

June 11, 2007

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

The City Council of the City of Athens, Alabama, met in regular session at the Athens Police Department Court Room at 951 Hobbs Street East in the said City on June 11, 2007, at 5:30 p.m. The meeting was called to order by Councilman Harold Wales, President of the Council. Upon roll call, the following were found to be present: Councilmembers Johnny Crutcher, Harold Wales, Jimmy Gill, Ronnie Marks and Mildred Caudle. The Mayor was absent and John Hamilton, City Clerk, was present and recorded the Minutes of the meeting. Mildred Caudle offered the invocation and Mayor Williams led the Pledge of Allegiance. The Chairman stated that a quorum was present and that the meeting was open for the transaction of business.

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The Chairman stated that the Minutes of the May 29, 2007 City Council Meeting had been submitted for approval. Councilman Crutcher moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Marks and was unanimously carried. The Chairman stated that the Minutes of the May 29, 2007 City Council Work Session Minutes had been submitted for approval. Councilman Crutcher moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Marks and was unanimously carried.

Trish Black, Diane Lehr and Gail Bergeron (Athens State Art Professor) spoke about funding for Art on the Square.

Quentin Anderson, Ridgelawn Drive, spoke on the urgency of adopting the impounding of vehicle ordinance.

C. M. Trousdale, 17601 Goode Drive, needed a solution to trash being blown onto his vacant property from the recycling center.

Ryan M. Green, 300 North Beaty Street, dorm student at Athens State, requests that the city become involved in helping to keep the student dorms open during the summer.

Councilman Marks introduced the adoption of the following resolution:

#### RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve the following applicant for its "Retail Table Wine and Beer for Off Premises Consumption" alcohol license, in the City of Athens, based on the recommendation of the Alcohol Review Committee.

R. C. Groceries  
11027 Lucas Ferry Road  
Randy Crowe, owner

The motion was seconded by Councilman Gill and was unanimously carried.

Councilman Crutcher introduced the following ordinance:

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

ORDINANCE NUMBER \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ATHENS, ALABAMA, TO EXEMPT CERTAIN "COVERED ITEMS" FROM THE MUNICIPAL SALES AND USE TAX DURING THE FIRST FULL WEEKEND OF AUGUST, 2007, AS AUTHORIZED BY ACT 2006-574, GENERALLY REFERRED TO AS THE STATE SALES TAX HOLIDAY LEGISLATION.

**BE IT ORDAINED BY THE CITY COUNCIL OF ATHENS, ALABAMA, AS FOLLOWS:**

Section 1. In conformity with the provisions Act 2006-574 enacted by the Alabama Legislature during the 2006 Regular Session, providing for a State Sales Tax Holiday, the City of Athens, Alabama, exempts "covered items" from municipal sales and use tax during the same period, beginning at 12:01 a.m. on the first Friday in August 2007 (August 3, 2007) and ending at twelve midnight the following Sunday (August 5, 2007).

Section 2. This ordinance shall be subject to all terms, conditions, definitions, time periods, and rules as provided by Act 2006-574, except that the time period shall only be as specified in Section 1 above and not for all years thereafter.

Section 3. The City Clerk is hereby authorized and directed to certify a copy of this ordinance under the seal of the City of Athens, Alabama, and to forward said certified copy to the Alabama Department of Revenue to be recorded and posted on the Department website.

Section 4. This ordinance shall become effective on \_\_\_\_\_.

Councilman Marks introduced the adoption of the following resolution:

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA to re-appoint Jerold Blaxton to the Zoning Board of Adjustments and Appeals for a term of three years.

The motion was seconded by Councilman Crutcher and was unanimously carried.

Councilwoman Caudle introduced the adoption of the following resolution:

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA to re-appoint Clint Brown to the Zoning Board of Adjustments and Appeals for a term of three years.

The motion was seconded by Councilman Crutcher and was unanimously carried.

Councilman Crutcher introduced the adoption of the following resolution:

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA to grant approval to the Master Plan for Piney Creek Subdivision, which is 115 acres located north of US Highway 72 East, east of Woodland Road and west of Piney Creek, and is being developed by East Point Development LLC.

The motion was seconded by Councilwoman Caudle and was unanimously carried.

Councilman Marks introduced the adoption of the following resolution:

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA to grant approval to the Master Plan for Waterford Subdivision, which is 106 acres located between West Washington Street and Quinn Road, west of Ezell Place Subdivision, and is being developed by Christopher Construction.

The motion was seconded by Councilman Gill and was unanimously carried.

Councilman Crutcher introduced the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA to set a Public Hearing at the regular City Council meeting of July 9, 2007, at 5:30 p.m., in the Athens Police Department Court Room at 951 Hobbs Street East to receive comments for or against the City of Athens, as an applicant to the Alabama Clean Water State Revolving Funds (CWSRF) Loan Program, Project #CS010816-01, to construct improvements to the Athens Wastewater Treatment Plant.

