

City of Newton Zoning Ordinance



**as Adopted May 6, 1999
Effective June 1, 1999**

Prepared with assistance from the Southwest Georgia Regional Development Center

ORDINANCE NO. 99-_____

AN ORDINANCE ADOPTING A ZONING ORDINANCE FOR THE CITY OF NEWTON, GEORGIA; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, it is the desire of the City Council of the City of Newton to protect the health, safety, and welfare of the citizens of the City; and

WHEREAS, after careful study and review, it has been determined that the enactment of zoning procedures would be in the best interest of the citizens of Newton; and

WHEREAS, the City Council held public hearings on April 16, 1999, and May 4, 1999, to allow public input and discussion on the adoption of a zoning ordinance; and

WHEREAS, the City of Newton has carefully studied and reviewed the proposed ordinance and the comments from the public and has determined that the enactment of a zoning ordinance would dramatically improve the quality of life for the citizens of Newton; and

WHEREAS, the enactment of a zoning ordinance would protect the rights and interest of property owners within the City by providing reasonable regulations for the location of certain residences and enterprises within the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Newton, and it is hereby ordained by authority of the same as follows:

Section 1. The Zoning Ordinance attached hereto as "Exhibit A" is approved and adopted.

Section 2. The Zoning Map of the City of Newton attached hereto as "Exhibit B" is approved and adopted.

Section 3. This ordinance shall become effective on June 1, 1999.

Section 4. All ordinances or parts of ordinances in conflict herewith are repealed.

SO ORDAINED, this 6th day of May, 1999.

CITY OF NEWTON

By: BeBe Johnson
Mayor, BeBe Johnson

(S E A L)

Attest: Pat Hart
Clerk, Pat Hart

**ZONING ORDINANCE
NEWTON, GEORGIA**

TABLE OF CONTENTS

**ARTICLE I
INTRODUCTION**

Section 1.01	Short Title	1
Section 1.02	Jurisdiction.....	1
Section 1.03	Authority of Enactment.....	1
Section 1.04	Purpose	1

**ARTICLE II
DEFINITIONS**

Definitions	2-11
-------------------	------

**ARTICLE III
GENERAL PROVISIONS**

Section 3.01	Conflicting Regulations.....	12
Section 3.02	Scope	12
Section 3.03	Street and Alleys Right-of-Ways.....	12
Section 3.04	Permitted Uses	12
Section 3.05	Permitted Area	12
Section 3.06	Only One Main Structure (Principal Use) Per Lot.....	12
Section 3.07	Substandard Lots.....	12
Section 3.08	Frontage	13
Section 3.09	Site Distance at Intersections	13
Section 3.10	Reduction of Lot Area Prohibited	13
Section 3.11	Accessory Residential Buildings	13
Section 3.12	Prohibited Uses in all Residential Districts.....	14
Section 3.13	Service Stations (Public Garages), Gas Stations/Mini-Marts, and Quick Service Food Stores (QSRs).....	14
Section 3.14	Protective Screening.....	15
Section 3.15	Radio, Television Stations.....	16
Section 3.16	Satellite Receiving Dish Antenna	16
Section 3.17	Hardship Manufactured Homes/Travel Trailers.....	17
Section 3.18	Zoning of Annexed Areas	17
Section 3.19	Storm Water Control.....	18
Section 3.20	Home Occupations.....	18
Section 3.21	Property Divided by a Zoning District	19
Section 3.22	Development of Regional Impact Threshold Review	19
Section 3.23	Modular Office Units.....	19
Section 3.24	Telecommunication Antennas and Towers.....	19
Section 3.25	Conditional Zoning	20

**ARTICLE IV,
LIST OF ZONING DISTRICTS**

Section 4.01	Districts.....	21
Section 4.02	Limited Use (L.U.) Provisions	21
Section 4.03	Official Zoning Map	21

**ARTICLE V
R-1, SINGLE FAMILY RESIDENTIAL DISTRICT**

Section 5.01	Statement of Purpose.....	22
Section 5.02	Permitted Uses	22
Section 5.03	Conditional Uses	22
Section 5.04	Area and Placement Requirements	23

