contracts or other obligations of said City or its assignees or transferees.

8. **Rules, Regulations, Policies and Procedures.** All reasonable rules, regulations, policies and procedures adopted by the City relative to the operation of its Cable Television System that apply to the City's Cable Television System and operation within the corporate limits of the City of Covington, Georgia, shall be fully applicable to the City's operation of its Cable Television System in the Franchise Area. The City shall at all times provide the County with copies of all of its rules, regulations, policies and procedures as same apply to the Cable Television System in the Franchise Area.

Anything herein contained to the contrary notwithstanding, all such rules, regulations, policies and procedures shall be supplemental to this Ordinance and in the event of conflict between same and this Ordinance, the provisions of this Ordinance shall control. It is contemplated that such rules, regulations, policies and procedures shall govern such matters as, but not limited to, formulas for calculating costs on connection fees not covered by a standard connection, service calls and charges therefor, disconnection fees, billing cycles, customer and subscriber complaints, and credit review policy.

1. **Abandonment and Removal of Facilities.** The County may, upon written application of the City, approve the abandonment of any of the City's property used in the operation of its system then in place in the Franchise Area and under such terms and conditions as may be agreed upon by the City and the County. Upon abandonment of these facilities in place, the City shall cause to be executed, acknowledged and delivered to the County such instruments as the County Attorney may prescribe and approve, transferring and conveying the full ownership of such property to the County.

Upon termination of service to any subscriber, the City shall promptly remove all of its property, facilities and equipment from the premises of the subscriber upon the subscriber's written request. Such removal shall be at no cost to the subscriber.

1. **Restrictions Against Transfer.**

A. This Franchise and the rights and privileges granted to the City hereunder shall not be assigned or transferred either in whole or in part or leased, sublet or mortgaged in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, either by the act of the City or by operation of law without the consent of the County. The granting, giving or waiving of any one or more of these consents shall not render unnecessary any subsequent consent or consents.

B. The consent or approval of the County to any assignment, lease, transfer, sublease or mortgage of the franchise and the rights hereunder shall not constitute a waiver or release of the rights of the County in and to the streets.

C. By acceptance of this Franchise, the City specifically agrees that any disposition of its Cable Television System within the Franchise Area occurring without the prior approval of the County shall constitute a violation of this Ordinance. Notice of intent to make a transfer shall be given to the County not less than six (6) months prior to the intended transfer unless the County consents to a shorter notice.

D. Nothing in this paragraph shall be deemed to prohibit a mortgage or pledge of the CATV System equipment or any part thereof or a leasing by the City from any person of all or part of the CATV System property for financing purposes or otherwise.

2. **Due Process and Hearing Procedure.**

A. Any inquiry, proceeding, investigation or other action to be taken or proposed by the County in regard to the operations of the City's Cable Television System, including, but not limited to, hearings in regard to change in subscription rates as specified in Paragraph 8 hereof, shall be taken only after thirty (30) days public notice of this action or proposed action is published in a local daily or weekly newspaper having general circulation in the County; a copy of this action or proposed action is served directly on the City; and the City has been given an opportunity to respond in writing and/or at hearing at may be specified by the County, and general members of the public have been given an opportunity to respond or comment in writing on the action or proposed action.

B. The public notice required by this paragraph shall state clearly the action to be taken, the time provided for response and the person or persons in authority to whom this response should be addressed, and such other procedures as may be specified by the County. If a hearing is to be held, the public notice shall give the date and time of this hearing, whether public participation will be allowed, and the procedures by which this participation will be allowed and the procedures by which this participation may be obtained. The City is a necessary party to any hearing conducted in regard to its operations.

3. **Limitation on City's Recourse.**

A. Except as expressly provided in this Franchise Ordinance, the City shall have no recourse whatsoever against the County for any loss, cost, expense or damage arising out of the requirements of the Franchise or because of the enforcement thereof by the County. The City expressly acknowledges that upon acceptance of this Franchise, it does so relying upon its own investigation and understanding of the power and authority of the County to grant same.

B. The City by acceptance of this Franchise, acknowledges that it has not been induced to enter into this Franchise by any understanding or promise or other statement, whether verbal or written by or on behalf of the County or by any other third person concerning any term or condition of the Franchise not expressed herein.

C. The City further acknowledges by acceptance of the Franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all the risks of the meanings of these terms and conditions and agrees that in the event of any other dispute over the meaning thereof, it shall be construed strictly against the City and in favor of the County.

4. **Non-Waiver.** The City shall not be excused from complying with any of the terms and conditions of this Franchise by any failure of the County upon any one or more occasions to insist upon or seek compliance with any terms or conditions hereof.

5. **Time of the Essence.** Whenever the Franchise shall set forth any time for any act to be performed by or on behalf of the City, this time shall be deemed of the essence and any failure of the City to perform within the time allotted shall always be sufficient grounds for the County to revoke this Franchise.

6. **Rights Reserved by the County.** Without limitation upon the rights which the County might otherwise have, the County does hereby expressly reserve the following rights, powers and authority:

A. To exercise its governmental powers now or hereafter to the full extent that these powers may be vested in or granted to the County.

B. To determine through the Board of Commissioners any question or fact relating to the meaning, terms, obligations or other factors of the Franchise; and

C. To grant additional franchises within the County to other persons for the conduct of a Cable Television System under the provisions of this Ordinance.

7. **Non-Contestability of Validity of Franchise.** The City agrees by acceptance of this Franchise that it will not at any time set up against the County in any claim or proceeding, any condition or term of the Franchise as unreasonable, arbitrary or void, or that the County has no power or authority to make such term or condition, but shall be required to accept the validity of the terms or conditions of this Franchise in their entirety; provided however, that the above provisions shall not bar any claim or proceeding challenging the continued validity of any terms and conditions of the Franchise based on applicable laws, rules or regulations adopted by the City, County, state or federal authorities subsequent to the effective date of this Ordinance.

8. **Effective Date.** This Ordinance shall be in full force and effect upon its passage and publication as provided by law.

9. **Revocation of Prior Franchise Ordinance.** This Ordinance replaces and supersedes a prior ordinance entitled "Cable Television Franchise Ordinance" wherein the County granted to a franchise to the City for certain unincorporated areas of the County under date of November 4, 1980. The revocation of the aforesaid prior ordinance shall become effective upon the effective date of this ordinance.

(Approved 11/3/81)

ARTICLE 2.1 **Cable Television Franchise - Newton County**

1. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the right is hereby granted to WOMETCO CABLE TV OF CONYERS-ROCKDALE, INC., d/b/a NEWTON COUNTY CABLE, its successors, assigns, or designees, however such successors, assigns or designees are bound by the terms of this agreement, hereinafter referred to as "the Company," the right to erect, maintain and operate television transmission and distribution facilities, and additions thereto, in, under, over, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in the County of Newton, hereinafter referred to as "the County," and subsequent additions thereto, for the purpose of transmission and distribution of television impulses and television energy.

2. The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof and shall terminate fifteen (15) years from the date of the grant, and may be renewed for successive ten (10) year terms, following a public proceeding affording due process, on the same terms or conditions as contained herein, or such different or additional terms and conditions as may be lawfully specified by the County and consistent with the requirements of the Cable Communications Policy Act of 1984, as is or may hereafter be amended and the Federal Communications Commission. These additional terms or conditions may only be adopted following notification to the Company which shall specify the proposed changes in the Franchise Ordinance.

3. For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

A. **Affiliate** means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.

B. **Television** means a system for transmission of audio signals and visual images by means of electrical impulses.

C. **FCC** means Federal Communications Commission, or successor governmental entity thereto.

D. **Franchise** shall mean the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.

E. **Person** means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

F. **Public Way** shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchise Authority in the Service Area which shall entitle the Franchise Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchise Authority within the

Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchise Authority and the Grantee to the use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, compliance, attachments and other property as may be ordinarily necessary and pertinent to the Cable System.

G. **Gross Subscriber Revenues** mean the monthly Cable Service revenues received by Grantee from Subscribers of the Cable System.

H. **Cable Service** means (1) the one-way transmission to subscribers of Video Programming or other programming service, and (2) subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

I. **Cable System** means a facility, consisting of a set of closed transmission patch and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other service to subscribers.

J. **Subscriber** means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with the Company's express permission.

K. **Service Area** means the present boundaries of the County, and shall include any additions thereto by annexation or other legal means.

4. As a condition precedent for the granting of this franchise, the Company shall have presented to the Newton County Board of Commissioners a proposal for providing cable television service within the franchise area as well as documentation upon request of its legal, charter, financial and technical qualifications for providing such service.

5. The poles used for the Company's distribution system shall be those erected and maintained by the public or private utilities or the County, when and were practical, provided mutually satisfactory rental agreements can be entered into with said parties. Where the use of existing poles is not practical or mutually satisfactory rental agreements cannot be entered into with said parties following a good faith effort on the part of the Company to obtain such agreements, the Company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance to the television distribution system, with the approval of locating poles by the County Engineer or his designee.

6. The Company's transmission and distribution poles, wires, and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements the County may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property; removal of poles to avoid such interference will be at the Company's expense. Construction and maintenance of the transmission/distribution system, including house connections, shall be in accordance with the provisions of the National Electric Safety Code, as amended, prepared by the National Bureau of Standards, the National Electric Code of the National Board of Fire Underwriters, as amended, and such applicable ordinances and regulations of the County affecting electrical installations, which may be presently in effect or changes by future ordinances. Installation and house drop hardware shall be uniform throughout the County, except that the Company shall be free to change its hardware and installation procedure as the art progresses. In those areas where telephone and electrical service lines are underground or where the Company chooses to do so, the Company may place its cables and service underground.

7. If the County, at any time, deems it advisable to improve any of its streets, alleys, avenues, thoroughfares and/or public highways by grading or regrading or paving the same, or altering, changing, repairing or re-improving the same, the Company, upon written notice by the County, shall, at its expense, immediately so raise, lower or move its line or cables or poles or wires, conduits or improvements to conform to such new grades as may be established, or place the facilities in such location or positions as shall cause the least interference with any such improvements or other work thereon and contemplated by the County. The County shall in no way be liable for any damages to the Company that may occur by reason of the County's improvements, repairs or maintenance or by the exercise of any rights so reserved in this section or ordinance. If the County shall improve such streets, alleys, avenues, thoroughfares, and/or public highways, the Company shall on written notice by the County, at its own expense, replace such cable, wires, poles or other property of the Company as may be in or through the improved subgrade of such improvements with materials which shall conform to the specifications for the improvement of such streets, alleys, avenues, thoroughfares and/or public highways or public places.

