

FILE COPY

ORDINANCE

AN ORDINANCE ADOPTING AND ENACTING A PROVISION REQUIRING A PERMIT FOR THE SOLICITATION OF EMPLOYMENT, BUSINESS, OR CONTRIBUTIONS FROM THE OCCUPANT OF ANY VEHICLE; PROHIBITING SUCH ACTIVITY DURING SPECIFIED HOURS; ENUMERIZING EXCEPTIONS; PROVIDING FOR A PENALTY FOR VIOLATION; PROVIDING FOR THE REPEAL OF ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

The Board of Commissioners of Newton County, Georgia hereby ordains:

**SECTION I
Pedestrian solicitation - Title**

This Ordinance shall be entitled the "Pedestrian Solicitation Ordinance of Newton County, Georgia."

**SECTION II
Pedestrian solicitation - 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 a 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 16 years old; or
 - 2) Each individual between the ages of 12 and 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 or 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.

SECTION III
Pedestrian solicitation - Prohibited.

Except as provided for in Section IV, notwithstanding any permit issued as provided for in Section II, 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.

SECTION IV
Pedestrian solicitation - Exceptions

The provisions of Section III 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.

SECTION V
Pedestrian solicitation - Penalty

The penalty for violating this Ordinance shall not exceed a fine of \$1,000.00 or 60 days' imprisonment.

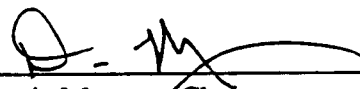
SECTION VI
Pedestrian solicitation - Repeal

All Ordinances or parts of ordinances in conflict herewith are, to the extent of any conflict, repealed.

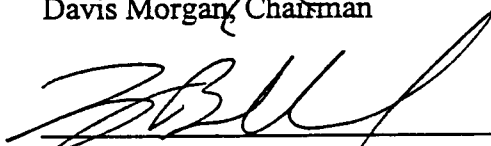
SECTION VII
Pedestrian solicitation - Effective Date

This Ordinance shall be in force and effect beginning the 7 day of Oct., 1997.

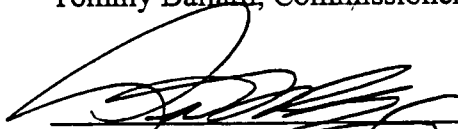
SO ORDAINED this the 7 day of Oct, 1997.




Davis Morgan, Chairman



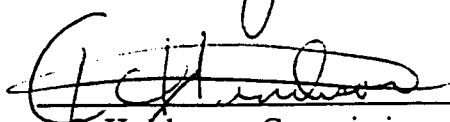
Tommy Ballard, Commissioner



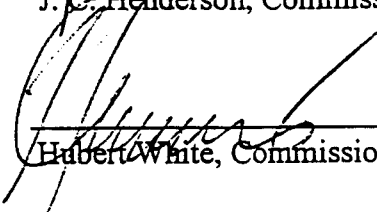
LeAnne Long, Commissioner



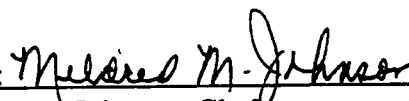
Danny Stone, Commissioner



J. C. Henderson, Commissioner



Hubert White, Commissioner

Attest: 

Mildred M. Johnson, Clerk
Newton County Board of Commissioners

THIS MOTION WAS SECONDED BY COMM. LONG, VOICE WAS UNANIMOUS.

SOLICITATION ORDINANCE-FROM SEPT 16th, 1997.

Copy of Ordinance attached and made part of these minutes. Scott Cole Atty, explained certain items of this Ordinance with emphasis on time limit of sales, days of sales and collections, name and address of people getting permits, age of person who can get permits (no permit under age 12 will be issued) permits will be issued at no charge, supervision must be provided for each individual between the age of 12-16 by an adult, Several Shriners spoke in defense of their collections, stating that this money was given hospitals and was source of getting these funds and only took up donations about three months a year.

Comm. Long stated that the purpose of this Ordinance was not to throw any-one out of any inter-section, this was a safety measure, especially for children. My concern is backed up traffic, and safety.

Comm. White stated that about 425 million dollars was made for hospitals at inter-section, but favored a safety feature.

Comm. Stone stated that we talk less Government, less Government, but this is more Government intrusion, I agree with you Le-Anne, this is a bad inter-section whether or not the Shriners are out there or not, bad regardless of who is out there, only way to eliminate will be road improvement & red light, the Shriners wont be out anyway collecting, passing this Ordinance for one or two(1-2) inter-sections will effect everything in County, more Government red tape, I struggle with this. Le-Anne, I disagree with you Danny, but that is ok, I still think this a safety issue, leadership is very important.