The motion was seconded by Councilwoman Caudle and was unanimously carried.

Councilman Gill introduced the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA that cash advances for travel in the following amounts be approved for Electric Department personnel.

Mark Agee	\$150.00	TVPPA Advanced Lineman Training – Jacksonville, TN
Philip Roberson	\$150.00	TVPPA Advanced Lineman Training – Jacksonville, TN
Ken Goode	\$150.00	TVPPA Advanced Lineman Training – Jacksonville, TN
Danny Wallace	\$150.00	TVPPA Advanced Lineman Training – Jacksonville, TN
Nathan King	\$150.00	TVPPA Advanced Lineman Training – Jacksonville, TN

The motion was seconded by Councilman Marks and was unanimously carried.

Councilman Crutcher introduced the adoption of the following resolution:

RESOLUTION

WHEREAS, the Electric Department of the City of Athens (herein "the Electric System") is a member of the Tennessee Valley Public Power Association, Inc. ("TVPPA"); and

WHEREAS, TVPPA has been in discussions with the Tennessee Valley Authority ("TVA") toward reaching an agreement for the purpose of negotiating arrangements for the distributors of TVA power to have an opportunity to acquire an equity ownership in some power generation facilities through amendments to the wholesale power contract with TVA; and

WHEREAS, TVPPA is in the process of creating and organizing a Generation and Transmission Cooperative ("TVPPA GENCO") through which the TVPPA members may enter into a wholesale power supply contract with the TVPPA GENCO and in the process acquire an equity interest in the form of patronage capital in the TVPPA GENCO; and

WHEREAS, TVPPA is planning to remit the initial membership fee for the participating members to the TVPPA GENCO in behalf of the Electric System, such fee to be paid from a portion of an

assessment the Electric System may pay to TVPPA; and

WHEREAS, maintaining membership in the TVPPA GENCO does not obligate the Electric System to enter into any future wholesale power contract with the TVPPA GENCO, and there is no prohibition that prevents the Electric System from withdrawing or terminating its membership voluntarily in the TVPPA GENCO should it so decide before reaching agreement to enter into a wholesale power supply contract with the TVPPA GENCO:

NOW, THEREFORE, BE IT RESOLVED, that the Manager of the Electric Department is authorized to agree for the Electric System to become a member of the TVPPA GENCO and be bound by the Bylaws of the TVPPA GENCO, and to remit the necessary funds in payment of an assessment equal to the Electric System's annual dues of TVPPA from which funds the initial membership fee will be contributed to the TVPPA GENCO, and with the remaining funds to be used for (a) the initial organizational expenses to create and organize the TVPPA GENCO; (b) to engage the necessary engineering and other consultants; and (c) payment of such other obligations as may be necessary or advisable to enter into one or more agreements for the acquisition and/or construction of ownership interest in electric power generation facilities by the TVPPA GENCO.

Councilman Marks introduced the following ordinance:

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

ORDINANCE NUMBER \_\_\_\_\_

**AN ORDINANCE CONCERNING JUNK, LITTER, WEEDS,  
NONCONFORMING VEHICLES, AND RELATED ITEMS  
WITHIN THE CITY OF ATHENS**

WHEREAS, the City Council of the City of Athens intends to continue its fight against litter and junk in the City of Athens;

WHEREAS, the City Council intends to strengthen and clarify the City's municipal ordinances relating to litter, junk, weeds, and other nuisances in the City;

WHEREAS, the City Council enacts this ordinance to provide for the safety, preserve the health, promote the prosperity, and improve the comfort and convenience of the inhabitants of this City; to maintain the health and cleanliness of the City; to prevent injury and annoyance from dangerous, offensive, or unwholesome nuisances; to ensure good sanitary good sanitary conditions within the City; and to prevent conditions favorable to the harboring of insects;

WHEREAS, § 11-45-1 of the *Code of Alabama* authorizes a municipality to adopt ordinances to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the municipality, and to enforce obedience to such ordinances;

WHEREAS, § 11-47-117 of the *Code of Alabama* authorizes a municipality to adopt ordinances preventing injury or annoyances from anything dangerous or offensive or unwholesome and to cause all nuisances to be abated;

WHEREAS, § 11-47-130 of the *Code of Alabama* authorizes a municipality to adopt ordinances to maintain the health and cleanliness of that municipality;

WHEREAS, § 11-47-131 of the *Code of Alabama* authorizes a municipality to adopt ordinances to insure good sanitary condition in public places or in private premises in the municipality;

WHEREAS, § 11-47-140 of the *Code of Alabama* authorizes a municipality to adopt ordinances requiring that weeds be cut or other things or conditions favorable to the harboring of insects to be abated;

WHEREAS, § 11-45-9.1 of the *Code of Alabama* permits a municipality to authorize a law enforcement officer, in lieu of placing persons under custodial arrest, to issue a summons and complaint to persons charged with violations of certain types of municipal ordinances;