8. Where tree trimming is deemed necessary on public streets or places for the operation of the lines, wires, cables and antennas or other appurtenances and property of Company, such trimming shall be done by competent employees, agents or contractors of the Company after application for, and granting of a

permit by the Chairman of the Board of Commissioners of the County or his designee and it shall be done without cost or expense to the County.

9. In the maintenance and operation of its television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or additions to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or any other public places made by the Company in the course of its operations shall be guarded and protected at all times by the placements of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designed by appropriate warning lights. All work in any way necessitated by the business of the company which may involve the opening, breaking up, or tearing up of a portion of a street, sidewalk, or other part of any County owned or controlled property, shall be done and repaired in a manner approved by the County and may be done by the County at the expense of the Company, if mutually agreed upon by the County and the Company.

10. Installation shall be maintained so as not to interfere with existing television reception.

11. The transmission and distribution system installed by the Company shall not be abandoned in whole or in part without the consent of the County. In the event of the failure of the Company to commence construction of the system within one hundred eighty (180) days after the enactment of this ordinance, and securing of the pole attachment agreement with the concerned utilities, or in the event of the failure of the Company to make cable television service available to homes representing at least thirty percent (30%) of the area intended to be served by the Company within one (1) year of the enactment of this ordinance, the County may, on ninety (90) days notice to the Company, declare this ordinance and the right and franchise granted hereunder forfeited. Failure to comply with these terms by reason of circumstances, which could not be anticipated at the time of the acceptance of its terms by the Company, shall not be sufficient grounds for the County to declare a forfeiture.

12. The Company is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever the Company shall receive a request for service from at least fifteen (15) Subscribers within one thousand, three hundred twenty (1,320) cable bearing strand feet (one-quarter (1/4) cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition or market development of the Cable System.

13. The Company shall indemnify, protect, and save harmless and defend the County from and against losses and physical damages to property, and bodily injury or death to persons, including payments made under any workmen's compensation law, which may arise out of or be caused by the construction, operation, erection, maintenance of its Cable System or the presence, use or removal of said attachments on poles within the County, or by any acts of the Company, its agents or employees arising out of the operations of the Company. The Company shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, General Comprehensive Liability Insurance in the amount of five hundred thousand dollars (\$500,000.00) for bodily injuries, (including accidental death) for any one occurrence person, and subject to the same limit for each person in an amount not less than three hundred thousand dollars (\$300,000.00) on account of any one occurrence, and Property Damage Liability Insurance in an amount not less than five hundred thousand dollars (\$500,000.00) resulting from any one occurrence. Said insurance shall designate the County as an additional named insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the County. The Company shall also carry such insurance as it deems necessary to protect it from all claims under any worker's compensation laws in effect that may be applicable to the company. All insurance required by this agreement shall be and remain in full force and effect for the entire life of this agreement.

14. The Company hereby grants to the County, free of any expense, joint use of any and all poles owned by the Company for any governmental purpose insofar as it may be done with interfering with the free use and enjoyment of the Company's own wires and fixtures, and the County shall hold the Company harmless from any and all actions, causes of action, or damage directly caused by the placing of the County's wires or appurtenances upon the poles of the Company. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of the construction.

15. In consideration of the granting of this franchise to the Company, the Company will furnish without charge a single outlet to any of the County's departmental offices within the service area of the Company.

16. In further consideration of the granting of this franchise to the Company, the Company shall pay to the County annually, an amount equal to five percent (5%) of gross subscriber revenues of the Company derived from cable service monthly fees paid by subscribers residing within the legal limits of the County. The County shall have the right to inspect the records of the company at any reasonable time for the purpose of ascertaining accurately what the actual gross receipts of the Company may have been for basic

cable television service for past years and/or the current year. Payment shall be made ninety (90) days after the close of the preceding calendar year. Any and all sums received by the Company for any installation or connection work shall not be included in the term "gross subscriber revenues" for calculation of the franchise fee.

17. All installations by the Company shall be made in good substantial and safe conditions and shall be maintained in such conditions at all times.

18. The Company shall, during each year of this agreement, have available for inspection by the County, an annual financial report which shall be sufficient to ascertain the financial condition of the Company.

19. The Company shall, at all times, be in full compliance with all FCC regulations, as amended, pertaining to cable television systems. The Company shall, furthermore, at all time, be in full compliance with all existing federal, state, and local laws, ordinances and statutes as are applicable to the operation of a cable television system. No part of this ordinance shall be construed as a waiver of any local, state or federal law, or as a limit of liability.

20. In the case of any emergency or disaster, the Company shall, upon request of the County make available its facilities for the County, to provide emergency information and instructions during the emergency or disaster period. The County shall hold the Company, its agents, employees, officers, and assigns hereunder harmless from any claims arising out of the emergency use of its facilities by the County, including, but not limited to, reasonable attorneys' fees and costs.

21. If a renewal of Company's Franchise is denied and the County either lawfully acquires ownership of the Cable System or by it sanctions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer of the Cable System shall be at a fair market value, determined on the basis of the Cable System valued as a going concern, but with no value allocated to the Franchise itself. If the distribution system of the Company shall be placed up for sale at fair market value, the County shall have first option of refusal on the purchase of the system. If Company's Franchise is lawfully revoked for cause and the County acquires ownership of the Cable System or by its actions effects a transfer of ownership of the Cable System to another person, any such acquisition or transfer shall be at an equitable price. The Company and County agree that in the case of a revocation, at Company's request, which shall be made in its sole discretion, the Company shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party at fair market value, determined on the basis of the Cable System valued as an ongoing concern. The County further agrees that during such a period of time, it shall authorize the Company to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Company is unsuccessful in procuring a qualified transferee or assignee of its Cable System, which is reasonably acceptable to the County, the Company and County may avail themselves of any rights they may have pursuant to federal or state law, it being further agreed that the Company's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the County or the Company. Notwithstanding anything to the contrary set forth in Paragraph 21, neither the County nor the Company shall be required to violate federal state law.

22. The Company's right, title, or interest in the Franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an Affiliate, without the prior consent of the County, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Company in the franchise or Cable System in order to secure indebtedness.

23. In the event that the County believes that the Company has not complied with the terms of the Franchise, it shall notify the Company of the exact nature of the alleged noncompliance.

24. The Company shall have thirty (30) days from receipt of the notice described in Paragraph 23 to (a) respond to the County contesting the assertion of noncompliance, or (b) to cure such default or, in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the County of the steps being taken and the projected date that they will be completed.

25. In the event that the Company fails to respond to the notice described in Paragraph 23 pursuant to the procedures set forth in Paragraph 24, or in the event that the alleged default is not remedied within sixty (60) days after the Company is notified of the alleged default pursuant to Paragraph 23, the County shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Board of Commissioners of the County which is scheduled at a time which is no less than five (5) business days therefrom. The County shall notify the Company of the time and place of such meeting and provide the Company with an opportunity to be heard.

26. Subject to applicable federal and state law, in the event the County, after such meeting, determines that the Company is in default of any provision of the Franchise, the County may:

- A. Foreclose on all or any part of any security provided under this Franchise, if any, including, without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the County reasonable determines is necessary to remedy the default;
- B. Commence an action at law for monetary damages or seek other equitable relief;
- C. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or
- D. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Company shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the County to enforce prompt compliance.

1. The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

2. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the County or the Company shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service. The notices or responses to the County shall be addressed as follows: Newton County Board of Commissioners, 1113 Usher Street, Covington, Georgia 30209. The notices or responses to the Company shall be addressed as follows: Wometco Cable TV of Conyers-Rockdale, Inc., d/b/a/Newton County Cable, 1359 Iris Drive, SE, Conyers, Georgia 30208. The County and the Company may designate such other address or addresses from time to time by giving notice to the other.

(Approved 4/3/90)

ARTICLE 2.1 Regulations for Community Antenna Television Systems

1. **Short Title.** This Ordinance shall be known and may be cited as "The Newton County Regulations for Community Antenna Television Systems."

2. **Definitions.** For purpose of this section, the following terms, phrases, words, abbreviations and their derivations shall have the same meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include singular number; and words in the singular number include the plural. The word "shall" is always mandatory and not merely discretionary.

A. **Board** shall mean the present governing body of the county or any successor to the legislative powers of the present county Board of Commissioners.

B. **County** shall mean the county of Newton, a political subdivision of the State of Georgia.

C. **Chairman** shall mean the existing or any succeeding chief administrative officer of the county, or his designee.

D. **CATV** shall mean community antenna television.

E. **Community Antenna Television System (Hereinafter Called CATV System)** shall mean any facility which operates for hire the service of receiving and amplifying programs broadcast by one (1) or more television and/or radio stations and any other programs of any type, including audio, video or data originated by a cable television company or by another party, and distributing these programs by wire, cable, microwave or other means, whether these means are owned or leased, to persons who subscribe to this service. This definition does not include:

(1) Any system with fewer than fifty (50) subscribers; or

(2) Any master antenna television system.

F. **Master Antenna Television System** shall mean any system which serves only the residents of one (1) or more apartment dwellings under common ownership, control or management and any commercial establishment located on the premises of this apartment house and which transmits only signals broadcast over the air by stations which may be normally viewed or hear locally without objectionable interference and which does not provide any additional services over its facility.

G. **Person** shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

H. **Applicant** shall mean any person submitting an application to the County of Newton for a Franchise to operate a CATV system under the terms and conditions set forth by the County Board of Commissioners.

I. **FCC** shall mean the Federal Communications Commission.

J. **Franchise** shall mean and include a privilege; license and franchise but shall not mean a contract.

K. **Grantee or Franchisee** shall mean the person to whom or to which a franchise is granted by the county Board of Commissioners under this Section or anyone who succeeds the person in accordance with the provisions of the franchise.

L. **Gross Subscriber Revenue** shall mean all revenue derived from the monthly charges from all subscribers or users of regular CATV subscriber service.

M. **Street** shall mean the surface of and the space above and below any public street, road, highway, freeway, lane, path, public way or place, alley, court, boulevard, parkway, drive or other easement now or hereafter held by the county for the purpose of public travel and shall include other easements or rights of way as shall be now held or hereafter held by the county which shall, within their proper use and meaning, entitle the county and its grantee to the use thereof for the purposes of installing or transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a CATV system.