Comm. Stone stated I disagree with you Le-Anne, when you are talking about leadership, we are all here to make decisions, I feel you are talking about our leadership, I feel your are talking about me personally, I struggle with that. After this long discussion, motion was made by Comm. White to approve this Solicitation Ordinance, second was made by Comm. Ballard.

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Voting for Comms. Ballard, White and Long, Against Comms. Stone and Henderson.

APPOINTMENT OF REPRESENTATIVES TO MULTIJURISDICTIONAL RESEARCH PARK STUDY COMMITTEE.

Chairman Morgan reported he had received a letter from Mr. Nat Harwell stating that he would like to service on this committee.

Comm. Morgan stated he would like to serve on this committee also. Chamber of Commerce needs to have member serve.

Motion made by Comm. Long to appoint to this Committee the following: Nat Harwell, Davis Morgan and Kip Purvis.

Second was made by Comm. Ballard, vote unanimous, Comm. Ballard requested all Board Members receive all information as received by Committee.

MEMORANDUM
NOVEMBER 14, 2001

743
Stephanie

TO: SCOTT
FROM: STEPHANIE
RE: 1/07/PEDDLERS LICENSES

Neither Newton County Peddlers Licenses nor Mobile Sales Business licenses issued in lieu of peddlers licenses are valid in other Georgia Counties. The Peddlers License statutes as well as the Transient Merchant statute require a license, which is issued within the county in which the peddler/merchant is to trade. O.C.G.A. §§ 43-32-1, 43-46-1. A Transient Merchant license is required for any person, firm or corporation as principal or agent or both, which is not a regular retail or wholesale merchant with a permanent place of business in this state with the exceptions of selling agricultural or forestry products, going door to door, selling at trade shows, or garage type sales which are not a part of the regular business activities of that person. O.G.G.A. § 43-46-2. That license can be obtained from the business licensing office of the county in which one wishes to trade. O.G.G.A. § 43-46-4. A Peddler's License is required for one who goes from place to place exhibiting his wares and actually selling them whenever he finds the opportunity, including going door to door. Kimmell v. Mayor of Americus, 105 Ga. 694, 31 S.E. 629 (1898). Both persons taking orders and the persons delivering goods are peddlers. Duncan v. State, 105 Ga. 457, 30 S.E.755 (1898). That license must be obtained from the probate court judge of the county in which one wishes to trade. O.C.G.A. § 43-32-1. Transient Merchant Licenses and Peddlers Licenses are only valid within the county in which the license was issued. O.C.G.A. §§ 43-32-1, 43-46-1.

In Newton County the probate court judge has refused to issue any peddlers licenses except to disabled vets. In response Newton County officials have 1) issued Mobile Sales (Transient Merchant) licenses to Newton County residents who wish to peddle in Newton County and 2) recognized other counties' peddlers licenses for nonresidents who wish to trade in Newton County. Apparently, there was some confusion that the Mobile Sales licenses issued by Newton County would be valid and recognized by other counties, but this is not the case. The statutes clearly require a peddler/transient merchant to obtain a license from every county in which he wishes to trade. Therefore, Newton County licenses are not valid in other counties. Further, it appears that the probate judge is within his discretionary power to refuse to grant peddlers licenses.

For the above reasons, Newton County may want to stop recognizing other counties' peddlers licenses and begin requiring that non-residents obtain a Newton County Transient Merchant license. This would provide some revenue for the county for allowing such trade. Further, the transient merchant license seems to cover everything covered by a peddlers license except door to door sells, in which case, both Newton County residents and non-residents alike are out of luck unless the judge changes his mind about issuing peddlers licenses.

Scott Cole, 09:33 AM 5/8/03 -, Peddler's License

X-MindSpring-Loop: jsmith@co.newton.ga.us
Subject: Peddler's License
Date: Thu, 8 May 2003 09:33:52 -0400
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
Thread-Topic: Peddler's License
Thread-Index: AcMVZyr4nxnzL/RqQNeWaoiINxyGIA==
X-MimeOLE: Produced By Microsoft Exchange V6.0.4417.0
From: "Scott Cole" <dsc123@bellsouth.net>
To: "Jackie Smith" <jsmith@co.newton.ga.us>
x-recipient:<jsmith@co.newton.ga.us>

Jackie -

A door-to-door seller of agricultural produce is a "Transient Merchant" as defined by State Law. A Transient Merchant needs a license.

