

CHAPTER 32: LICENSING AND BUSINESS REGULATION

Article II. Businesses Regulated

Section 32-203 Adult Entertainment Ordinance

BE IT ORDAINED by the Board of Commissioners, Newton County, Georgia, and by the authority of the same, that Section 32-203 of Article II, of Chapter 32 of Division II of the Code of Newton County Georgia, 2001, entitled Adult Entertainment Ordinance, is hereby deleted in its entirety and the following Ordinance is adopted in lieu thereof as follows:

Section 32-203 Adult Entertainment Ordinance

1. **Findings.** Based on the information presented in the report entitled “Summary of Findings on Adverse Secondary Effects Related to Adult Entertainment Establishments,” prepared by the Newton County Attorney’s Office and the Newton County Department of Development Services, and kept on file with the Newton County Department of Development Services, and the experiences of the other local governments such as Indianapolis, Indiana; Bellevue, Washington; Garden Grove, California; Cleburne, Texas; Palm Beach County, Florida; and others discussed therein, the Newton County Board of Commissioners makes the following findings of fact regarding the presence of establishments providing adult entertainment in Newton County:
 - A. Adult entertainment establishments can lead to significant negative secondary effects such as increased crime rates and increased ambient crime risk in the surrounding areas.
 - B. Allowing the consumption of alcohol in a location where adult entertainment is provided will likely exacerbate the association between adult entertainment and crime.
 - C. The location of an adult entertainment establishment in a community or neighborhood will likely lead to a decrease in property values in that area.
 - D. The negative secondary effects associated with adult entertainment establishments are present in both urban environments and in rural areas.
 - E. The negative secondary effects of adult entertainment establishments can be associated with all business models, including those that only provide adult entertainment for off-site consumption.
 - F. The negative secondary effects of adult entertainment establishments are exacerbated by allowing such businesses to cluster together.
2. **Purpose.** The purpose of this Section is to regulate certain types of businesses that provide various types of adult entertainment that have been shown to cause the negative secondary effects discussed above in order to limit the impacts of these negative secondary effects.

This ordinance does not seek to censor, prohibit, or in any way discourage the provision of adult entertainment, or inhibit any expressive conduct, but rather this ordinance seeks to regulate the time, place, and manner that adult entertainment may be provided in order to protect the health, safety, and welfare of surrounding communities.

3. **Severability.**

- A. Should any subsection or provision of this Section be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Section as a whole nor any part hereof other than the part so declared to be invalid or unconstitutional.
- B. Should any subsection or provision of this Section be in conflict with any other ordinance, rule, regulation, or law, the more restrictive provision shall prevail.

4. **Definitions.** As used in this Section, the following words or phrases shall have the following meanings:

- A. **"Adult bookstore"** is a store with five percent (5%) or more of its publications, books, magazines, periodicals, videotapes, and other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas or five percent (5%) or more of its total floor space is dedicated to such materials.
- B. **"Adult entertainment"** means the permitting, performing, or engaging in live acts or the depiction of:
 - 1) Touching, caressing, or fondling of the breasts, buttocks, anus, vulva, or genitals;
 - 2) Displaying of any portion of the areola of the female breast or any portion of his or her pubic hair, cleft of the buttocks, anus, vulva, or genitals;
 - 3) Displaying of pubic hair, anus, vulva, or genitals;
 - 4) Public displays of any specified sexual activities; or
 - 5) Acts which simulate sexual intercourse (homosexual or heterosexual), masturbation, sodomy, bestiality, oral copulation, or flagellation.
- C. **"Adult entertainment establishment"** means the premises of any facility upon which an adult entertainment business or adult bookstore operates or upon which such defined activities occur. The definition of an adult entertainment establishment shall not apply to nor prohibit the live performance of legitimate plays, operas, ballets, or concerts at a concert house, museum, or educational institution.
- D. **"Board of Commissioners"** and **"Board"** means the Board of Commissioners of Newton County, Georgia or its designee(s).
- E. **"County"** means Newton County, Georgia.
- F. **"Department"** means the Newton County Department of Development Services.