N. **Residential Subscriber** shall mean a purchaser of any service delivered over the system to an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

O. **Commercial Subscriber** shall mean a purchaser of any service delivered over the system who or which is not a residential subscriber.

P. **Basic Service** shall mean the simultaneous delivery by the company to television receivers (or any other suitable types of communications receivers) of all subscribers in the franchisee's service area of all signals of over-the-air television broadcasters required by the FCC to be carried by a CATV system as defined hereinabove. Basic service shall also include any public, educational or governmental access channels as required herein or by the FCC and all civil defense or public safety messages as deemed necessary by the county. Basic service shall also include any other channels or information offered as such at the option of the franchisee.

Q. **Additional Service** shall mean any communications service other than basic service provided over its CATV system by a grantee directly or as a carrier for its subsidiaries, affiliates or any other person engaged in communications services including, but not limited to, burglar alarm, data or other electronic intelligence transmission, facsimile reproduction, meter reading, home shipping, private channels and channels for which a per-program or per-channel charge is made.

R. **Channel** shall mean a band of frequencies, six (6) megahertz wide in the electromagnetic spectrum which is capable of carrying either one (1) audio-video television signal and a number of non-video signals or several thousand non-video signals.

S. **Access Channels** shall mean those channels on the CATV system which are reserved for carriage of program material provided by persons other than the operator, including the channel or channels used for "public," "educational," "government" and "leased" access as required herein or by the FCC.

T. **Grantee Channels** shall mean the channels on the system which are reserved for programming offered or originated by the grantee in accordance with the FCC television signal retransmission and/or cablecasting rules and regulations.

U. **Federal Communications Commission or FCC** shall mean that agency as presently constituted by the U.S. Congress or any successor agency.

V. **Certificate of Compliance** shall mean that approval required by the FCC in order for a grantee of a CATV franchise to begin or continue operation with the county.

W. **Pay Television** shall mean the delivery over CATV system of video signals to subscribers for a fee or charge (over and above the charge for basic service) on a per-program, per-channel or other subscription basis.

3. **Grant of Authority.** The Board is hereby authorized to grant one (1) or more franchises to construct, operate and maintain a CATV system within the county for a maximum initial period of fifteen (15) years, and may renew each franchise for a maximum period of ten (10) years subject to the conditions and restrictions as hereinafter provided.

4. **Franchise Term.** The franchise granted herein shall terminate fifteen (15) years from the date of grant, and may be renewed for successive ten (10) year terms, following a public proceeding affording due

process, on the same terms or conditions as contained herein, or such different or additional terms and conditions as may be lawfully specified by the Board and consistent with the requirements of the FCC. These additional terms or conditions may only be adopted following notification of the franchise seeking renewal. No person shall operate a CATV system as defined herein in the unincorporated areas of the county without a franchise issued under the provisions hereof.

5. **Application for CATV Franchise.**

A. No CATV franchise or renewal thereof shall be issued except on a written application and upon a form satisfactory to the Board.

B. The form shall set forth such facts in detail as the Board may deem appropriate including:

- (1) If the applicant is an individual, partnership or unincorporated association, its statement shall contain the names and addresses of all persons (including corporations) having a proprietary or equitable interest in and to the prospective franchisee's business operation, and in and to the prospective franchisee if awarded to the proposer. The term "equitable interest" shall include all assignments for value, as well as all contingent assignments of any rights of privilege under the prospective franchise, and shall also include any benefit, payment or emolument whatsoever resulting from the grant of a franchise under this section.
- (2) If the applicant is a non-public corporation, the statement shall furnish directors and shareholders of the corporation together with the number of shares held by each shareholder.
- (3) If the applicant is a publicly held corporation, as defined by the rules and regulations of the federal Securities and Exchange Commission, the statement shall contain the states in which incorporated and/or qualified to do business and the names and addresses of the officers and directors of the corporation.
- (4) A full disclosure of the ownership of the facilities to be used in rendering the service.
- (5) The source of funds for operation of the system respecting the installation and maintenance of all CATV facilities; and shall demonstrate the financial ability to provide and extend service to proposed subscribers at a reasonable cost.
- (6) A detailed schedule of the rates to be charged for the services offered, the facilities to be employed and the general routes of the cables used in redistributing signals, the service area or areas, the commencement and completion dates of construction of the CATV system and the proposed dates the service will be available to the area or areas names.
- (7) A detailed schedule of rates to be applied to residential, apartment, commercial and other users of service; and
- (8) A detailed plan of construction including proposed construction schedule and/or schedule of service for the franchise area.

C. The Board may request and the applicant shall provide such other information as the Board may reasonably deem appropriate.

D. All applications shall be open to public inspection, shall be kept on file a reasonable length of time at the discretion of the Board, and any intentional misrepresentation in an application shall be grounds for the revocation and termination of the franchise. Before issuing a franchise, the County shall conduct a public hearing.

E. All applications shall be signed and verified by the applicants whose relationship to the applicant shall be set forth and shall bind the applicant to the provisions thereof to the degree possible, consistent with FCC rules.

6. **Franchise Payment.**

A. The grantee shall pay to the county on or before the fifteenth (15th) of each month following initiation of service, an amount equal to three percent (3%) of the gross revenues on all cable service revenues, including but not limited to gross subscriber revenues, advertising, pay cable and lease channel revenues of the grantee derived from cable television operations in the unincorporated areas of the county during the preceding calendar month. No other fee, charge or consideration shall be imposed, except that the Board may impose a fee in excess of three percent (3%) but no more than five percent (5%) of gross revenues received from cable television operations in the county as defined above, provided that the FCC certified, after appropriate showing made by the Board, that a franchise fee in excess of three percent (3%) but no greater than five percent (5%) will not interfere with the effectuation of federal regulatory goals in the field of cable television; and after appropriate showings made by the Board that the franchise fee in excess of three percent (3%) but no greater than five percent (5%) or any other maximum franchise fee authorized by law, whichever is greater,

is appropriate in reaching the county's planned regulatory goals. Grantee shall submit to the county thirty (30) days after the expiration of each calendar year during the period the franchise shall be in force a financial statement showing in detail the gross annual revenues as defined herein of the grantee during the preceding year. The grantee shall provide a notarized affidavit as to the accuracy of this financial statement at the time of filing.

B. In the event the franchise should be forfeited prior to the end of the basic fifteen-year (15) term, the grantee shall immediately submit to the county a financial statement prepared as before required, showing the gross revenues of a grantee, as defined above, for the time elapsed since the last period for which a grantee has paid to the county the required percentage of gross revenues, and the grantee shall pay the county not later than thirty (30) days following the termination of the franchise, a like percentage of these revenues and any other sums legally due and owing to the county.

C. In the event that any payment is not made on or before the applicable date fixed in Paragraphs 6(A) and (B) hereof, a penalty of ten percent (10%) of the amount due is assessed and the total sum due shall bear interest from this date at the annual rate of eight percent (8%).

D. The county shall have the right to inspect a grantee's records showing the gross receipts from which its franchise payments are computed and shall have the right of audit and recomputation of any and all amounts paid under the franchise. No acceptance of any payment by the county shall be construed as a release of or an accord or satisfaction of any claim the county might have for further or additional sums payable under the terms of this section or for any other performance or obligation of grantee hereunder.

E. Payments made by a grantee to the county pursuant to the provisions of this section shall not be considered a business and occupation tax but shall be in addition to any and all other taxes or fees which are now or hereafter required to be paid by any law of the United States, the State of Georgia, or the county, other than county business and occupation taxes.

F. A grantee shall maintain throughout the term of the franchise a faithful performance bond running in favor of the county, written by a State of Georgia approved corporate insurance surety, in surety, in a sum no less than the highest monthly franchise payment by the grantee to the county in the preceding calendar year plus ten percent (10%) thereof. Such bond shall be based initially on a reasonable estimate by the county of the highest monthly franchise payment for the initial year of operation. The amount thereof for all damages resulting from the failure of the grantee to make any payment of all fees or amounts required herein to be paid to the county.

7. **Insurance.**

A. At all times during the term of the franchise, grantee shall obtain, pay all premiums for and file with the county certificates of insurance for the following:

- (1) A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the county, its officers, boards, commissions, agents or employees, from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of a grantee under franchise herein granted or alleged to have been so caused or occurred with a minimum liability of three hundred thousand dollars (\$300,000.00) per personal injury or death of any one (1) person and three hundred thousand dollars (\$300,000.00) for personal injury or death of any two (2) or more persons in any one (1) occurrence.
- (2) Property damage insurance indemnifying, defending and saving harmless the county, its officers, boards, commissions, agents and employees from and against all claims by any person for property damage occasioned by the operation of grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of two hundred fifty thousand dollars (\$250,000.00) for property damage to two (2) or more persons in any one (1) occurrence.
- (3) One hundred thousand dollars (\$100,000.00) for all other types of liability. This insurance shall be kept in full force and effect by the grantee until the legal termination of this agreement including any time required to complete any required removal of poles, wires, cables, underground conduits, manholes and other conductors and fixtures incident to the maintenance and operation of the CATV system as defined in the franchise.

B. All of the foregoing insurance contracts shall be in a form satisfactory to the Board, and shall be issued and maintained by companies authorized to do business in the State of Georgia, and they shall be required thirty (30) days written notice of any cancellation to both the county and a grantee herein, and a copy of the policy shall be filed with the Board.