WHEREAS, Rule 20(C) of the Alabama Rules of Judicial Administration permits a municipality to adopt a local schedule of fines for municipal ordinance violations;

**THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** while in regular session on \_\_\_\_\_, 2007 at 5:30 p.m., as follows:

**Section 1.** That Chapter 46, Article II, Division II, Sections 46-51 through 46-63 of the Code of Ordinances, City of Athens, Alabama be repealed and replaced by amendment to read as follows:

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**Section 46-51. Definitions**

The following words, terms and phrases, when used in this Division, shall have the following meanings:

(a) "Litter" means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris, or any foreign substance of whatever kind and description, and whether or not it is of value. As used herein, "litter" shall also include fallen or cut limbs, tree cuttings, fallen or cut trees, vegetation cuttings, and yard waste. Any agricultural product in its natural state that is unintentionally deposited on a public highway, road, street, or public right-of-way shall not be deemed litter.

(b) "Junk" means any metals, machinery, plumbing fixtures, vehicle part(s)\_(including but not limited to mechanical parts, auto body parts, engine parts, mufflers, bumpers, truck caps and shells, truck storage boxes, box truck cargo areas, and trailer boxes), boat part(s), trailer part(s), mechanical part(s), rubber tire(s), appliance(s), furniture, machinery, equipment, building material, wire, cable, bearings, valves, pipes, pipe fittings, wood, or other items which are either in a wholly or partially rusted, wrecked, disabled, discarded, dismantled, or inoperative condition.

(c) "Nonconforming Vehicle" means any vehicle or trailer (including but not limited to cars, trucks, boats, motorcycles, and recreational vehicles) that is inoperable in that one or more of its major mechanical components including (but not limited to) engine, transmission, driver train, or wheels is/are missing or not functional. A nonconforming vehicle shall also include an automobile or motorcycle that may not be legally operated on a public street due to the absence of a current license tag, unless such vehicle (i) is on real property owned by (or leased by) and in the control of an automobile dealer who is properly licensed to sell new and/or used vehicles at said property, and (ii) said vehicle is held and offered for sale as shown by a sign or other physical indication on the vehicle.

**Section 46-52. Littering Prohibited**

(a) It shall be unlawful for any person to drop, deposit, discard, or otherwise dispose of litter in or upon any public or private property within the city (including but not restricted to any street, median, right-of-way, sidewalk, park, vacant or occupied lot, or body of water), unless the same is deposited in

public receptacles or in authorized private receptacles provided for public use, or in an area designated by the state department of environmental management as a permitted disposal site.

- (b) Any person found guilty of violating Section 46-52 (a) shall:
  - (1) Upon that person's first violation be punished by (i) a fine of not less than \$250.00 nor more than \$500.00, and (ii) a term of not less than eight hours of community service picking up litter; and
  - (2) Upon that person's second or additional violation within a year be punished as authorized in this Code but in no case by (i) a fine of less than a fine of \$500.00, and (ii) a term of not less than 16 hours of community service picking up litter.

**Section 46-53. Littering Penalty for Owner and/or Driver of Vehicle**

(a) The owner and/or driver of a motor vehicle shall be guilty of an offense in the event that any person commits the offense described in section 46-52, while in that motor vehicle, whether the motor vehicle is moving or at rest. This is a strict liability offense.

- (b) Any person found guilty of violating Section 46-53 (a) shall:
  - (1) Upon that person's first violation be punished by a fine of \$100.00; and
  - (2) Upon that person's second or additional violation within a year be punished by a fine of \$200.00.

**Section 46-54. Duty to Keep Property Clear and Free From Litter**

(a) **Residential and Other Non-Commercial Properties.** Any owner, lessee, and/or person in control of any property used for residential or non-commercial purposes shall keep any and all portions of the property that are not located inside any fully enclosed structure clear and free from litter. This duty shall extend to all sidewalks, driveways, alleyways, and rights-of-way (other than public roadways) lying adjacent to said residential property.

(b) **Commercial Properties.** Any owner, proprietor, and/or person in control of any property used for commercial purposes shall keep and maintain any and all portions of the property that are not located inside any fully enclosed structure clear and free from litter. As used herein, the phrase "the property on which the business is conducted" shall include but is not limited to all premises, parking lots, and loading/unloading areas that are owned, leased or utilized by the business. This duty shall also extend to all sidewalks, parking lots, driveways, alleyways, and rights-of-way (other than public roadways) lying adjacent to said property.