- G. **"Director"** means the director of the Department of Development Services of Newton County or his designee.
 - H. **"Good moral character"** is defined as the lack of a conviction of, or plea of guilty or nolo contendere to, a drug related misdemeanor or a drug or alcohol related felony or any sex-related crime in the past five years, and the lack of an outstanding arrest for a drug or alcohol-related felony or sex-related crime, or a conviction, or plea of guilty or nolo contendere, to any felony involving moral turpitude.
 - I. **"Employee"** means a compensated worker in an adult entertainment establishment, regardless of the method of compensation. Independent contractors shall be considered employees and shall be required to have permits as employees regardless of the business relationship with the owner or licensee of any adult entertainment establishment.
 - J. **"Minor"** means any person who has not attained the age of 18 years.
 - K. **"Place of Worship"** means a lot or building wherein persons assemble for religious worship and which is maintained and controlled by a non-profit body organized to sustain public religion. The term shall also include any of the following: cathedral, chapel, church, synagogue, temple, mosque, tabernacle and other similar terms. This shall also include, on the same lot, accessory structures and uses such as a minister's or caretaker's residence.
 - L. **"Specified anatomical areas"** shall include less than completely and opaquely covered human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - M. **"Specified sexual activities"** shall include any of the following: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse (homosexual or heterosexual) or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.
5. **Regulations.** The following regulations shall apply to all adult entertainment establishments, as defined in the preceding subsection:
- A. *General:*
 - 1) No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment establishment without a valid adult entertainment establishment license issued pursuant to this Section. Such license shall be displayed in a prominent place on the premises at all times.
 - 2) All adult entertainment establishments must attain a business license.
 - B. *Hours and days of operation:* Adult entertainment establishments shall be closed between the hours of 11:00 p.m. and 9:00 a.m. Monday through Saturday. No adult

entertainment establishment shall be open on Sundays.

C. *Alcoholic Beverages Prohibited:* No alcoholic beverages of any kind shall be sold, possessed or consumed on the premises of an adult entertainment establishment.

D. *Security, Lighting, View:*

- 1) For licensees offering live entertainment, all portions of the property open to public access, both interior and exterior areas, shall be patrolled continually by security employed by the adult entertainment establishment specifically for that purpose. Security guards shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, or admittance person. For licensees not offering live entertainment, security guards shall only be required if recommended by the Sheriff's Department as necessary to ensure compliance with this Section.
- 2) All premises licensed under this Section shall be fully lighted, both interior and exterior areas, except during hours when the establishment is not open for business.
 - a) Interior lighting shall be at least 3 foot candles per square foot.
 - b) All exterior areas that are open for public access shall provide adequate lumination in accordance with an on-premises exterior lighting plan as approved by the Director. All areas on the licensed property shall be considered open for public access unless separated from public areas by a fence, a wall, or other barricade.
- 3) No adult entertainment establishment shall be operated or licensed if any adult entertainment activity on the premises is visible from the exterior of the premises.
- 4) No booth, screen, partition or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view throughout the premises, except for separate offices, kitchens, restrooms or other areas not accessible to patrons.

E. *Condition of Premises:*

- 1) All premises shall be kept clean and in proper sanitary condition and in accordance with all state laws and local ordinances. Adequate facilities, equipment, and supplies shall be provided to meet this requirement and adequate ventilation and illumination shall be provided to permit a 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 more frequently if necessary to prevent accumulation. The licensee or his designee shall make sanitary inspections of the premises at least every 7 days. Each licensed premises shall post and maintain, in a readily accessible place, a schedule for maintaining the sanitation of the premises.
- 2) The premises shall be subject to periodic inspection by the Newton County Health Department, Fire Department, Department of Development Services, and Sheriff's Department. Acceptance of a license issued hereunder shall be deemed to be consent for the officers, agents, and employees of these departments to enter the premises at any time for purposes of ensuring compliance with this Ordinance.

F. *Minors:* It is unlawful for a licensee to admit or permit the admission of anyone under 18 years of age into an adult entertainment establishment. Furthermore, it is unlawful for any person to sell, barter, or give to any minor any service, material, device, or thing sold or offered for sale by an adult entertainment establishment.