8. **Indemnity.** Grantee shall at its sole cost and expense fully indemnify, defend and save harmless the county, its officers, boards, commissions and employees against any and all claims, suits, actions, liability and judgements for damage including but not limited to:
- A. Damages or penalties shall include but shall not be limited to damages arising out of copyright infringement and all other damages arising out of the installation, operation or maintenance of the CATV system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise.
 - B. A grantee shall pay all expenses incurred by the county, in defending itself with regard to all damages and penalties mentioned above. These expenses shall include but not be limited to all out of pocket expenses such as attorney fees and all other cost of litigation.
9. **Bonds and Records of Grantee.**
- A. A grantee shall file with the County Chairman a copy, true and accurate, of maps and/or plats of all existing and proposed installations upon the streets. These maps and plats shall conform to the requirements of the County Chairman and shall be kept continuously up to date.
 - B. A grantee shall continually keep on file with the County a current list of its shareholders, holding over three percent (3%) of the outstanding stock and officers with their current addresses.
 - C. All books and records of a grantee concerning its operations with the county shall be made available for inspection and audit by the County Chairman or his designee within thirty (30) days after any request for this inspection or audit shall be made.
 - D. Copies of all rules, regulations, terms and conditions established by a grantee for the operation of a CATV System under the franchise shall be filed with the county and at the local office of a grantee.
10. **Rates.**
- A. Pursuant to the county's authority to regulate businesses within the unincorporated areas of the county, the Board shall have the power, authority and right to cause a grantee's regular subscriber service rates and other charges to conform to provisions hereof and for this purpose, the Board may deny increase of these rates and charges when it determines that in the absence of this action on its part a grantee's rates and charges or proposed rates and charges will not conform to the provisions contained herein. Grantee shall give the Board public notice of any proposed increase of regular subscriber rates at least sixty (60) days before the rates are proposed to go into effect. The increase shall be approved unless, within said sixty (60) days, the Board notifies the grantee in writing of its intention to investigate the proposed increase.
 - B. The rates and charges for television signals distributed herein under shall be fair, reasonable and nondiscriminatory. A grantee shall not be denied an increase in its rates if it can demonstrate to the Board's satisfaction that it cannot make a fair return on its investment without a rate increase.
 - C. Unless and until otherwise changed in accordance with the provisions above, the rates for regular subscriber service herein under shall be as follows:
 - (1) For basic service to residential subscribers a sum not to exceed seven and one-half dollars (\$7.50) per month for the first outlet and a sum not to exceed two dollars (\$2.00) per month for each additional outlet. A rental charge for multichannel converter shall not exceed one dollar (\$1.00) per month; and
 - (2) For installation, a sum not to exceed twenty-five dollars (\$25.00) and for moving and reconnecting, each outlet a sum not to exceed ten dollars (\$10.00)
 - D. Should the Board elect to investigate grantee's proposed rate increase pursuant to Paragraph 10(A), this investigation shall be conducted following the procedure outlined in Paragraph 26.
- A. This paragraph shall only be effective so long as the Federal Communications Commission requires or allows the county to engage in rate regulations.
2. **Conditions of Street Occupancy.**
- A. All transmissions and distribution structures, lines and equipment erected by a grantee within the county shall be so located as to cause minimum interference with the proper use of streets, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the streets. The CATV system shall be constructed and operated in compliance with all adopted county and national construction and electrical codes and shall be kept current with new codes.
 - B. Except when absolutely necessary to service a subscriber, and then only when expressly permitted in writing by the County Chairman under such conditions as he or she shall prescribe for the public welfare, a grantee shall not erect or authorize or permit others to erect any poles or facilities within the streets of the county for the conduct of its CATV system but shall use the existing

poles and other equipment of the appropriate electrical power and telephone and other utility companies under such terms and agreements as a grantee negotiates with these companies. The county shall cooperate with a grantee in negotiating and obtaining permission to sue these facilities.

C. No poles, cables, equipment or wires for the construction, maintenance and operation of the CATV system shall be installed or the installation thereof commenced on any existing pole within the county until the proposed location, specifications and manner of installation of these poles, cables, equipment and wires shall have set forth upon a plat or map showing the existing poles, streets, alleys or highways within the county where these installations are proposed and submitted in writing by a grantee to the County Chairman and approved thereby in writing.

D. Should a grantee be required in the conduct of its business to locate property within the streets of the county other than property which may be attached to utility poles, then in that event, before a grantee shall install or shall permit any other person to install for grantee any of this property in the street, the nature of this property shall be disclosed to the County Chairman for his or her approval as to the need thereof and as to the location within the street and only installed under such conditions as the Chairman shall prescribe concerning this location or installation.

E. Whenever the county or state shall require the relocation or reinstallation of any property of a grantee in any of the streets of the county, it shall be the obligation of a grantee upon notice of this requirement to immediately remove and relocate or reinstall such property as may be reasonably necessary to meet the requirements of the county or state. This relocation, removal or reinstallation by a grantee shall be at the sole cost of a grantee.

F. Whenever in any place within the county, all the electric and telephone utilities shall be located underground, it shall be the obligation of a grantee to locate or to cause its property to be located underground in any place within the county after a grantee shall have previously installed its property, nevertheless, a grantee shall at the same time or immediately thereafter remove and relocate its property also underground in these places. Facilities of a grantee placed underground at the property owner's request in an area where electric utilities are aerial shall be installed with the additional expense paid by the property owner.

G. Grantee shall have the authority to trim trees overhanging the streets of the county so as to prevent the branches of these trees from coming in contact with a grantee's wires and cables. All trimming shall be done under the supervision and direction of the county and at the expense of a grantee.

H. In case of disturbances of any street caused by a grantee, a grantee shall at its own cost and expense and in a manner approved by the County Chairman replace and restore this street, in as good a condition as before the work involving this disturbance was done. Provided that when a cut or disturbance is made in a section of sidewalk paving, rather than replacing only the area cut, a grantee shall replace the full width of the existing walk and length of the section or sections cut, a section being determined as that area marked by expansion joints or scoring.

I. A grantee shall maintain, repair and keep in good condition for a period of one (1) year following this disturbance all portions of a sidewalk or street disturbed by it or its agents provided the maintenance and repairs shall be made necessary because of defective workmanship or materials supplied by grantee.

J. A grantee shall, on the request of any person holding a building moving permit issued by the state or county, temporarily remove, raise or lower its wires to permit the moving of the building. The expense of this temporary removal or raising or lowering of the wires shall be paid by the person requesting it and a grantee shall have the authority to require this payment in advance. A grantee shall be given not less than forty-eight (48) hours advance notice to arrange for these temporary wire changes. In the event of a disagreement between a grantee and a holder of a permit, this disagreement will be resolved by the County Chairman.

K. If at any time in case of fire or disaster in the county it shall become necessary in the judgment of the County Chairman or the fire chief to cut or move any of the wire cables, amplifiers, appliances or other fixtures of a grantee, this may be done and the repairs hereby rendered necessary shall be made by a grantee, at its own cost and expense and without charge against the county.

L. Grantee's work, while in progress, shall be properly executed at all times with suitable barricades, flags, lights, flares or other devices as are reasonably required to protect all members of the public having occasion to use the portion of the streets involved, or adjacent property.

3. **Initial System Installation Schedule.**

A. Within thirty (30) days after the acceptance of the franchise, a grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including but not limited to any utility joint use attachment agreements, microwave carrier

license and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of CATV systems or their associated microwave transmission facilities.

B. The grantee shall, within one (1) year from the date the Federal Communications Commission (FCC) certifies grantee's compliance with its rules and regulations governing cable television operations in and for the area of the county designated by the county, extend energized trunk cable to twenty percent (20%) of its designated area and shall extend energized trunk cable to the remaining portions of its designated area within four (4) years thereafter unless additional time is granted by the Board upon request by grantee for good cause shown which shall mean not less than service along all county paved roads within the franchise area.

4. **System Extension to New Subscribers.**

A. A grantee, whenever it shall receive a request for service from at least five (5) subscribers within one thousand (1,000) feet of its system, shall extend this system to this subscriber at no cost to the subscriber for system extension other than the usual connect fees for all subscribers. The one thousand (1,000) feet shall be measured in extension length of grantee's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's home or premises. Provided, however, that should any subscriber require more than two hundred (200) feet of "drop" cable to be extended from the public way or easement to the subscriber's receiver, the grantee may charge the subscriber the actual cost of this extension over six hundred (600) feet.

B. In addition, the Board may upon complaint from any potential subscriber residing in the county order the extension of the system to this subscriber after opportunity for hearing and notice to a grantee. The Board in its discretion may order this extension to any subscriber only upon reasonable contribution from the subscriber to the cost of the extension.

5. **Type and Capacity of Equipment to be Installed.** The applicant shall specify in its proposal the type and capacity of the equipment to be installed and a grantee shall be required to update this section of its proposal in keeping with the advances in the state of the art of CATV systems design.

6. **Operational Standards.**

A. The CATV system shall be installed and maintained in accordance with the highest accepted standards of the industry to the end that the subscriber may receive the highest and most desirable form of service.

B. In determining satisfactory compliance with the provisions of this section, the following, among other things, shall be considered:

- (1) That the CATV system is installed and remains capable of using all band equipment and of passing the entire VHF and FM spectrum and that it shall have the further capability of converting UHF for distribution to subscribers on the VHF band;
- (2) That the CATV system as installed is capable of transmitting and passing an entire color television signal without the introduction of material degradation of color fidelity and intelligence;
- (3) That the CATV system is designed and capable of twenty-four (24) hours a day continuous operation;
- (4) That the CATV system is capable of and will produce a picture upon any subscriber's television screen in black and white or color (provided the subscriber's television set is capable of producing a color picture) that is undistorted and free from ghost images and accompanied by proper sound assuming the technical, standard production television set is in good repair and that the television broadcast signal transmission is satisfactory. In any event, the picture produced shall be as good as the state of the art allows;
- (5) The CATV system shall transmit or distribute signals of adequate strength to produce good pictures of good sound in all television receivers of all subscribers without causing cross modulation in the cables or interference with other electrical or electronic systems;
- (6) That the CATV system as installed have at least the minimum channel capacity required by the FCC;
- (7) That a grantee shall provide without charge one (1) outlet to each public office building, fire station, police station, and public and private school that is passed by its cable upon specific request in each instance. If more than one (1) outlet is requested at any of the locations, a grantee shall install at the cost of time and material only and in no event will there be a monthly service charge at the locations;