- (c) There is no violation of this Section where:
  - (1) the condition relates to the placement of litter (that would otherwise constitute a violation of this Section) on the property for collection in a manner that adheres to all applicable requirements of Article III (Solid Waste and Trash Disposal) of this Code; or
  - (2) the condition relates to fallen or cut limbs, tree cuttings, fallen or cut trees, and/or vegetation cuttings (other than grass cuttings) that are:
    - (i) On any property or part thereof which remains in its natural condition. For purposes of this subsection, once property has been cleared, plowed, or developed in any manner, the property or part thereof is no longer in its natural condition;

(ii) On any property that is zoned for agricultural use, excluding those parts of said property that are within fifty (50) feet from the abutting property lines of any and all abutting property used for residential or commercial purposes;

(iii) not visible from public rights or way and adjacent properties owned by a person or entity different from the owner of the property with the condition;

(iv) the result of timber or logging operations, and are removed from the property within thirty (30) days after the condition is created;

(v) the result of activities to remove or alter vegetation in connection with the improvement or development of the property for business, governmental, residential use, and are removed from the property within thirty (30) days after the condition is created; or

(vi) on the Premises as the result of storm or wind, and are removed from the property within thirty (30) days after the condition is created.

(d) Any person found guilty of violating this Section shall:

(1) Upon that person's first violation be punished by (i) a fine of not less than \$30.00, nor more than \$200.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the City's Schedule of Fines if the Magistrate has received certification from a law enforcement officer of the City that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second or additional violation within a year, be punished as authorized in this Code but in no case by a fine of less than \$100.00.

(e) A corrective notice shall be issued to any person who is allegedly in violation of this Section, and who has not previously been issued a corrective notice in connection with a violation of this Section concerning the property that is the site of the violating condition. The corrective notice may be issued by any law enforcement officer of the City or any City employee or agent that is authorized to do so by the Mayor. The corrective notice may be either hand-delivered to the person, or the notice may be posted in a conspicuous location of the property where the offense is located. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this Section. The corrective notice shall also provide that the violating condition must be remedied within five (5) calendar days from its issuance, and no action shall be instituted under Section 46-60 until the said five (5) day period has expired.

#### **Section 46-55. Duty to Keep Property Clear and Free From Junk and Non-Conforming Vehicles**

(a) **Residential and Other Non-Commercial Properties.** Any owner, lessee, and/or person in control of any property used for residential or non-commercial purposes shall keep any and all portions of such property that are not located inside any fully enclosed and roofed structure (or within any roofed carport or garage attached to a residence, whether or not it is fully enclosed) clear and free from junk and nonconforming vehicles. This duty shall extend to all sidewalks, driveways, alleyways, and rights-of-way lying adjacent to said property.

(b) **Commercial Properties.** Any owner, proprietor, and/or person in control of any property used for commercial purposes shall keep and maintain any and all non-screened portions of the property on which the business is conducted clear and free from junk and non-conforming vehicles.

(c) As used in Section 46-55(b), the phrase "non-screened portions" shall refer to those portions of the property that are not located inside (i) a fully enclosed structure, (ii) a nontransparent

vertical wall or fence, and/or (iii) natural objects/plantings, any and all of which are of a minimum height of eight (8) feet and in good, neat, and orderly condition and repair, such that the interior contents are completely shielded from the ground level view of adjacent public or private property, including any public right of way.

(d) As used in Section 46-55(b), the phrase “the property on which the business is conducted” shall include but is not limited to all parking lots, and loading/unloading areas that are owned, leased or utilized by the business. This duty shall also extend to all sidewalks, parking lots, driveways, alleyways, and rights-of-way lying adjacent to said property.

(e) There is no violation of this Section where:

- (1) the condition relates to the placement of junk (that would otherwise constitute a violation of this Section) on the property for collection in a manner that adheres to all applicable requirements of Article III (Solid Waste and Trash Disposal) of this Code;
- (2) with respect to property used for commercial purposes, the condition relates to materials, goods, and/or supplies (not including vehicle(s), trailer(s), or vehicle and/or trailer part(s)) that are normally stored, displayed, or kept outside on the premises of duly licensed building supply companies, lumberyards, plumbing supply companies, nurseries, and similar commercial establishments, so long as the materials, good, and/or supplies (i) are not wholly or partially rusted, wrecked, ruined for their intended purpose, dismantled, disabled, or inoperative, and (ii) are stored in such a manner so as to prevent overgrowth with grass and/or weeds and the harboring of rats, mice, insects, reptiles, or other vermin; or so as to prevent any health, fire or safety hazard;
- (3) with respect to property used for commercial purposes, agricultural equipment, industrial equipment, and/or lawn and garden equipment that are displayed for sale on the premises of establishments that are duly licensed for the sales of such items, so long as they are stored in such a manner so as to prevent overgrowth with grass and/or weeds and the harboring of rats, mice, insects, reptiles, or other vermin; or so as to prevent any health, fire or safety hazard;
- (4) with respect to any property on which a properly lawfully licensed vehicle repair business is operating, the condition relates to a particular vehicle(s), trailer(s), vehicle part(s), and/or trailer part(s) that is in violation of Section 46-55(b) on no more than three (3) consecutive days;
- (5) the condition relates to building materials located on a premises where a valid permit is in existence for construction or repairs;
- (6) the condition relates to a storage place or depository lawfully maintained by duly constituted law enforcement officers; or
- (7) the condition relates to the operations of a public utility.