G. *Employees:*

- 1) All employees of an adult entertainment establishment shall be required to obtain an individual employee permit in accordance with the provisions of this Section.
- 2) No adult entertainment establishment licensee shall employ or contract with a person, in any capacity including as a dancer, who is under the age of 18 years or a person not licensed pursuant to this Section.
- 3) An adult entertainment establishment licensee shall maintain and retain for a period of three years records showing the names, addresses, and ages of all persons employed as dancers. All records are subject to inspection at any time by the Newton County Department of Development Services and/or the Sheriff's department.

H. *Conduct on the Premises:*

- 1) No employee shall fondle or caress any patron and no patron shall fondle or caress any employee.
- 2) All dancing and adult and other similar adult performances shall occur on a stage intended for that purpose which is raised at least two feet from the next-highest level of the remainder of the floor and which is permanently affixed to the flooring of the establishment. No patron shall be permitted on such a stage. All such stages are subject to and must conform with any applicable building and fire code(s).
- 3) No tips for any employee shall be placed on the person of the performer except by hand to hand contact. No employee shall solicit any pay or gratuity from any patron.
- 4) No person shall conduct any illegal activity in or upon any premises licensed under this Section.
- 5) No licensee shall suffer or permit an employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for personal hygiene or medical related-reasons.
- 6) No person, while on licensed premises, shall, while nude or semi-nude, be permitted to sit upon or straddle the leg, legs, lap or body of any patron, spectator, employee or other person therein.

6. **Location.** No adult entertainment establishment or use restricted hereunder shall be located:

- A. Within one thousand (1,000) feet of any parcel of land which is either zoned or used for residential uses or purposes;
- B. Within one thousand (1,000) feet of any public or private school building and school grounds, college campus, public place of worship, governmental building, library, civic center, public park or playground, recreational facility or child daycare center;

- C. Within two thousand, five hundred (2,500) feet of any parcel of land upon which another establishment regulated or defined hereunder is located;
- D. Within two thousand, five hundred (2,500) 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.
- F. All distances shall be measured from the closest property line on which the licensed premises is located to the closest property line on which the specified use is located.

7. Unlawful Operation Declared a Nuisance.

- A. Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this Section is hereby declared to be unlawful and a public nuisance. The county may, in addition to or in lieu of all other remedies, commence an action or proceeding for abatement, removal or enjoinder thereof, in the manner provided by law.
- B. No adult entertainment establishment shall be conducted on any premises which do not comply with all current zoning, building code, health, fire, and other applicable county ordinances and state laws and regulations.

8. Adult Entertainment Establishment License.

- A. Any person or business entity desiring to operate an adult entertainment establishment within Newton County shall be required to obtain, in addition to a business license, an adult entertainment establishment license ("license") issued by the Department of Development Services.
- B. It is unlawful for any person or business entity to operate within Newton County any adult entertainment establishment, as defined in this Section, without a valid adult entertainment establishment license. No such license 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.
- C. A non-refundable processing fee shall accompany the adult entertainment license application to defray, in part, the cost of investigation and report required by this Section. Such fee shall be according to a fee schedule adopted by the Board of Commissioners. The Department shall issue a receipt showing that such fee has been paid.
- D. The application for license does not authorize the engaging in, operation of, conducting of, or carrying on of any adult entertainment activities in such an establishment.
- E. Each application for an adult entertainment establishment license shall contain the following information:

- 1) The applicant's full true name.
- 2) The present address, telephone number, and social security number (or federal tax identification number) of the applicant.
- 3) Acceptable written proof that the applicant is at least 18 years of age.
- 4) Business, occupation, or employment history of the applicant for the five years preceding the date of application. Business and employment records for this time period shall be made available to the county upon request.
- 5) The adult entertainment establishment license or business license history of the applicant and whether such applicant, in previous operations in Newton County or any other state or political subdivision thereof, has had any such licenses revoked or suspended and the reason(s) therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- 6) 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, the names and addresses of each of its current officers and directors, shareholders holding more than 20 percent (20%) of any class of corporate stock, and a copy of its articles of incorporation filed with the Secretary of State. If the applicant is a limited liability company, a copy of its articles of organization filed with the Secretary of State, together with the names and addresses of each of its members and managers, if applicable. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership election filed with the applicable Clerk of Superior Court. 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 Section, but only one application fee shall be charged.
- 7) If the applicant, any partners, members, managers, corporate officers, directors or shareholders holding more than 20 percent (20%) of any class of corporate stock have been convicted of, or pled guilty or nolo contendere to, a drug or alcohol related felony or sex-related crime in the past five years or has an outstanding arrest for a drug related misdemeanor or a drug or alcohol-related felony or any sex-related crime, 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 fully completed.
- 8) If applicant is a person doing business under a trade name, a copy of the trade name properly recorded.
- 9) Address of the premises to be regulated and whether the premises are owned or rented. If the premises is to be rented, the property owner must submit written consent to the submission of the application.
- 10) A statement that said adult entertainment establishment meets all applicable county ordinances and state laws and regulations.
- 11) Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:
 - a) The applicant if the applicant is an individual;

- b) By the managing or general partner if the applicant is a partnership;
 - c) By the president of the corporation if the applicant is a corporation;
 - d) By the members or managers of a limited liability company; or
 - e) By the chief administrative official if the applicant is any other organization or association.
- F. Each application must be complete in its entirety before being accepted by the county for filing and processing. All applicants shall furnish all data, information, and records pertinent to obtaining an adult entertainment establishment license which is requested by the county and failure to furnish such data, information, and records shall suspend the application process until the data, information and records are submitted and if not submitted within 30 days from the date of such request, the application shall be deemed withdrawn.
- G. Each application shall identify a registered agent upon whom any process, notice or demand required or permitted hereunder or otherwise required or permitted by law may be served. This person must be a resident of Newton County and shall be responsible for any matter related to the license. The identity of this agent may be changed upon notice to the Director of Development Services.
9. **Adult Entertainment Establishment License Investigation.** After receipt of an Application, the Development Services Department shall refer the Applicant to the Sheriff's Department for fingerprinting and to secure a GCIC Criminal History Report. The Sheriff's Department shall conduct a background investigation concerning the applicant and shall make a written report thereof to the Development Services Department prior to consideration of such application by the Board. The Board may request additional investigation if it deems necessary. The County shall have 45 days (unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the county to complete the investigation) from the receipt of a completed application and fingerprinting of the applicant to make a decision in which to grant or deny an adult entertainment establishment license. The Director of the Department of Development Services shall make a recommendation to the Board of Commissioners regarding the approval or denial of the license and the Board shall make the final decision regarding the same.
10. **Applicant Qualifications.** No license for an adult entertainment establishment provided for by this Section shall be issued to or held by:
- A. Any applicant who has not paid all required fees and taxes for a business at that location.
 - B. Any person, including any individual associated with a business entity who is required to be listed in the application, who is not of good moral character as defined in this Section, is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Newton County, or who has had any license for an adult entertainment establishment or for the sale of alcoholic beverages in Newton County or any other state or political subdivision thereof previously suspended or revoked.

- C. Any applicant whose license had been rejected or withdrawn without permission of the Board of Commissioners within seven days immediately preceding the date set for consideration by the Board, unless at least one year shall have expired from such rejection or withdrawal of said application. This requirement shall not apply where the applicant applies for a new location that had not been rejected or withdrawn within the one-year period.
- D. Any applicant where there is evidence that, even though there is compliance with the minimum distance requirements as set forth herein, the type and number of schools, parks or places of worship or other such facilities in the vicinity of the adult entertainment establishment causes minors to frequent the immediate area.
- E. Any applicant who is not a citizen of the United States or legal alien lawfully admitted for permanent residence.
- F. Any applicant who can be shown to have acquired the license for a spouse or any other party as a guise to conceal the party actually operating the adult entertainment establishment.