- (8) That a grantee shall make available its existing studio facilities including color cameras and other equipment for use by the county and other qualified persons producing programs for the access channels required herein or by the FCC. Where applicable under FCC rules, the facilities and equipment shall be made available without charge. In all other instances, production and facility/equipment charges may be assessed but shall be consistent with the goal of affording the public a low-cost means of television access. All users will be subject to reasonable rules and regulations of the grantee consistent with FCC requirements and so as not to unduly interfere with the cable television operations of the grantee;
 - (9) That a grantee shall provide at least one (1) free dedicated noncommercial public access channel to be available on a nondiscriminatory basis;
 - (10) That grantee shall provide all other free educational and governmental access channels when and as required by the Federal Communications Commission; and
 - (11) That the cable television system shall be installed with the capacity for two-way communication in accordance with the regulations of the FCC now in effect or which may be promulgated.
 - C. A grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. These interruptions insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system.
7. **Supervision by the County.**
 - A. A grantee shall construct, operate and maintain the CATV system subject to the supervision of all of the authorities of the county who have jurisdiction in these matters and in strict compliance with all laws, ordinances and department rules and regulations.
 - B. The CATV system and all parts thereof shall be subject to the right of periodic inspection by the county.
 - C. The County Chairman may from time to time issue such reasonable rules and regulations concerning the construction, operation and maintenance of the CATV system as are consistent with the provisions of this Section.
 - D. If at any time the powers of the Board or any agency or official of the County are transferred by law to any other board, authority, agency or official, the transferee shall have the powers, rights and duties previously vested under this section or by law in the Board or any agency or official of the county.
8. **Grantee's Duty to Remove its Properties from the Public Streets.**
 - A. Following a grantee's commencement of service through and over its CATV system, a grantee shall promptly remove from the public streets where its properties are located all or any part of the facilities so located when one (1) or more of the following enumerated conditions occur:
 - (1) A grantee ceases to operate the CATV system for a continuous period of six (6) months from the date of the occurrence.
 - (2) A grantee fails to construct the system as hereinabove and hereafter provided.
 - (3) The franchise is terminated, not renewed, or revoked pursuant to notice as provided herein.
 - (1) Any public improvement and /or at the request of the county for removal or relocation.
 - B. A grantee shall be entitled to receive notice in writing from the county setting forth one (1) or more of the occurrences hereinabove enumerated or the other occurrence hereinbefore or hereinafter provided and shall have a reasonable period from the date upon which the notice is received to remove these properties as hereinabove required.
 - C. The Board may, upon written application therefore by the grantee, approve the abandonment of any facilities referred to in (A) above in place by grantee and under such terms and conditions as may be agreed to by the grantee and the Board. Upon abandonment of these facilities in place, grantee shall cause to be executed, acknowledged and delivered to the county such instruments as the county attorney shall prescribe and approve transferring and conveying the ownership of this property to the county.
2. **Operational Reports.**
 - A. Within six (6) months from the acceptance date of the franchise, a grantee shall submit to the County Chairman an installation plan for the initial construction area of the county indicating the date on which a grantee expects the installation of the CATV system to be completed and available for service to subscribers in that area of the county.

B. A grantee shall furnish the County Chairman with progress reports indicating in detail the area of construction of the CATV system. These periodic reports shall be furnished at three (3) month intervals, the first report to be made three (3) months after the new construction commencement date.

3. **Cablecasting.** The grantee shall make available public, educational and governmental access to the cable system as required herein and/or by the Federal Communications Commission. Time shall be provided on a first come, first served basis except that a grantee shall endeavor to grant channel time to as many different persons as is practical, it being the intention of the Board that this access cablecasting serve as a significant source of diversified expression. In order that there is a maximum opportunity for freedom of expression by members of the public, this programming shall be free from any control by a grantee as to program content, except as is required to protect a grantee from liability under applicable law or regulations. It is the intent of the county that its cablecasting and access requirements at all times remain consistent with the requirements of the Federal Communications Commission and the FCC rules to the extent they are applicable, are incorporated herein by reference and shall expressly supersede any inconsistent provisions herein.

4. **Removal of Facilities upon Request.** Upon termination of service to any subscriber, a grantee shall promptly remove all of its facilities and equipment from the premises of the subscriber upon his written request. This removal shall be at no cost to the subscriber.

5. **Emergency Use of the Facilities.**

A. In the event of an emergency or disaster, a grantee shall upon request of the County Chairman make available its facilities to the county at no cost for emergency use during the period of this emergency or disaster and shall provide such personnel as necessary to properly operate under the circumstances.

B. A grantee shall incorporate into its facilities the capability for an emergency override alert whereby the county in case of crises may be able to introduce a bulletin on all channels simultaneously.

6. **Compliance with State and Federal Laws.**

A. A grantee shall at all times comply with all laws and regulations of the State of Georgia and federal governments or any administrative agency thereof, and if any state or federal law or regulations shall require a grantee to perform any service or shall prohibit a grantee from performing any service or shall permit a grantee to perform any service in conflict with the terms of the franchise or of any law or regulation of the county, then the superior law or regulation shall govern.

B. Grantee shall be subject to all county ordinances and grantee shall also be subject to all applicable rules and regulations which, from time to time, may be promulgated by the Federal Communications Commission for CATV systems.

C. If the Board determines that a material provision of this section is affected by subsequent legal action, the Board shall have the right to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this section. These modifications shall only be adopted following notice to the franchisee and a full public proceeding affording due process.

7. **Restrictions Against Assignment.**

A. The franchise shall not be assigned or transferred either in whole or in part or leased, sublet or mortgaged in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person either by the act of a grantee or by operation of law without the consent of the Board. The granting, giving or waiving of any one (1) or more of these consents shall not render unnecessary any subsequent consent or consents.

B. The consent or approval of the Board to any assignment, lease, transfer, sublease or mortgage of the franchise shall not constitute a waiver or release of the rights of the county in and to the streets.

C. Prior approval of the county shall be required where ownership or control of more than twenty percent (20%) of the right of control or stock interest of grantee is acquired by a person or group of persons acting in concert. By its acceptance of the franchise, a grantee specifically agrees that his acquisition occurring without prior approval of the Board shall constitute a violation of this section by a grantee. Notice of intent to make this transfer shall be given to the county not less than six (6) months prior to this intended transfer.

D. Nothing in this section shall be deemed to prohibit a mortgage or pledge of the CATV system equipment or any part thereof or a leasing by a grantee from another person of the CATV system equipment or part thereof for financing purposes or otherwise.

8. **Preferential or Discriminatory Practices Prohibited.** A grantee shall not as to rates, charges, service facilities, rules, regulations or any other respect make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, provided however, connection and service charges may be waived or modified during promotional campaigns of the grantee.

9. **Revocation of Franchise.**

A. In addition to all of the rights and powers reserved or pertaining to the county, the county reserves as an additional and a separate and distinct power the right to terminate the franchise and all rights and privileges of a grantee hereunder in any of the following reasons:

- (1) A grantee shall by act or omission substantially violate any term or condition of this section and, within thirty (30) days following written demand by the county shall fail to effect compliance.
- (2) A grantee attempts to or does practice any fraud or deceit in its conduct or relations under the franchise with the county or subscribers or potential subscribers.

B. A grantee shall not be declared in default or be subject to any sanction under any provision of this section in any case in which performance of this provision is prevented for reasons beyond its control.

10. **Procedures.**

A. Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the Board in regard to the operations of grantee's cable television system other than as provided in subparagraph (C) of this paragraph, but including action in regard to a change in subscription rates to the degree applicable under section 7-3009, shall be taken only after thirty (30) days public notice of this action or proposed action is published in a local daily or weekly newspaper having general circulation in the county; a copy of this action or proposed action is served directly on grantee; and the grantee has been given an opportunity to respond in writing and/or at hearing as may be specified by the Board, and general members of the public have been given an opportunity to respond or comment in writing on the action or proposed action.

B. The public notice required by this paragraph shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom this response should be addressed, and such other procedures as may be specified by the Board. If a hearing is to be held, the public notice shall give the date and time of this hearing, whether public participation will be allowed and the procedures by which this participation will be allowed and the procedures by which this participation may be obtained. The grantee is a necessary party to any hearing conducted in regard to its operations.

C. An informal complaint shall be submitted to the County Chairman or a designee thereof in writing and shall contain (1) the name and address of the complainant; (2) the name of the cable system against which the complaint is made; and (3) a complete statement of facts upon which the complaint is based.

- (1) Upon receipt of any informal complaint, the County Chairman shall forward a copy to the system complained of or may take the question up by correspondence with the system. Within such time as may be prescribed by the Chairman, the system will be called upon to satisfy the complaint or advise the Chairman of its refusal or inability to do so. If the system satisfies the complaint, it shall so notify the Chairman in accordance with the provisions of subparagraph hereof. The Chairman will forward a copy of the system's notice of satisfaction to the complainant. If the system refuses or is unable to satisfy the complaint, it shall so notify the Chairman, and the Chairman will forward a copy of this notice to the complainant, with a statement of the procedure to be followed to further prosecute the complaint.
- (2) If a system satisfies any complaint brought to its attention by the Chairman, a statement must be filed with the Chairman setting forth when and how the complainant has been satisfied.
- (3) When a complaint has not been satisfied, pursuant to subparagraph (C)(1) hereof, the complainant may file a formal complaint with the Board in the form and manner to be specified thereby. The complaint to the Board must be filed within six (6) months from the date of the Chairman's statement accompanying a copy of the system's notice of refusal or inability to satisfy the complaint, and the complaint to the Board must make reference to the date of the complaint filed with the Chairman and that it is based on the same facts as the complaint filed with the Chairman. If no complaint is filed with the Board within the six (6) month period, the complainant, will be deemed to have abandoned his complaint, and this complaint will be deemed dismissed.

D. All inquiries, proceedings, investigations or other actions to be taken or proposed to be taken by the Board in regard to the operation of the grantee's cable television system shall take place in a timely manner. In no case shall the initiation of these actions be delayed more than thirty (30) days from the date of a request by the grantee for the action or from the date the Board formally decides that the inquiry, proceeding or investigation is to be initiated.

11. **Grantee to Have No Recourse.**

A. Except as expressly provided in the franchise, a grantee herein shall have no recourse whatsoever against the county for any loss, cost or expense or damage arising out of the provisions or requirements of the franchise or because of the enforcement thereof by the county to grant all or any part of the franchise.

B. A grantee expressly acknowledges that upon accepting a franchise, it does so relying upon its own investigation and understanding of the power and authority of the county to grant the franchise.

C. A grantee by acceptance of the franchise acknowledges that it has not been induced to enter into the franchise by any understanding or promise or other statement whether verbal or written by or on behalf of the county or by any other third person concerning any term or condition of the franchise not expressed herein.

D. A grantee further acknowledges by acceptance of the franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all of the risks of the meaning of these terms and conditions and agrees that in the event of any other dispute over the meaning thereof, it shall be construed strictly against a grantee and in favor of the county.

12. **Failure of County to Enforce the Franchise; No Waiver of the Terms Thereof.** A grantee shall not be excused from complying with any of the terms and conditions of the franchise by any failure of the county upon any one (1) or more occasions to insist upon or to seek compliance with any terms or conditions.

13. **Time of the Essence.** Whenever the franchise shall set forth any time for any act to be performed by or on behalf of a grantee, this time shall be deemed of the essence and any failure of a grantee to perform within time allotted shall always be sufficient grounds for the county to revoke the franchise.