(f) Any person found guilty of violating this Section shall:

- (1) Upon that person’s first violation be punished by (i) a fine of not less than \$30.00, nor more than \$200.00; provided that, upon such person’s first violation and no later than 72 hours before the person’s court date, the person may elect to plead guilty before the magistrate and pay pursuant to the City’s Schedule of Fines if the Magistrate has received certification from a law enforcement officer

of the City that the property conditions supporting the violation no longer exist or have been cured; and

- (2) Upon that person's second or additional violation within a year, be punished as authorized in this Code but in no case by a fine of less than \$100.00.

(g) A corrective notice shall be issued to any person who is allegedly in violation of this Section, and who has not previously been issued a corrective notice in connection with a violation of this Section concerning the property that is the site of the violating condition. The corrective notice may be issued by any law enforcement officer of the City or any City employee or agent that is authorized to do so by the Mayor. The corrective notice may be either hand-delivered to the person, or the notice may be posted in a conspicuous location of the property where the offense is located. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this Section. The corrective notice shall also provide that the violating condition must be remedied within five (5) calendar days from its issuance, and no action shall be instituted under Section 46-60 until the said five (5) day period has expired.

#### **Section 46-56. Sweeping Trash, Litter, and Mud into Public Streets and Sidewalks Prohibited**

(a) It shall be unlawful to sweep or push litter, trash, leaves, grass, or mud onto public streets.

(b) It shall be unlawful to sweep or push litter, trash, leaves, grass, or mud onto public sidewalks. However, a person does not violate Section 46-56(b) where that person has placed the litter, trash, leaves, grass, or mud (that would otherwise constitute a violation of Section 46-56(b)) on the property for collection in a manner that adheres to all applicable requirements of Article III (Solid Waste and Trash Disposal) of this Code.

(c) Any person found guilty of violating this Section 46-56 shall:

- (1) Upon that person's first violation be punished by a fine of not less than \$30.00; and
- (2) Upon that person's second or additional violation within a year, be punished as authorized in this Code but in no case by a fine of less than \$100.00.

#### **Section 46-57. Overgrown Weeds and Grass Prohibited**

(a) It shall be unlawful for any person owning, leasing, possessing, residing, or having charge or control of any real property within the city to allow weeds or grass to grow to a height in excess of twelve (12) inches upon any lot or parcel of land within the city.

(b) Section 46-57(a) shall not apply to:

- (1) A tract of more than five (5) acres, including property that has been subdivided by the property owner where no parts of the subdivided property are occupied, except that part of such property within fifty (50) feet from the abutting property lines of any and all abutting property used for residential or commercial purposes;
- (2) Any property or part thereof which remains in its natural condition. For purposes of this subsection, once property has been cleared, plowed, or developed in any manner, the property or part thereof is no longer in its natural condition;

- (3) Any property that is zoned for agricultural use, excluding those parts of said property that are within fifty (50) feet from the abutting property lines of any and all abutting property used for residential or commercial purposes;
- (4) Cultivated row crops and garden plants in their respective growing seasons. However, this exception applies only to growing crops and garden plants and shall not be construed to permit any crops or gardens to become overgrown with grass and weeds in violation of this section;
- (5) Ornamental shrubbery and ground cover, provided that such uses are part of a landscaping theme and are not in an overgrown or unmanaged condition, or are planted, maintained or overgrown so as to encroach over or onto adjacent properties.

(c) It shall be unlawful for any person owning, possessing, residing, or having charge or control of any real property within the city to allow any other vegetation, including but not limited to jimson, ragweed, cocklebur, kudzu, vines, or underbrush to become overgrown to such an extent that the same may create favorable conditions to the harboring of mosquitoes or other insects of like kind and/or rodents or reptiles or otherwise constitutes a public nuisance or a danger to the public health, safety and welfare.

(d) Any person found guilty of violating Section 46-57 shall:

- (1) Upon that person's first violation be punished by a fine of not less than \$30.00, nor more than \$200.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the City's Schedule of Fines if the Magistrate has received certification from a law enforcement officer of the City that the property conditions supporting the violation no longer exist or have been cured; and
- (2) Upon that person's second or additional violation within a year, be punished as authorized in this Code but in no case by a fine of less than \$100.00.

(e) A corrective notice shall be issued to any person who is allegedly in violation of this Section, and who has not previously been issued a corrective notice in connection with a violation of this Section concerning the property that is the site of the violating condition. The corrective notice may be issued by any law enforcement officer of the City or any City employee or agent that is authorized to do so by the Mayor. The corrective notice may be either hand-delivered to the person, or the notice may be posted in a conspicuous location of the property where the offense is located. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this Section. The corrective notice shall also provide that the violating condition must be remedied within five (5) calendar days from its issuance, and no action shall be instituted under Section 46-60 until the said five (5) day period has expired.

