ORDINANCE NUMBER 2008-10-03
ABATEMENT OF NUISANCES

TOWN OF NEWTON, ALABAMA
COUNTY OF DALE
STATE OF ALABAMA

AN ORDINANCE DEFINING REAL PROPERTY NUISANCES, ESTABLISHING A PROCEDURE FOR THE ABATEMENT OF SAID NUISANCES, AND PROVIDE PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

BE IT ORDAINED BY THE TOWN COUNCIL OF NEWTON, ALABAMA AS FOLLOWS:

Section 1 – The Town Council has received numerous complaints concerning the neglect of real estate properties constituting a nuisance, and the Town Council has determined that the public interest and welfare requires that these nuisances be controlled.

Section 2 – DEFINITION: For the purposes of this ordinance, the term "nuisance" shall mean any lot or tract of land within the corporate limits of the Town of Newton, Alabama, that is unlawfully unsightly or dangerous, producing material annoyance, inconvenience, discomfort or hurt to anyone in the general public, so as to interfere with the comfortable enjoyment of life and/or property. Any vegetation, weeds, grass, or plants other than trees, bushes, shrubbery, flowers or other ornamental plant life under proper care and cultivation, which have grown to more than twelve [12] inches high or more on any lot or tract of land within the corporate limits of the Town of Newton, Alabama, are hereby declared to be a nuisance.

Section 3 – REAL PROPERTY NUISANCE UNLAWFUL.. It shall be unlawful for any property owner, agent, occupant, or lessee in the Town of Newton, Alabama, to permit or maintain the existence of a real property nuisance.

Section 4 - NOTICE TO ABATE NUISANCES

[A] Whenever in the opinion of the Street Superintendent or other Representative designated by the Town Council of the Town of Newton, Alabama, a real property nuisance exists as defined in this ordinance, he/she shall order the owner, agent, occupant, or lessee of the property on which the nuisance is located, to abate the same. Abatement shall mean full and complete removal of any nuisance declared under Section 2 of this ordinance or under other sections of other applicable laws or ordinances.

[B] The Chief of Police or other designated Representative, shall give written notice to the owner, agent, occupant, or lessee of the existence of the nuisance, shall describe the particulars which make it a nuisance, shall order the manner in which it is to be abated, and shall state the time frame within which the nuisance shall be abated. Unless otherwise stipulated, fourteen [14] days shall be deemed an adequate time in which to abate said nuisance.

[C] Said notice shall be sent by certified mail to that person shown by the records of the Tax assessor of Dale County, Alabama, to have been the person last assessed for payment of State, County, and City Ad Valorem Tax on the property where the nuisance is situated.

[D] The notice shall state that if the nuisance is not abated within the stated time frame, the Chief of Police or designated Representative, shall take appropriate and necessary action against said owner, agent, occupant or lessee of said property where nuisance exists.

SECTION 5 – APPEALS FROM NOTICE TO ABATE. Any person receiving notice of a nuisance and an order to abate the same from the Chief of Police or designated Representative, may appeal the order to the Town Council of the Town of Newton, Alabama, by written notice filed within seven [7] days of the date of said notice. No appeal filed after seven [7] days shall be considered.

SECTION 6 – FAILURE TO COMPLY:
[A] Upon failure of the owner, agent, occupant or lessee to abate the nuisance, the abatement may be performed by the Town. Upon completion of the work ordered by the Town Council of the Town of Newton, Alabama, the designated Representative shall compute the actual expenses, including but not limited to total wages paid, value of the use of equipment and all costs of notice which were incurred by the Town of Newton, Alabama, as a result of said work. An itemized statement shall be mailed to the last known address of the owner, agent, occupant or lessee of the property.

[B] In the event the owner, agent, occupant or lessee shall fail or refuse for a period of twenty-eight [28] days to pay off and discharge the expenses, the designated representative shall report such failure to the Town Council at the next regular meeting following the expiration of that period.

[C] The Town Council may cause the actual expense of such work to be levied as a special assessment against the property. The owner, agent. occupant or lessee may appear at the next Town Council meeting held after receiving the statement of expense to show cause why such assessment shall not be levied. After the meeting, the Town Council may, by resolution, assess all or part of such expense against the property.

[D] Any assessment against property under this Section shall not become final until seven [7] days after the adoption by the Town Council. Once the assessment has become final, the City Clerk shall have such resolution recorded in the office of the Judge of Probate of Dale County, Alabama.

SECTION 7 - COLLECTION OF ASSESSMENT: REMEDY OF TOWN

[A] In the event the owner, agent, occupant or lesseeshall refuse or fail to discharge the assessment after a period of twenty-eight [28] days from the date the assessment was made final, the Town shall commence an action in any court of competent jurisdiction to recover said expenses.

[B] In addition to remedies otherwise provided for herein the designated representative of the Town of Newton may cause an action to be instituted to enjoin or abate any nuisance.

SECTION 8 – CONTINUING OFFENSES. In all cases, the person whose duty it is to abate any nuisance shall be liable for separate and distinct offenses for each day the nuisance is allowed to remain after it has become his duty by notice of the designated Representative to abate it.

SECTION 9 – PENALTY FOR VIOLATIONS. In addition to or in substitution of any section or provision of this Ordinance, any violation of any section or provision of this Ordinance is a misdemeanor offense and the violator may be charged with such and punished by a fine of not more than five hundred dollars [$500.00].

SECTION 10 – CONSTRUCTION. This Ordinance shall be construed to contain all power granted to Municipalities under Section 11-40-140, 11-47-117, 11-47-131, and 11-47-140, Code of Alabama, 1975, providing for controlling nuisances, sanitation and good public health and safety conditions.

SECTION 11 - REPEALED. All Ordinances of the Town of Newton, Alabama which are inconsistent with this ordinance are hereby repealed.

SECTION 12 – SEPARABILITY. It is the intention of the Town Council that each separate provision of this Ordinance shall be deemed independent of all other provisions herein, and it is the further intention of the Town Council that if any provisions of this Ordinance be declared invalid or unconstitutional, all other provisions shall remain valid and enforceable.

SECTION 13 – PUBLISHING AND EFFECTIVE DATE. The City Clerk shall cause this Ordinance to be immediately published by posting copies thereof in three [3] public places within the Town of Newton, Alabama, one of which shall be the Town Hall and two [2] other public places, and after such posting, which posting and publication is in accordance with the provisions of Section 11-45-8, Code of Alabama, 1975, this Ordinance shall take effect.

SECTION 14 - THIS ORDINANCE shall become effective upon its adoption and publication, and remain in effect unless repealed by the Town Council of Newton, Alabama.

PASSED AND ADOPTED THIS 17th DAY OF February, 2009

Ted Stayton
MAYOR

Jerry Boyd
COUNCILMEMBER

Donnie Lee
COUNCILMEMBER

COUNCILMEMBER

COUCILMEMBER

ATTEST:
Nina Dickerson
Nina Dickerson, Town Clerk

COUNCILMEMBER

I, Nina Dickerson, Town Clerk for the Town of Newton, Alabama, hereby certify that the above Ordinance was posted in accordance with the provisions of the Ordinance and Posting Laws of the State of Alabama.
This the 17th day of February, 2009

Nina Dickerson
Nina Dickerson, Town Clerk