14. **Grantee Will Not Contest Validity of Franchise.** A grantee agrees by the acceptance of the franchise that it will not at any time set up against the county in any claim or proceeding any condition or term of the franchise as unreasonable, arbitrary or void or that the county had no power or authority to make this term or condition, but shall be required to accept the validity of the terms and conditions of the franchise in their entirety. Provided, however, that the above provisions shall not bar any claim or proceeding challenging the continued validity of any terms and conditions of the franchise based on applicable laws, rules or regulations adopted by the county, state or federal authorities subsequent to the effective date of this section.

15. **Rights Reserved to the County.** Without limitation upon the rights which the county might otherwise have, the county does hereby expressly reserve the following rights, powers and authority:

A. To exercise its governmental powers now or hereafter to the full extent that these powers may be vested in or granted to the county;

B. To determine through the Board any question of fact relating to the meaning, terms, obligations or other factors of the franchise; and

C. To grant additional franchises with the county to other persons for the conduct of CATV under the provisions of this Section.

16. **Sale Repair or Installment of Television Sets by Grantee Prohibited.** Neither a grantee nor any shareholder or employee of a grantee shall engage in the business of selling, repairing or installing television sets within the county during the term of the franchise.

17. **Employment Regulations.** A grantee shall not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of sex, race, creed, color or national origin.

18. **Modification of FCC Rules.** Consistent with the requirements of rule 76.31 (a) (6) of the FCC, any modifications of rule 76.31 resulting from amendment thereto by the FCC shall, to the extent applicable, be considered as a part of this franchise as of the effective date of the amendment made by the FCC and shall be incorporated in this franchise by specific amendments thereto by the lawful action of the Board within one (1) year from the effective date of the FCC's amendment, or at the time of renewal of this franchise, whichever occurs first.

19. **Headend Construction.** Notwithstanding any provision of this Section to the contrary, a grantee must agree to commence construction of the headend equipment within six (6) months from the date of the grant by the Board of the right, privilege and franchise to construct, operate and maintain a CATV system in

the county, and which headend shall be completed within eighteen (18) months from the date of the grant of the right, privilege and franchise, as aforesaid.

(Approved _____)

ARTICLE 2.1 **Cable Television Franchise - Newton County**

1. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the right is hereby granted to RULE COMMUNICATIONS, its successors, assigns, or designees, however such successors, assigns or designees are bound by the terms of this agreement, hereinafter referred to as "the Company," the right to erect, maintain and operate television transmission and distribution facilities, and additions thereto, in, under, over, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in the County of Newton, hereinafter referred to as "the County," and subsequent additions thereto, for the purpose of transmission and distribution of television impulses and television energy.

2. The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof and shall terminate fifteen (15) years from the date of the grant, and may be renewed for successive ten (10) year terms, following a public proceeding affording due process, on the same terms or conditions as contained herein, or such different or additional terms and conditions as may be lawfully specified by the County and consistent with the requirements of the Cable Communications Policy Act of 1984, as is or may hereafter be amended and the Federal Communications Commission. These additional terms or conditions may only be adopted following notification to the Company which shall specify the proposed changes in the Franchise Ordinance.

3. For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

A. **Affiliate** means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.

B. **Television** means a system for transmission of audio signals and visual images by means of electrical impulses.

C. **FCC** means Federal Communications Commission, or successor governmental entity thereto.

D. **Franchise** shall mean the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.

E. **Person** means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

F. **Public Way** shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchise Authority in the Service Area which shall entitle the Franchise Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchise Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchise Authority and the Grantee to the use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, compliance, attachments and other property as may be ordinarily necessary and pertinent to the Cable System.

G. **Gross Subscriber Revenues** mean the monthly Cable Service revenues received by Grantee from Subscribers of the Cable System.

H. **Cable Service** means (1) the one-way transmission to subscribers of Video Programming or other programming service, and (2) subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

I. **Cable System** means a facility, consisting of a set of closed transmission patch and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other service to subscribers.

J. **Subscriber** means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with the Company's express permission.

K. **Service Area** means the present boundaries of the County, and shall include any additions thereto by annexation or other legal means.

4. As a condition precedent for the granting of this franchise, the Company shall have presented to the Newton County Board of Commissioners a proposal for providing cable television service within the franchise area as well as documentation upon request of its legal, charter, financial and technical qualifications for providing such service.

5. The poles used for the Company's distribution system shall be those erected and maintained by the public or private utilities or the County, when and were practical, provided mutually satisfactory rental agreements can be entered into with said parties. Where the use of existing poles is not practical or mutually satisfactory rental agreements cannot be entered into with said parties following a good faith effort on the part of the Company to obtain such agreements, the Company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance to the television distribution system, with the approval of locating poles by the County Engineer or his designee.

6. The Company's transmission and distribution poles, wires, and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements the County may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property; removal of poles to avoid such interference will be at the Company's expense. Construction and maintenance of the transmission/distribution system, including house connections, shall be in accordance with the provisions of the National Electric Safety Code, as amended, prepared by the National Bureau of Standards, the National Electric Code of the National Board of Fire Underwriters, as amended, and such applicable ordinances and regulations of the County affecting electrical installations, which may be presently in effect or changes by future ordinances. Installation and house drop hardware shall be uniform throughout the County, except that the Company shall be free to change its hardware and installation procedure as the art progresses. In those areas where telephone and electrical service lines are underground or where the Company chooses to do so, the Company may place its cables and service underground.

7. If the County, at any time, deems it advisable to improve any of its streets, alleys, avenues, thoroughfares and/or public highways by grading or regrading or paving the same, or altering, changing, repairing or re-improving the same, the Company, upon written notice by the County, shall, at its expense, immediately so raise, lower or move its line or cables or poles or wires, conduits or improvements to conform to such new grades as may be established, or place the facilities in such location or positions as shall cause the least interference with any such improvements or other work thereon and contemplated by the County. The County shall in no way be liable for any damages to the Company that may occur by reason of the County's improvements, repairs or maintenance or by the exercise of any rights so reserved in this section or ordinance. If the County shall improve such streets, alleys, avenues, thoroughfares, and/or public highways, the Company shall on written notice by the County, at its own expense, replace such cable, wires, poles or other property of the Company as may be in or through the improved subgrade of such improvements with materials which shall conform to the specifications for the improvement of such streets, alleys, avenues, thoroughfares and/or public highways or public places.

8. Where tree trimming is deemed necessary on public streets or places for the operation of the lines, wires, cables and antennas or other appurtenances and property of Company, such trimming shall be done by competent employees, agents or contractors of the Company after application for, and granting of a permit by the Chairman of the Board of Commissioners of the County or his designee and it shall be done without cost or expense to the County.

9. In the maintenance and operation of its television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or additions to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or any other public places made by the Company in the course of its operations shall be guarded and protected at all times by the placements of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designed by appropriate warning lights. All work in any way necessitated by the business of the company which may involve the opening, breaking up, or tearing up of a portion of a street, sidewalk, or other part of any County owned or controlled property, shall be done and repaired in a manner approved by the County and may be done by the County at the expense of the Company, if mutually agreed upon by the County and the Company.

10. Installation shall be maintained so as not to interfere with existing television reception.
11. The transmission and distribution system installed by the Company shall not be abandoned in whole or in part without the consent of the County. In the event of the failure of the Company to commence construction of the system within one hundred eighty (180) days after the enactment of this ordinance, and securing of the pole attachment agreement with the concerned utilities, or in the event of the failure of the Company to make cable television service available to homes representing at least thirty percent (30%) of the area intended to be served by the Company within one (1) year of the enactment of this ordinance, the County may, on ninety (90) days notice to the Company, declare this ordinance and the right and franchise granted hereunder forfeited. Failure to comply with these terms by reason of circumstances, which could not be anticipated at the time of the acceptance of its terms by the Company, shall not be sufficient grounds for the County to declare a forfeiture.
12. The Company is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever the Company shall receive a request for service from at least fifteen (15) Subscribers within one thousand, three hundred twenty (1,320) cable bearing strand feet (one-quarter (1/4) cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition or market development of the Cable System.
13. The Company shall indemnify, protect, and save harmless and defend the County from and against losses and physical damages to property, and bodily injury or death to persons, including payments made under any workmen's compensation law, which may arise out of or be caused by the construction, operation, erection, maintenance of its Cable System or the presence, use or removal of said attachments on poles within the County, or by any acts of the Company, its agents or employees arising out of the operations of the Company. The Company shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, General Comprehensive Liability Insurance in the amount of five hundred thousand dollars (\$500,000.00) for bodily injuries, (including accidental death) for any one occurrence person, and subject to the same limit for each person in an amount not less than three hundred thousand dollars (\$300,000.00) on account of any one occurrence, and Property Damage Liability Insurance in an amount not less than five hundred thousand dollars (\$500,000.00) resulting from any one occurrence. Said insurance shall designate the County as an additional named insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the County. The Company shall also carry such insurance as it deems necessary to protect it from all claims under any worker's compensation laws in effect that may be applicable to the company. All insurance required by this agreement shall be and remain in full force and effect for the entire life of this agreement.
14. The Company hereby grants to the County, free of any expense, joint use of any and all poles owned by the Company for any governmental purpose insofar as it may be done with interfering with the free use and enjoyment of the Company's own wires and fixtures, and the County shall hold the Company harmless from any and all actions, causes of action, or damage directly caused by the placing of the County's wires or appurtenances upon the poles of the Company. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of the construction.
15. In consideration of the granting of this franchise to the Company, the Company will furnish without charge a single outlet to any of the County's departmental offices within the service area of the Company.
16. In further consideration of the granting of this franchise to the Company, the Company shall pay to the County annually, an amount equal to five percent (5%) of gross subscriber revenues of the Company derived from basic cable service monthly fees paid by subscribers residing within the legal limits of the County. The County shall have the right to inspect the records of the company at any reasonable time for the purpose of ascertaining accurately what the actual gross receipts of the Company may have been for basic cable television service for past years and/or the current year. Payment shall be made ninety (90) days after the close of the preceding calendar year. Any and all sums received by the Company for any installation or connection work shall not be included in the term "gross subscriber revenues" for calculation of the franchise fee.
17. All installations by the Company shall be made in good substantial and safe conditions and shall be maintained in such conditions at all times.
18. The Company shall, during each year of this agreement, have available for inspection by the County, an annual financial report which shall be sufficient to ascertain the financial condition of the Company.
19. The Company shall, at all times, be in full compliance with all FCC regulations, as amended, pertaining to cable television systems. The Company shall, furthermore, at all time, be in full compliance with all existing federal, state, and local laws, ordinances and statutes as are applicable to the operation of

a cable television system. No part of this ordinance shall be construed as a waiver of any local, state or federal law, or as a limit of liability.