**Section 46-58. (Reserved)**

**Section 46-59. Debris from construction, demolition, alterations or repair**

(a) Every person engaging in the business of, or being hired for the purpose of, constructing, demolishing, remodeling, repairing, roofing, or altering, any building or other structure within the City shall:

- (1) within ten (10) days after completion of the job or construction project, remove any debris, concrete, lumber, roofing material, or any other waste material resulting or relating to such job and/or project; and,

- (2) provide on-site receptacles for litter, and ensure that litter is properly placed in such containers, to prevent scattering of such litter by wind or rain if such litter is not otherwise properly disposed of on a daily basis.

(b) Where the job or construction project referenced in Section 49-59(a)(1) is such that a Certificate of Occupancy would be issued by the City upon the completion thereof, Section 49-59(a)(1)'s reference to the time of "completion" shall mean the time of issuance of a Certificate of Occupancy by the City.

(c) Any person found guilty of violating Section 46-59(a) shall:

- (1) Upon that person's first violation be punished by a fine of not less than \$30.00, nor more than \$200.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the City's Schedule of Fines if the Magistrate has received certification from a law enforcement officer of the City that the property conditions supporting the violation no longer exist or have been cured; and
- (2) Upon that person's second or additional violation within a year, be punished as authorized in this Code but in no case by a fine of less than \$100.00.

#### **Section 46-60. Enforcement of Division**

(a) Except as otherwise set forth herein, the city's law enforcement officers may enforce this Division without first having issued any warning notice. The city's law enforcement officers are authorized to issue a summons and complaint to any person charged with violating any part of this Division, in lieu of placing such persons under custodial arrest.

(b) The summons and complaint must contain: (i) the name of the court, (ii) the name of the defendant, (iii) a description of the offense, including the municipal ordinance number, (iv) the date and time of the offense, (v) the place of the offense, (vi) signature of the officer issuing the citation; (vii) the scheduled court date and time; (viii) an explanation to the person cited of the ways in which he may settle his case; and (ix) a signature block for the magistrate to sign upon the officer's oath and affirmation given prior to trial.

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**Section 2.** This Ordinance shall become effective upon its adoption as provided by law, except for Section 46-55(b), which shall become effective on September 1, 2007.

**Section 3.** The enactment of this Ordinance shall not affect any action, suit, or proceeding instituted or pending at this time under Ordinance No. 2002-1384 and Ordinance 2006-1587 (as set forth in Chapter 46, Article II, Division II, Sections 46-51 through 46-63 of the Code of Ordinances, City of Athens, Alabama). All suits at law or in equity and/or all prosecutions resulting from the violation of Ordinance No. 2002-1384 and Ordinance 2006-1587 (as set forth in Chapter 46, Article II, Division II, Sections 46-51 through 46-63 of the Code of Ordinances, City of Athens, Alabama), which are now pending in any court, shall not be abated or abandoned by reason of this Ordinance but may be prosecuted to their finality, the same as if this Ordinance had not been adopted. Nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

**Section 4.** If any provision of this Ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this Ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

**Section 5.** The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the City of Athens as an addition or amendment thereto, and shall be appropriately renumbered as necessary to conform to the uniform numbering system of the Code.

Councilman Marks introduced the following ordinance:

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

ORDINANCE NUMBER \_\_\_\_\_

**AN ORDINANCE PROVIDING FOR THE SEIZURE AND  
FORFEITURE OF AUTOMOBILES WHERE OPERATORS  
ARE UNABLE TO PRODUCE A VALID DRIVER'S LICENSE  
ON THE DEMAND OF A LAW ENFORCEMENT OFFICER**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**

while in regular session on \_\_\_\_\_, 2007 at 5:30 p.m., as follows:

**Section 1.**

(a) The City Council finds and declares all of the following:

- (1) Driving a motor vehicle on the public streets and highways is a privilege, not a right.
- (2) Of all drivers involved in fatal accidents, a driver with a suspended license is more likely to be involved in a fatal accident than a properly licensed driver.
- (3) Alabamians who comply with the law are frequently victims of traffic accidents caused by unlicensed drivers. These innocent victims suffer considerable pain and property loss at the hands of people who flaunt the law.
- (4) It is necessary and appropriate to take additional steps to prevent unlicensed drivers from driving. The city has a critical interest in enforcing its traffic laws and in keeping unlicensed drivers from illegally driving. Seizing the motor vehicles used by unlicensed drivers serves a significant governmental and public interest, namely the protection of the health, safety, and welfare of the citizens of the city from the harm of unlicensed drivers who are involved in a disproportionate number of traffic incidents, and the avoidance of the associated destruction and damage to lives and property.
- (5) This section is consistent with the due process requirements of the United States Constitution and the holding of the Supreme Court of the United States in *Calero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663, 94 S.Ct. 2080, 40 L.Ed.2d 452 (1974).