11. Notice of Application for License to Operate an Adult Entertainment Establishment.

- A. Advertisement: The applicant for an adult entertainment license under this Section shall give notice that an application has been filed by publication of an advertisement once a week for two consecutive weeks prior to the date of consideration of the application by the Board of Commissioners in the newspaper in which legal advertisements are published in Newton County. Said notice need not appear on the same day as legal advertisements are regularly published. The advertisement shall contain a particular description of the location of the proposed business and the name of the applicant or business designees named in its application.
- B. Signage: Within three (3) business days from the time of filing of an application, a printed notice not less than 18" x 18", with letters at least two inches in size, shall be placed on the front door or entrance of the building of the proposed location or on a sign in a prominent place on the lot of the building of the proposed location, stating that an application has been submitted for an adult entertainment license and the name of the applicant. The cost of printing shall be borne by the applicant. Said notice shall remain at the location until final action by Board.

12. Notice of Denial; Appeal. In the event the application for an adult entertainment establishment license is denied by the Board of Commissioners, the applicant shall be notified in writing of such denial within 10 days by U.S. mail. A decision by the Board of Commissioners regarding denial of said license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Newton County within 30 days of the decision.

13. Renewal. Each adult entertainment license is valid for a period of one year from the date of

issuance. The license may be renewed provided that the licensee continues to meet the requirements set out in this Section. Renewal applications are due two months prior to the expiration of the license and shall include a nonrefundable renewal fee according to a fee schedule adopted by the Board of Commissioners prior to an updated investigation by the Newton County Sheriff's Department based upon the information contained on file at the time of the renewal. In the event no action is taken on the renewal application by the expiration date of the previously issued license, the licensee shall have the right to continue operation for the next year.

14. **Nontransferability.** No license for an adult entertainment establishment may be sold, transferred or assigned by a licensee, or by operation of law, to any other person(s) or business entity. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void; provided and excepting, however, that if the licensee 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 license, and in such case, the license, upon notification to the county, shall be placed in the name of the surviving partner. A license 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 license, or any stock authorized but not issued at the time of the granting of such license and is thereafter issued and sold, transferred or assigned. A license issued to a limited liability company shall be deemed terminated and void when any members and managers are added who have not been previously identified on the license application.

15. **Forfeiture for Nonuse.** All holders of licenses hereunder must begin operations within three months. Failure to open the licensed establishment within three months shall serve as an automatic forfeiture and cancellation of the license unless the Director of Development Services approves an extension.

16. **Change of Name or Location.**

- A. No licensee shall change the location of the establishment without obtaining a new license. An application for a license due to a change of location is subject to all requirements of this Section.
- B. The licensee must notify the Department within 30 days prior to any change in the name of the licensed premises.
- C. No licensee shall operate, conduct, manage, engage in, or carry on an adult entertainment establishment under any name other than the licensee's name and the name of the business as specified on the adult entertainment license.

17. **Suspension and Revocation.**

- A. No license issued under this Section shall be suspended or revoked except for due cause

as defined herein, and after a hearing before the Board of Commissioners following written notice to the holder of such license of the time, place and purpose of such hearing, along with a summary of the charge(s) upon which such hearing shall be held. Such notice shall be addressed to the licensee at the last address the licensee provided to the county. Three days shall be deemed reasonable notice, but shorter or longer periods of notice shall be authorized as the circumstances may justify.

- B. The following shall constitute due cause for suspension or revocation of a license:
 - 1) The violation of any federal or state laws or regulations or local ordinances by either the applicant or business entity that owns, in whole or in part, the adult entertainment establishment;
 - 2) A determination that said licensee, including any individual associated with a business entity who is required to be named in the application, no longer meets the requirement of having good moral character, as defined in this Section, or that any person or business entity is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Newton County;
 - 3) If it is discovered that the license application (or renewal application) contained any material omission or untrue or misleading information; or
 - 4) A violation of any other provision of this Section.
- C. Following the Board of Commissioners' hearing on this matter, the Board may suspend or revoke the license of the adult entertainment establishment. The decision of the Board with regard to the suspension or revocation of an adult entertainment establishment license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Newton County within 30 days of the decision.
- D. When any adult entertainment establishment license is revoked or suspended, all signs indicating that such business is conducted on the premises, both inside and outside, shall be removed immediately upon the revocation during the period of revocation or suspension.