20. In the case of any emergency or disaster, the Company shall, upon request of the County make available its facilities for the County, to provide emergency information and instructions during the emergency or disaster period. The County shall hold the Company, its agents, employees, officers, and assigns hereunder harmless from any claims arising out of the emergency use of its facilities by the County, including, but not limited to, reasonable attorneys' fees and costs.

21. If a renewal of Company's Franchise is denied and the County either lawfully acquires ownership of the Cable System or by it sanctions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer of the Cable System shall be at a fair market value, determined on the basis of the Cable System valued as a going concern, but with no value allocated to the Franchise itself. If the distribution system of the Company shall be placed up for sale at fair market value, the County shall have first option of refusal on the purchase of the system. If Company's Franchise is lawfully revoked for cause and the County acquires ownership of the Cable System or by its actions effects a transfer of ownership of the Cable System to another person, any such acquisition or transfer shall be at an equitable price. The Company and County agree that in the case of a revocation, at Company's request, which shall be made in its sole discretion, the Company shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party at fair market value, determined on the basis of the Cable System valued as an ongoing concern. The County further agrees that during such a period of time, it shall authorize the Company to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Company is unsuccessful in procuring a qualified transferee or assignee of its Cable System, which is reasonably acceptable to the County, the Company and County may avail themselves of any rights they may have pursuant to federal or state law, it being further agreed that the Company's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the County or the Company. Notwithstanding anything to the contrary set forth in Paragraph 21, neither the County nor the Company shall be required to violate federal state law.

22. The Company's right, title, or interest in the Franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an Affiliate, without the prior consent of the County, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Company in the franchise or Cable System in order to secure indebtedness.

23. In the event that the County believes that the Company has not complied with the terms of the Franchise, it shall notify the Company of the exact nature of the alleged noncompliance.

24. The Company shall have thirty (30) days from receipt of the notice described in Paragraph 23 to (a) respond to the County contesting the assertion of noncompliance, or (b) to cure such default or, in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the County of the steps being taken and the projected date that they will be completed.

25. In the event that the Company fails to respond to the notice described in Paragraph 23 pursuant to the procedures set forth in Paragraph 24, or in the event that the alleged default is not remedied within sixty (60) days after the Company is notified of the alleged default pursuant to Paragraph 23, the County shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Board of Commissioners of the County which is scheduled at a time which is no less than five (5) business days therefrom. The County shall notify the Company of the time and place of such meeting and provide the Company with an opportunity to be heard.

26. Subject to applicable federal and state law, in the event the County, after such meeting, determines that the Company is in default of any provision of the Franchise, the County may:

- A. Foreclose on all or any part of any security provided under this Franchise, if any, including, without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the County reasonable determines is necessary to remedy the default;
- B. Commence an action at law for monetary damages or seek other equitable relief;
- C. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or
- D. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Company shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the County to enforce prompt compliance.

1. The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

2. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the County or the Company shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service. The notices or responses to the County shall be addressed as follows: Newton County Board of Commissioners, 1113 Usher Street, Covington, Georgia 30209. The notices or responses to the Company shall be addressed as follows: Rule Communications, 1169 Ashley Lake Drive, Marietta, Georgia 30062. The County and the Company may designate such other address or addresses from time to time by giving notice to the other.

(Approved 2/21/89)

ARTICLE 2.1 Cable Television Franchise - Newton County

1. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the right is hereby granted to FRIENDSHIP CABLE OF GEORGIA, its successors, assigns, or designees, however such successors, assigns or designees are bound by the terms of this agreement, hereinafter referred to as "the Company," the right to erect, maintain and operate television transmission and distribution facilities, and additions thereto, in, under, over, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in the County of Newton, hereinafter referred to as "the County," and subsequent additions thereto, for the purpose of transmission and distribution of television impulses and television energy.

2. The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof and shall terminate fifteen (15) years from the date of the grant, and may be renewed for successive ten (10) year terms, following a public proceeding affording due process, on the same terms or conditions as contained herein, or such different or additional terms and conditions as may be lawfully specified by the County and consistent with the requirements of the Cable Communications Policy Act of 1984, as is or may hereafter be amended and the Federal Communications Commission. These additional terms or conditions may only be adopted following notification to the Company which shall specify the proposed changes in the Franchise Ordinance.

3. For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

A. **Affiliate** means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.

B. **Television** means a system for transmission of audio signals and visual images by means of electrical impulses.

C. **FCC** means Federal Communications Commission, or successor governmental entity thereto.

D. **Franchise** shall mean the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.

E. **Person** means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

F. **Public Way** shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchise Authority in the Service Area which shall entitle the Franchise Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchise Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for

compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchise Authority and the Grantee to the use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, compliance, attachments and other property as may be ordinarily necessary and pertinent to the Cable System.

G. **Gross Subscriber Revenues** mean the monthly Cable Service revenues received by Grantee from Subscribers of the Cable System.

H. **Cable Service** means (1) the one-way transmission to subscribers of Video Programming or other programming service, and (2) subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

I. **Cable System** means a facility, consisting of a set of closed transmission patch and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other service to subscribers.

J. **Subscriber** means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with the Company's express permission.

K. **Service Area** means the present boundaries of the County, and shall include any additions thereto by annexation or other legal means.

4. As a condition precedent for the granting of this franchise, the Company shall have presented to the Newton County Board of Commissioners a proposal for providing cable television service within the franchise area as well as documentation upon request of its legal, charter, financial and technical qualifications for providing such service.

5. The poles used for the Company's distribution system shall be those erected and maintained by the public or private utilities or the County, when and were practical, provided mutually satisfactory rental agreements can be entered into with said parties. Where the use of existing poles is not practical or mutually satisfactory rental agreements cannot be entered into with said parties following a good faith effort on the part of the Company to obtain such agreements, the Company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance to the television distribution system, with the approval of locating poles by the County Engineer or his designee.

6. The Company's transmission and distribution poles, wires, and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements the County may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property; removal of poles to avoid such interference will be at the Company's expense. Construction and maintenance of the transmission/distribution system, including house connections, shall be in accordance with the provisions of the National Electric Safety Code, as amended, prepared by the National Bureau of Standards, the National Electric Code of the National Board of Fire Underwriters, as amended, and such applicable ordinances and regulations of the County affecting electrical installations, which may be presently in effect or changes by future ordinances. Installation and house drop hardware shall be uniform throughout the County, except that the Company shall be free to change its hardware and installation procedure as the art progresses. In those areas where telephone and electrical service lines are underground or where the Company chooses to do so, the Company may place its cables and service underground.

7. If the County, at any time, deems it advisable to improve any of its streets, alleys, avenues, thoroughfares and/or public highways by grading or regrading or paving the same, or altering, changing, repairing or re-improving the same, the Company, upon written notice by the County, shall, at its expense, immediately so raise, lower or move its line or cables or poles or wires, conduits or improvements to conform to such new grades as may be established, or place the facilities in such location or positions as shall cause the least interference with any such improvements or other work thereon and contemplated by the County. The County shall in no way be liable for any damages to the Company that may occur by reason of the County's improvements, repairs or maintenance or by the exercise of any rights so reserved in this section or ordinance. If the County shall improve such streets, alleys, avenues, thoroughfares, and/or public highways, the Company shall on written notice by the County, at its own expense, replace such cable, wires, poles or other property of the Company as may be in or through the improved subgrade of such improvements with materials which shall conform to the specifications for the improvement of such streets, alleys, avenues, thoroughfares and/or public highways or public places.

8. Where tree trimming is deemed necessary on public streets or places for the operation of the lines, wires, cables and antennas or other appurtenances and property of Company, such trimming shall be done by competent employees, agents or contractors of the Company after application for, and granting of a permit by the Chairman of the Board of Commissioners of the County or his designee and it shall be done without cost or expense to the County.

9. In the maintenance and operation of its television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or additions to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or any other public places made by the Company in the course of its operations shall be guarded and protected at all times by the placements of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designed by appropriate warning lights. All work in any way necessitated by the business of the company which may involve the opening, breaking up, or tearing up of a portion of a street, sidewalk, or other part of any County owned or controlled property, shall be done and repaired in a manner approved by the County and may be done by the County at the expense of the Company, if mutually agreed upon by the County and the Company.

10. Installation shall be maintained so as not to interfere with existing television reception.

11. The transmission and distribution system installed by the Company shall not be abandoned in whole or in part without the consent of the County. In the event of the failure of the Company to commence construction of the system within one hundred eighty (180) days after the enactment of this ordinance, and securing of the pole attachment agreement with the concerned utilities, or in the event of the failure of the Company to make cable television service available to homes representing at least thirty percent (30%) of the area intended to be served by the Company within one (1) year of the enactment of this ordinance, the County may, on ninety (90) days notice to the Company, declare this ordinance and the right and franchise granted hereunder forfeited. Failure to comply with these terms by reason of circumstances, which could not be anticipated at the time of the acceptance of its terms by the Company, shall not be sufficient grounds for the County to declare a forfeiture.

12. The Company is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever the Company shall receive a request for service from at least fifteen (15) Subscribers within one thousand, three hundred twenty (1,320) cable bearing strand feet (one-quarter (1/4) cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition or market development of the Cable System.

13. The Company shall indemnify, protect, and save harmless and defend the County from and against losses and physical damages to property, and bodily injury or death to persons, including payments made under any workmen's compensation law, which may arise out of or be caused by the construction, operation, erection, maintenance of its Cable System or the presence, use or removal of said attachments on poles within the County, or by any acts of the Company, its agents or employees arising out of the operations of the Company. The Company shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, General Comprehensive Liability Insurance in the amount of five hundred thousand dollars (\$500,000.00) for bodily injuries, (including accidental death) for any one occurrence person, and subject to the same limit for each person in an amount not less than three hundred thousand dollars (\$300,000.00) on account of any one occurrence, and Property Damage Liability Insurance in an amount not less than five hundred thousand dollars (\$500,000.00) resulting from any one occurrence. Said insurance shall designate the County as an additional named insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the County. The Company shall also carry such insurance as it deems necessary to protect it from all claims under any worker's compensation laws in effect that may be applicable to the company. All insurance required by this agreement shall be and remain in full force and effect for the entire life of this agreement.