(b) For the purposes of this section, the following words shall have the following meanings:

- (1) *Legal owner.* A lienholder, person with a security interest in a motor vehicle, a lesser of a motor vehicle, assignee of the lessor, or the person who is the registered owner of the motor vehicle.

- (c)
  - (1)
    - a. If a driver is unable to produce a valid driver's license on the demand of a law enforcement officer, the motor vehicle is subject to impoundment regardless of ownership, unless the law enforcement officer is reasonably able, by other means, to verify that the driver is properly licensed. Prior to impounding the motor vehicle, a law enforcement officer shall make a reasonable attempt to verify the license status of a driver who claims to be properly licensed, but who is unable to produce the license on demand of the law enforcement officer. A notation of the officer's attempt to verify that the driver is properly licensed shall be noted on the departmental report. The driver and occupants of the motor vehicle will be transported to a place of safety by the impounding officer and a vehicle impound report made with a full inventory of items in the motor vehicle.
    - b. A law enforcement officer shall not impound a motor vehicle pursuant to this section if the license of the driver expired within the preceding sixty (60) days and the driver would otherwise have been properly licensed.
    - c. If the owner of the motor vehicle or another family member of the owner is present in the motor vehicle and has a valid license, the motor vehicle shall not be impounded and towed.
    - d. If there is a medical necessity jeopardizing life or limb, the law enforcement officer may elect not to impound the motor vehicle.
    - e. A law-enforcement officer who requests that a motor vehicle be towed onto the property of another pursuant to this section shall do so by using a vehicle impound report.
  - (2) A motor vehicle impounded pursuant to this section shall be released if the person redeeming the motor vehicle satisfies in full the fees provided for by Sub-section 1(f) and:
    - a. The registered owner appears at the Athens Police Department or a representative of the owner with written notarized authorization from the registered owner appears, and presents a valid driver's license and a copy of the written authorization, if applicable, to be copied by the Athens Police Department; or
    - b. If the registered owner does not have a valid driver's license, he or she may bring someone with them who has a verified valid license and the motor vehicle may be released without written notarized permission.

(d) In order to make a “claim” on a motor vehicle impounded pursuant to this section, the person or entity making the claim must either 1.) satisfy the requirements of Sub-sections 1(c)(2)(a) or (b) of this section or 2.) contest the right to sell such motor vehicle by the filing within 10 days before the scheduled date of the sale of the motor vehicle an application for hearing to be conducted before the judge of the circuit court of the county in which the sale is to be held pursuant to the state law regarding abandoned motor vehicles set forth in Sections 32-13-1 through 32-13-8 of the *Code of Alabama* (1975), as now exist or are hereafter amended.

(e) Any owner of a motor vehicle who suffers any loss due to the impoundment of any motor vehicle pursuant to this section may recover the amount of the loss from the driver who was unable to produce a valid driver’s license at the request of the law enforcement officer.

(f) The person redeeming the motor vehicle from the automobile dealer, wrecker service owner, repair service owner, or person, firm, or governmental entity on whose property the motor vehicle was lawfully towed at the written request of a law-enforcement officer pursuant to this section will be responsible for paying the set fee for the removal and for the storage of the motor vehicle.

(g) If a motor vehicle impounded pursuant to this section is not redeemed or claimed pursuant to this section within sixty (60) days of the date that it is impounded, then the automobile dealer, wrecker service or repair service owner, or any person, firm, or governmental entity on whose property the motor vehicle was lawfully towed at the written request of a law-enforcement officer pursuant to this section may sell the motor vehicle at public auction according to the state law governing abandoned motor vehicles in Sections 32-13-1 through 32-13-8 of the *Code of Alabama* (1975), as now exist or are hereafter amended.

**Section 2.** This ordinance shall become effective forty-five (45) days after its adoption and publication as required by law.

**Section 3.** If any provision of this ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

**Section 4.** The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the City of Athens as an addition or amendment thereto, and shall be appropriately renumbered as necessary to conform to the uniform numbering system of the Code.

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA that Eddie Smith is appointed as the seventh member of the City of Athens Alcoholic License Review Committee. The members shall serve from their date of appointment until September 30, 2010 and shall operate under the bylaws created and approved by the Athens City Council.

The motion was seconded by Councilman Marks and was unanimously carried.

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA to rename a portion of South Jefferson Street from Highway 72 South to Durham Drive to Martin Luther King Drive. This would take effect ninety days from the date of approval.

Councilmember Crutcher moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Caudle, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Crutcher, Wales, Gill and Caudle; NAYS: Councilman Marks. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had failed to be unanimously carried, and therefore, the motion for final adoption of said resolution would have to be carried over to the next meeting. The President thereupon announced that the motion for the adoption of the said resolution had failed.