18. Adult Entertainment Employee Permits.

- A. Before any person may work in an adult entertainment establishment, the person shall file an application for an employee permit with the Department of Development Services on forms provided by said office. A non-refundable investigation fee and a permit fee shall accompany the permit application. Such fees shall be according to a fee schedule adopted by the Board of Commissioners. The Department shall issue a receipt showing that such fee has been paid.
- B. Said application shall contain the following:
 - 1) Name, address, date of birth, sex, and social security number of applicant; and
 - 2) The name, address, and phone number of the adult entertainment establishment applicant will be employed with.

- C. The Department must be notified of any change in the above information (such as employment with another adult entertainment establishment or name or address change) within 15 days of such change.
- D. Any material omission or untrue or misleading information contained in or left out of an employee permit application shall be unlawful and shall be cause for a denial, suspension or revocation thereof, and shall be punishable as a violation of this Section.
- E. After receipt of an Application, the Development Services Department shall refer the Applicant to the Sheriff's Department for fingerprinting and to secure a GCIC Criminal History Report. The Sheriff's Department shall conduct a background investigation concerning the applicant and shall make a written report thereof to the Development Services Department.
- F. The County shall have 30 days from the date the application is submitted and the applicant is fingerprinted by the Sheriff's Department to investigate the information presented in the permit application. If the employee is found to be of good moral character as defined in this Section, and all other application requirements are met, the Director or his/her designee shall grant approval of the permit and send notification to the employee via U.S. mail to the address listed on the application. If no decision is issued within the 30-day period, the employee's permit shall automatically issue on the 40th day. Upon approval, the employee may begin working on the regulated premises.
- G. If approval is denied, the prospective employee may, within ten days of notice of said denial, apply to the Board of Commissioners for a hearing. The Board shall consider the appeal at its next regularly scheduled meeting at which time it shall make a decision to grant or deny the permit in accordance with the requirements of this Section. The decision of the Board with regard to whether or not to grant or deny the permit is a final action.
- H. Each employee permit is valid for a period of one year from the date of issuance. Renewal permits shall be granted for a non-refundable fee subject to an updated investigation by the Newton County Sheriff's Department based upon the information contained in the employee's application on file at the time of the renewal. Such fee shall be according to a fee schedule adopted by the Board of Commissioners.
- I. No permit issued under this Section shall be suspended or revoked except for due cause as defined in this Section, and after a hearing before the Board of Commissioners following written notice to the holder of such permit of the time, place, and purpose of such hearing, along with a summary of the allegation(s) and charge(s) upon which such hearing shall be held. Such notice shall be addressed to the employee via U.S. mail to the address listed on the application form. Three days shall be deemed reasonable notice, but shorter or longer periods of notice shall be authorized as the circumstances may justify. The decision of the Board with regard to the suspension or revocation of an employee's permit is a final action; therefore, any appeal of such decision may be pursued by an application for Writ of Certiorari by the prospective employee within 30 days of the

Board's decision.

J. The following shall constitute due cause for the suspension or revocation of an employee permit:

- 1) If an employee has been granted an employee permit under the terms of this Section but his/her permit application is later found to have contained any material omission or untrue or misleading information.
- 2) If an employee pleads guilty or nolo contendere or is arrested for or convicted of a drug related misdemeanor or a drug or alcohol related felony, any sex-related crime, or a crime involving moral turpitude.
- 3) A violation of any provision of this Section.

19. **Penalties for Violations.** Any person violating the provisions of this Section shall be subject to punishment by a fine not to exceed \$1,000.00 or imprisonment for 60 days, or both.

20. **Repealer.** Any provisions of the Newton County Code of Ordinances inconsistent herewith are hereby repealed except where such ordinances would impose more restrictive standards on the use of real property then the more restrictive provisions shall apply.

21. **Effective date.** This Ordinance shall be in force and take effect on April 19, 2011.

SO ORDAINED, this 19th day of April, 2011.

Newton County Board of Commissioners

By: *Kathryn G. Morgan*
Kathryn G. Morgan, Chairman

Attest: *Jackie Smith*
Jackie Smith, Clerk