I have attached the memo that I mentioned. The relevant paragraph is the first one. The rest addresses obtaining a peddler's license.

I hope this helps.

Dargan Scott Cole

Law Office of Wm. Thomas Craig

P.O. Box 1587

1144 College Avenue

Covington, Georgia 30015

770.786.1320 Office

770.786.1528 Fax

404.502.0082 Mobile

Attachment Converted: "c:\eudora\attach\peddler.doc"

ORDINANCE

AN ORDINANCE ADOPTING AND ENACTING A PROVISION PROHIBITING THE SOLICITATION OF EMPLOYMENT, BUSINESS, OR CONTRIBUTIONS FROM THE OCCUPANT OF ANY VEHICLE DURING SPECIFIED HOURS; PROVIDING FOR THE REPEAL OF ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

The Board of Commissioners of Newton County, Georgia hereby ordains:

SECTION I

Pedestrian solicitation - Title

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SECTION II

Pedestrian solicitation - Prohibited.

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SECTION III

Pedestrian solicitation - Exception

The provisions of this section shall not apply on any Holiday as defined in Section 1-4-1 of the Official Code of Georgia Annotated.

SECTION IV

Pedestrian solicitation - Penalty

The penalty for violating this Ordiances shall not exceed a fine of \$1,000.00 or 60 days' imprisonment.

SECTION V

Pedestrian solicitation - Repeal

All Ordinances or parts of ordinances in conflict herewith are, to the extent of any conflict, repealed.

SECTION VI
Pedestrian solicitation - Effective Date

This Ordinance shall be in force and effect beginning the ___ day of _____, 1997.

SO ORDAINED this the ___ day of _____, 1997.

Davis Morgan, Chairman

Tommy Ballard, Commissioner

LeAnne Long, Commissioner

Danny Stone, Commissioner

J. C. Henderson, Commissioner

Hubert White, Commissioner

Attest:

Mildred M. Johnson, Clerk
Newton County Board of Commissioners

FILE COPY

Memorandum

**From Barry King
Executive Assistant
Board of Commissioners
Newton County, Georgia**

**To: Board of Commissioners
Subj: Ordinance on Business Solicitation from Occupants of Vehicles
Date: September 12, 1997**

At your last board meeting, you discussed permitting solicitors at 4-way stops.

I could not identify any other counties who do this, but some cities do. Attached is a draft of an ordinance that Rockdale County is considering. As you can see, Rockdale is considering asking their Sheriff to handle this permit (as a part of the traffic control function). Mildred said she could issue the permit if you choose. It doesn't really matter to the administration, although the public might identify with the Sheriff as the logical place to go for getting permission to stand in the road.

Do you intend to charge a fee? If so, would it discourage marginal charitable activities to reduce their profits? Do you intend to discourage? What about individuals and businesses (Flower sellers, leaflet distributors, etc.)?

The draft you are currently working with simply prohibits (a negative) all such activity during certain hours. It is pretty clear cut. By adding permitting (a positive), it adds a new dimension to the ordinance, and another level of understanding or misunderstanding. The philosophy might be read as either "That which is not permitted is denied." or "That which is not denied is permitted."

Isn't drafting legislation fun!



**AN ORDINANCE TO AMEND THE CODE OF ROCKDALE COUNTY BY CREATING
A NEW CODE SECTION TO BE KNOWN AS SECTION 8, CHAPTER 3,
SOLICITATION OF CONTRIBUTIONS ON STREETS AND HIGHWAYS BY
CERTAIN CHARITABLE ORGANIZATIONS; TO REPEAL CONFLICTING
PROVISIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

BE IT ORDAINED by the Board of Commissioners of Rockdale County, Georgia and it is hereby ordained by the authority of same as follows:

Section I

Whereas, O.C.G.A. 40-6-07.1 authorizes counties to adopt ordinances for the issuance of permits for the solicitation of contributions on the streets and highway within the geographic jurisdiction of such county; and

Whereas, such charitable organizations have requested that the county adopt such an ordinance, and

Whereas, it is in the best interest of the health, safety and welfare of the citizens of Rockdale County to issue an ordinance with rules and regulations providing for the issuance of permits for charitable organizations to solicit such contributions within the county;

It is hereby ordained that the following code section is hereby created and after adoption shall read in its entirety as follows:

CHAPTER 3

Solicitation of Contributions on Streets and Highways by Charitable Organizations

Section 8-3001 Registration and Permit - Any person/organization eligible according to O.C.G.A. 43-17-5 or 43-17-9, who wishes to organize, form or conduct a solicitation of contributions on streets and highways within the unincorporated area of Rockdale County shall be required to apply for a permit for such activity at least 30 days in advance of the date on which the solicitation shall take place and to obtain a permit therefore. Number of permits issued during a calendar year shall be limited to two per each person/organization, each permit shall be for a period of time not to exceed 60 days, and for locations at 4-Way STOP intersections only.