Councilman Marks moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA that the proposed FY 08 Electric Department budget be approved and the same be spread on the minutes.

Description	Proposed FY 08
Electric Sales	\$72,165,805
Forfeited Discounts	575,000
Misc. Service Revenue	100,000
Rents from Electric Property	600,000
Other Electric Revenue	125,000
Interest Income	550,000
Reserve Funds *	\$220,000
Federal Assistance--FY 98 Ice Storm	0

Aid to Construction	2,000,000
TOTAL REVENUE	\$76,335,805
Net Other Income:	\$4,170,000

\* FY 08 Reserve Funds allocation covers obligations for equipment purchase commitments in FY 07 Budget  
Includes Trk 21 - \$120,000, Computer Mapping - \$100,000

Description	Proposed FY 08
Total Electric Cost T.V.A.	\$58,683,542
Transmission Rent Expense	0
Total Opr Supplies & Expenses	170,000
Misc. Rent Telephone Co. Poles	15,000
Engineering Services	20,000
Total Maintenance Supplies & Exp	494,600
Right of Way--Herbicide, Supplies and Expenses	20,000
Maintenance Contracts--Tree Trimming	680,000
Ice Storm Expenses(Includes 1995 Tornado)	0
Meter Reading Supplies	7,500
Customer Accounting & Collecting	125,000
Uncollectable Accounts	173,198
Customer Assistance Expense	20,000
Miscellaneous Sales Expense	51,500
General Office Expense	50,000
General Office Expense (Lightning Damage)	0
Travel	21,000
Telephone	22,000

Utilities	90,000
Bond Fund Fees & Paying Agent	5,000
Audit Fees	15,000
Legal Fees	30,000
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SUBTOTAL	\$60,693,340

Description	Proposed FY 08
Insurance	\$200,000
Miscellaneous General Expense	35,000
Miscellaneous Advertisement	15,000
Rent	42,000
Maintenance of General Property	90,000
Taxes, Equivalent	1,700,000
Principal and Interest (Utility HQ Loan)	0
Interest Expense Bonds	1,196,486
Principal (Bonds)	965,000
Construction Fund	200,000
Transportation	400,000
Taxes, Unemployment	0
Taxes, Social Security	249,900
Employee Welfare	963,900
Total Payroll(00ELEMG)	3,570,000
Departmental Payroll(Straight Time)	2,312,000
Departmental Payroll(Overtime)	360,000
Joint Employee Payroll(Straight Time)	863,000

Joint Employee Payroll(Overtime)	35,000
General Fund Salaries & Expenses	30,000
Dept Human Resources Expenses	40,000
COLA(Includes 3% If Approved)	80,325
Capital Expenditures	4,598,000
Net Inventory Expenses	200,000
TOTAL EXPENDITURES	\$75,268,951

	Net Proposed Budget:	\$1,066,854
	Equipment Purchase/Rebuild Obligations:	\$220,000
	Year End Net Budget:	\$846,854
Description		Proposed FY 08

REVENUES:

Metered Electric Sales	\$72,165,805
Miscellaneous Revenue	1,950,000
Reserve Funds	220,000
Federal Assistance	0
Aid to Construction	2,000,000
Totals:	\$76,335,805

EXPENSES:

Salaries and Fringes	4,783,800
3% COLA(If Approved)	80,325
Electricity Purchases(TVA)	58,683,542
System Operation and Maintenance Expenses	832,860
Maintenance Contracts--Tree Trimming & Pole Insp/Repair	680,000
Right of Way--Herbicides, Supplies and Expenses	20,000
Ice Storm Expenses	0
Customer Accounting and Billing Expenses	132,500
Uncollectable Account Expenses	173,198

Administrative Expenses	748,240
Vehicle Operation and Maintenance Expenses	400,000
Equivalent Tax Payments	1,700,000
Debt Service Expenses	2,166,486
1995 Construction Fund	200,000
Capital Expenditures	4,598,000
Construction Work Orders	2,000,000
Transformers and Meters	1,580,000
Vehicles and Construction Equipment	640,000
Other Capital(Equipment, etc)	378,000
General Fund & Human Resources Salaries and Expenses	70,000
	-
Totals:	\$75,268,951
Net Budget:	\$1,066,854
Equipment Purchase/Rebuild Obligations:	\$220,000
Year End Net Budget:	\$846,854

Councilman Crutcher moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA to appropriate \$3,500.00 to Art on the Square.

\* \* \*

There being no further business to come before the meeting, the same was, upon motion by Councilman Marks and second by Councilwoman Caudle, duly and properly adjourned.

/s/ Harold Wales  
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ John S. Hamilton  
CITY CLERK



































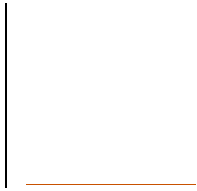












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