

AN ORDINANCE TO AMEND THE CODE OF NEWTON COUNTY, GEORGIA REGARDING THE DISCHARGE OF FIREARMS; TO REPEAL CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR FURTHER PURPOSES.

WHEREAS, in 2011 and 2012, the Newton County Sheriff's Department received 1,330 calls regarding the discharge of a firearm;

WHEREAS, the majority of said calls involved properties in, or adjacent to, residentially zoned properties;

WHEREAS, a large number of said calls occurred between sunset and sunrise; and

WHEREAS, the Newton County Board of Commissioners would like to make changes to the ordinance regulating the discharge of firearms to address the safety concerns herein presented.

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners, Newton County, Georgia, pursuant to O.C.G.A. 16-11-173 (e) and by the authority of the same, as follows:

SECTION 1

Section 31-102 of Chapter 31 of Division II of the Code of Newton County Georgia, 2001, entitled *Discharging Firearms, Air Guns, Etc.* is hereby deleted in its entirety and the following Ordinance is adopted in lieu thereof as follows:

Section 31-102 Discharging Firearms

- I. Definitions.
 - A. Firearm: Any handgun, rifle, shotgun, or other weapon that is designed to, or may readily be converted to, expel a projectile by the action of an explosive or electrical charge. For the purposes of this Ordinance, the term firearm shall not be interpreted to include BB guns, air guns, pellet rifles or similar guns that fire projectiles by means of compressed air or other gas.
- II. Applicability. The restrictions set forth in Section III shall not apply to or affect any of the following:
 - A. All federal, military, state, county, and municipal law enforcement peace officers possessing the duty and power of arrest whether such officers are within or outside their jurisdictions or on or off duty, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer, or any other person otherwise authorized by Georgia statute;

- B. Any person lawfully exercising the destruction of dangerous animals, or for lawful nuisance wildlife abatement by persons properly permitted by the Georgia Department of Natural Resources, or in the lawful exercise of trapping by properly licensed trappers;
 - C. In connection with the discharge of blank cartridges for theatrical purposes or for signal purposes in athletic or sporting events, military exercises, funerals, reviews, or memorial events;
 - D. Any citizen when lawfully defending person or property;
 - E. Any citizen or legal entity engaged in the lawful use or legal nonconforming use under any zoning ordinance at any private or commercial sport shooting range. For the purposes of this section a "sport shooting range" means an area designed and operated for the use and discharge of guns, air guns, BB guns, pistols, or other firearms which project lead or any other missile; or
 - F. Hunting (including night hunting), on one's own property or on the property of another with written permission, regulated by and conducted in accordance with State law and Department of Natural Resources regulations.
- III. Except for activities that are exempt under Section II, it shall be unlawful for any person in unincorporated Newton County to discharge or shoot any firearm in violation of any of the following:
- A. Into a dwelling, house, railroad train, boat, aircraft, motor vehicle, or any building or structure used for assembling of people;
 - B. At any mark, inanimate object, or at random on, along or across a public highway;
 - C. At or from any motor vehicle, at any person, at any other motor vehicle, or at any building or habitable structure;
 - D. Upon the land of another or across the property line of another without first obtaining written permission of such property owner(s);
 - E. On property less than two (2) acres in size;
 - F. Within one hundred (100) yards of any residence (not to include the residence of the individual discharging the firearm), place of public assembly, place of worship, business, or roadway; or
 - G. From one-half hour after sunset until one-half hour before sunrise.

- IV. 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 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.
 - D. The fact that any person charged with violating this subsection 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 subsection 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.
- V. Any person found guilty of violating this Ordinance shall be subject to the following penalties:
- A. Upon a first violation and conviction, the court shall impose a fine of not less than five-hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000) and/or thirty (30) to one hundred twenty (120) days imprisonment, depending on the seriousness of the violation.
 - B. Upon a second and all subsequent violations and convictions, the court shall impose a fine of one thousand dollars (\$1,000.00) and/or ninety (90) to one hundred twenty (120) days imprisonment.

SECTION 2

All ordinances or regulations or parts thereof in conflict herewith are hereby repealed.

SECTION 3

This Ordinance shall be in force and take effect on May 22, 2013.

SO ORDAINED, this 21st day of May, 2013.

NEWTON COUNTY BOARD OF COMMISSIONERS

By: William K. Ellis
William K. Ellis, Chairman

Attest: Jackie Smith
Jackie Smith, Clerk