14. The Company hereby grants to the County, free of any expense, joint use of any and all poles owned by the Company for any governmental purpose insofar as it may be done with interfering with the free use and enjoyment of the Company's own wires and fixtures, and the County shall hold the Company harmless from any and all actions, causes of action, or damage directly caused by the placing of the County's wires or appurtenances upon the poles of the Company. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of the construction.

15. In consideration of the granting of this franchise to the Company, the Company will furnish without charge a single outlet to any of the County's departmental offices within the service area of the Company.

16. In further consideration of the granting of this franchise to the Company, the Company shall pay to the County annually, an amount equal to five percent (5%) of gross subscriber revenues of the Company

derived from basic cable service monthly fees paid by subscribers residing within the legal limits of the County. The County shall have the right to inspect the records of the company at any reasonable time for the purpose of ascertaining accurately what the actual gross receipts of the Company may have been for basic cable television service for past years and/or the current year. Payment shall be made ninety (90) days after the close of the preceding calendar year. Any and all sums received by the Company for any installation or connection work shall not be included in the term "gross subscriber revenues" for calculation of the franchise fee.

17. All installations by the Company shall be made in good substantial and safe conditions and shall be maintained in such conditions at all times.

18. The Company shall, during each year of this agreement, have available for inspection by the County, an annual financial report which shall be sufficient to ascertain the financial condition of the Company.

19. The Company shall, at all times, be in full compliance with all FCC regulations, as amended, pertaining to cable television systems. The Company shall, furthermore, at all time, be in full compliance with all existing federal, state, and local laws, ordinances and statutes as are applicable to the operation of a cable television system. No part of this ordinance shall be construed as a waiver of any local, state or federal law, or as a limit of liability.

20. In the case of any emergency or disaster, the Company shall, upon request of the County make available its facilities for the County, to provide emergency information and instructions during the emergency or disaster period. The County shall hold the Company, its agents, employees, officers, and assigns hereunder harmless from any claims arising out of the emergency use of its facilities by the County, including, but not limited to, reasonable attorneys' fees and costs.

21. If a renewal of Company's Franchise is denied and the County either lawfully acquires ownership of the Cable System or by it sanctions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer of the Cable System shall be at a fair market value, determined on the basis of the Cable System valued as a going concern, but with no value allocated to the Franchise itself. If the distribution system of the Company shall be placed up for sale at fair market value, the County shall have first option of refusal on the purchase of the system. If Company's Franchise is lawfully revoked for cause and the County acquires ownership of the Cable System or by its actions effects a transfer of ownership of the Cable System to another person, any such acquisition or transfer shall be at an equitable price. The Company and County agree that in the case of a revocation, at Company's request, which shall be made in its sole discretion, the Company shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party at fair market value, determined on the basis of the Cable System valued as an ongoing concern. The County further agrees that during such a period of time, it shall authorize the Company to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Company is unsuccessful in procuring a qualified transferee or assignee of its Cable System, which is reasonably acceptable to the County, the Company and County may avail themselves of any rights they may have pursuant to federal or state law, it being further agreed that the Company's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the County or the Company. Notwithstanding anything to the contrary set forth in Paragraph 21, neither the County nor the Company shall be required to violate federal state law.

22. The Company's right, title, or interest in the Franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an Affiliate, without the prior consent of the County, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Company in the franchise or Cable System in order to secure indebtedness.

23. In the event that the County believes that the Company has not complied with the terms of the Franchise, it shall notify the Company of the exact nature of the alleged noncompliance.

24. The Company shall have thirty (30) days from receipt of the notice described in Paragraph 23 to (a) respond to the County contesting the assertion of noncompliance, or (b) to cure such default or, in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the County of the steps being taken and the projected date that they will be completed.

25. In the event that the Company fails to respond to the notice described in Paragraph 23 pursuant to the procedures set forth in Paragraph 24, or in the event that the alleged default is not remedied within sixty (60) days after the Company is notified of the alleged default pursuant to Paragraph 23, the County shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Board of Commissioners of the County which is scheduled at a time which is no less than five (5) business days therefrom. The County shall notify the Company of the time and place of such meeting and provide the Company with an opportunity to be heard.

26. Subject to applicable federal and state law, in the event the County, after such meeting, determines that the Company is in default of any provision of the Franchise, the County may:

A. Foreclose on all or any part of any security provided under this Franchise, if any, including, without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the County reasonable determines is necessary to remedy the default;

B. Commence an action at law for monetary damages or seek other equitable relief;

C. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or

D. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Company shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the County to enforce prompt compliance.

1. The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

2. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the County or the Company shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service. The notices or responses to the County shall be addressed as follows: Newton County Board of Commissioners, 1113 Usher Street, Covington, Georgia 30209. The notices or responses to the Company shall be addressed as follows: Friendship Cable of Georgia, Suite 433, 3192 Atlanta Highway, Athens, Georgia 30606. The County and the Company may designate such other address or addresses from time to time by giving notice to the other.

(Approved 6/6/89)

CHAPTER 39: **LAND DEVELOPMENT REGULATIONS**

CHAPTER 40:

CHAPTER 41:

Section

39-101	Zoning Regulations & Map
39-102	Subdivision Regulations
39-103	Comprehensive Plan
39-104	Northeast Georgia Regional Solid Waste Management Plan
39-105	Intergovernmental Dispute Resolution



ARTICLE 2.1 Zoning Regulations & Map

The Zoning Regulations of Newton County adopted June 1, 1999 and as amended and may be amended, are incorporated by reference as if fully set out herein.

The official districts zoning map for Newton County, referred to in Section 100-070 of the 1999 Newton county zoning Ordinance and present in the Boardroom on the date of adoption of said zoning Ordinance on June 1, 1999 are hereby incorporated by reference as if fully set out herein.

ARTICLE 2.1 Subdivision Regulations

The Subdivision Regulations of Newton County, as amended, are incorporated by reference as if fully set out herein.

ARTICLE 2.1 Comprehensive Plan

The Joint City/County Comprehensive Plan Amendment for Newton County and the cities of Covington, Mansfield, Newborn, Oxford and Porterdale, 1999, is and as amended April 4, 2000 incorporated by reference as if fully set out herein.

ARTICLE 2.1 Northeast Georgia Regional Solid Waste Management Plan

The Northeast Georgia Regional Solid Waste Management Plan adopted June 1993, and as may be amended is incorporated by reference as if fully set out herein.

(Amended 3/2/99)

ARTICLE 2.1 Intergovernmental Dispute Resolution

The Intergovernmental dispute Resolution Agreement adopted May 19, 1998 is incorporated by reference as if fully set out herein.

CHAPTER 39: **NEWTON COUNTY CODE ENFORCEMENT ANONYMOUS COMPLAINT POLICY**

CHAPTER 40:

CHAPTER 41:

Section

40-101 Newton County Code Enforcement Anonymous Complaint Policy



ARTICLE 2.1 **Newton County Code Enforcement Anonymous Complaint Policy**

Newton County Code Enforcement shall use the following policy and procedure for accepting and filing of anonymous complaints. Any anonymous complaint should be submitted and accepted on the basis of *O.C.G.A. § 50-18-72(a)(3)*.

1. Any complainant requesting anonymity before, during or after the investigation process, compliance process or prosecution of an alleged code or ordinance violation must submit the request in writing upon the form supplied by the Newton County Code Enforcement department.
2. Each reported alleged violation should require the submitting of a separate form for each individual violation location or any new violations occurring on the property.
3. The form shall supply the name of the complainant, their address, and their telephone number. The form shall be signed and dated by the complainant.
4. The investigating officer may request proper identification from the complainant or may contact the complainant to verify validity of the submitted request before the case is investigated.
5. Upon verification of the submitted request, a complaint form shall be generated with "anonymous" listed in the complainant section. The complaint form and the request for anonymity will be issued a case number. The request form shall be kept within a file cabinet to remained locked at all times.
6. Information that is submitted on the anonymous request will not be released unless a court order shall be provided to the Custodian of Records for the department.

Anonymous Complaint Request Form

I, _____ do hereby request to file an anonymous complaint with Newton County Code Enforcement Department concerning an alleged violation of Newton County Codes and/or Ordinances. I am filing this request form in accordance with O.C.G.A. § 50-18-72 (a) (3).

SIGNATURE OF COMPLAINANT

DATE

Name _____

Address _____

Home Phone _____ Work Phone _____

Except as otherwise provided by law, records compiled for law enforcement or prosecution purpose to the extent that production of such records would disclose the identity of a confidential source, disclose confidential investigative or prosecution material which would endanger the life or physical safety of any person or persons, or disclose the existence or confidential surveillance or investigation.

ORDINANCE

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF NEWTON COUNTY, GEORGIA ADOPTING A CODE OF THE ORDINANCES FOR THE COUNTY ENTITLED "THE CODE OF NEWTON COUNTY PROVIDING FOR THE REPEAL OF ORDINANCES NOT INCLUDED THEREIN AND FOR OTHER PURPOSES:

Be it ordained by the Board of Commissioners of the Newton County, Georgia, and it is hereby ordained by the authority of the same as follows:

Section 1: There is hereby adopted by the Board of Commissioners a code entitled, "The Code of Newton County, Georgia, 20____," containing" certain ordinances of a general and permanent nature as compiled, consolidated, codified and indexed, of which code not less than two (2) copies have been and are now filed in the Office of the County Clerk, authenticated by the signatures of the County Chair and the County Clerk, and signed by the members of the Board of Commissioners of Newton county, said code being hereto attached and made a part hereof.

Section 2: The provisions of this Code shall be in force and effect on _____, 20____ and all ordinances of a general and permanent nature in force on such date and not contained in the Code are repealed by this ordinance from and after such date, except as may be provided hereinafter.

Section 3: The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or occurring before _____, 20____; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the county or authorizing the issue of any bonds, including revenue certificates, of Newton County or any evidence of the county's indebtedness or any contract or obligation assumed by the county; nor shall such repeal affect the administrative ordinances or resolutions of the county or any person or corporation; nor shall it affect any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to _____, 20____.

Section 4: It is hereby declared to be the intention of the Board of Commissioners that the sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance or of the Code hereby adopted shall be declared unconstitutional or otherwise invalid by Valid Judgment or Decree of a Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance or of the Code hereby adopted.

Read and adopted in the regular meeting of the Board of Commissioners held on this _____ day of _____, 20____.

ATTEST:

County Chairman

County Clerk

Board of Commissioners Member
Dist. 1

Board of Commissioners Member
Dist. 2

Board of Commissioners Member
Dist. 3

Board of Commissioners Member
Dist. 4

Board of Commissioners Member

Dist. 5

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