Section 8-3002 Application - The application for a permit to conduct such solicitation shall be made to the Sheriff of Rockdale County in writing, shall be signed by the person responsible for supervising the solicitation and shall contain the following information:

- a. Name of organization and proof of eligibility;
- b. Dates and times of the solicitation;
- c. Names and addresses of all persons expected to participate in the solicitation, along with a signed affidavit from each participant agreeing to hold harmless and indemnify Rockdale County;
- d. Approved 4-Way STOP intersection locations;
- e. Name, address, phone number and signature of person making application.

Section 8-3003 Review of Application - The Sheriff or his designee shall review the information set forth in the application and have exclusive authority to grant or deny the application. Such permission or denial shall be determined by whether the solicitation will or will not reasonably interfere with normal use of the streets by the general public and the qualifications have satisfactorily

09/12/97 FRI 12:59 FAX 7704834376

ROCKDALE COUNTY

003



been met. In either case, the Sheriff shall indicate his disposition on the application in writing and shall notify the applicant of the action taken.

Section 8-3004 Conduct During Solicitation - Each participant shall wear vest, hat or other material to identify the group soliciting. The applicant shall further post adequate notices at least 500 feet in front of the solicitation warning oncoming vehicular traffic of the presence of the solicitation.

Section 8-3005 Revocation of Permit - Every permit issued under this ordinance is subject to the right, which is hereby expressly reserved, to revoke the same should a solicitation occur contrary to the provisions of this or other ordinances of Rockdale County, the State of Georgia or the public safety and welfare as determined by the Sheriff or his designee.

Section II

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

Section III

This ordinance shall be in force and take effect upon adoption.

This the _____ day of September, 1997.

BOARD OF COMMISSIONERS

Attest: _____

First Reading 9-9-97

Approved as to form: _____

Second Reading _____

Lots would be 4.0 average acre.

Comm. Stone asked Jimmy if changing the 4 acre min lot to 4 acre average are you planning to change number of lots?

I would like to limit number of lots.

Jimmy replied probably not change lot size, some pasture and some heavy wooded lots, then might change to 2 & 4 acre lots, need some flexibility. We will have no more than 18 homes on tract of land.

Chairman asked if anyone was present to oppose this zoning?

Mr. J. Jones, Ms. Minnie Lee, Jack Waldrop, expressed concern about sewerage because of number houses, sediment on creek, septic tanks that might disturb wells. too many septic tanks.

John Byce explained that a 25ft buffer would be there to protect creek, and would run all the way down creek, this would be a natural buffer, could not be cleared out, must remain undisturb.

Chairman explained that water was problem of Water and Sewer Dept, and this problem should be addressed to that dept.

Comm. White stated that EPD and EPA had monitored wells and was proven fact that 100ft from drilled or bored well was safe, this is liberal zoning, I will support.

After a short discussion, motion was made by Comm. Stone, stating that he understood everyones concerns, we have some major concerns, Petitioner agrees to 2200 sq ft min., houses, could built 1100 sq.ft., 18 lots on 71.62 acres, we are having a lot of 1/2 acre lots being built on.

I will make the following motion that Board approve AR Zoning, with stipulation of no more that 18 lots and 18 houses of 2200sq ft. min., with staffs recommendations as follows:

1) that engineered site development plans and erosion and sediment control plans be submitted and approved prior to the issuance of a development permit; 2) that a hydrological analysis be conducted and storm water retention or detention be instituted should said data show such a need; 3) that driveway entrance plans including accel/decel plans be approved prior to the issuance of a development permit, and 4) that Newton County Environmental Health give septic tank approval prior to the issuance of any permits.

This motion was seconded by Comm. Long, vote was unanimous.

SOLICITATION ORDINANCE-FROM SEPT 16th, 1997.

Copy of Ordinance attached and made part of these minutes.

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