**ARTICLE VI
R-2, SINGLE FAMILY, TWO-FAMILY AND MULTIPLE-FAMILY
RESIDENTIAL DISTRICT**

Section 6.01	Statement of Purpose.....	24
Section 6.02	Permitted Uses	24
Section 6.03	Conditional Use	24
Section 6.04	Area and Placement Requirements	25

**ARTICLE VII
R-PUD, RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICT**

Section 7.01	Statement of Purpose.....	26
Section 7.02	General Procedures for PUD (R-PUD) Approval.....	26
Section 7.03	Permitted Uses	26
Section 7.04	Conditional Uses	26
Section 7.05	Preliminary Review.....	27
Section 7.06	Procedure for Preliminary Approval	27
Section 7.07	Procedure for Final Plan Approval.....	27
Section 7.08	Area and Placement Requirements.....	28

**ARTICLE VIII
C-1, NEIGHBORHOOD COMMERCIAL DISTRICT**

Section 8.01	Statement of Purpose.....	29
Section 8.02	Permitted Uses	29
Section 8.03	Conditional Uses	30
Section 8.04	Protective Screening.....	30
Section 8.05	Area and Placement Requirements	30

**ARTICLE IX
C-2, CENTRAL BUSINESS DISTRICT**

Section 9.01	Statement of Purpose.....	31
Section 9.02	Permitted Uses	31
Section 9.03	Conditional Uses.....	31
Section 9.04	Protective Screening.....	31
Section 9.05	Area and Placement Requirements	32

**ARTICLE X
C-3, HIGHWAY COMMERCIAL DISTRICT**

Section 10.01	Statement of Purpose.....	33
Section 10.02	Permitted Uses	33
Section 10.03	Conditional Uses.....	34
Section 10.04	Protective Screening.....	34
Section 10.05	Area and Placement Requirements	34
Section 10.06	Procedures for Project Approval	34

**ARTICLE XI
C-PUD, COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT**

Section 11.01	Statement of Purpose.....	35
Section 11.02	Permitted Uses	35
Section 11.03	Conditional Uses.....	35
Section 11.04	Procedure for Project Approval.....	35
Section 11.05	Procedure for Preliminary and Final Approval.....	35
Section 11.06	Area and Placement Requirements	35

**ARTICLE XII
I, INDUSTRIAL DISTRICT**

Section 12.01	Statement of Purpose.....	36
Section 12.02	Permitted Uses	36
Section 12.03	Conditional Uses.....	36
Section 12.04	Area and Placement Requirements	37

**ARTICLE XIII
FH, FLOOD HAZARD DISTRICT**

Section 13.01	Statement of Purpose.....	38
Section 13.02	District Boundaries.....	38
Section 13.03	Permitted Uses	38
Section 13.04	Conditional Uses.....	38
Section 13.05	Required Plans	38
Section 13.06	Warning of Disclaimer of Liability	39
Section 13.07	Area and Placement Requirements	39

ARTICLE XIV AG, AGRICULTURAL DISTRICT

Section 14.01	Statement of Purpose.....	40
Section 14.02	Permitted Uses	40
Section 14.03	Conditional Uses	40
Section 14.04	Area and Placement Requirements	40

ARTICLE XV NON-CONFORMING BUILDINGS AND USES

Section 15.01	Scope of Provisions.....	41
Section 15.02	Non-Conforming Residences	41
Section 15.03	Non-Conforming Use of Land, Continuation of Use.....	41
Section 15.04	Restoration	41
Section 15.05	Discontinuance or Abandonment	41
Section 15.06	Change of Tenancy or Ownership	41

ARTICLE XVI OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 16.01	Scope of Provisions.....	42
Section 16.02	Parking Spaces May Not Be Reduced	42
Section 16.03	Drainage, Construction and Maintenance	42
Section 16.04	Separation from Walkways, Sidewalks and Streets	42
Section 16.05	Parking Area Design	42
Section 16.06	Joint Parking Facilities	42
Section 16.07	Pavement Markings and Signs.....	42
Section 16.08	Number of Parking Spaces	43
Section 16.09	Street Parking Requirements	43
Section 16.10	Planted Areas	43
Section 16.11	Location of Parking Space for Other Land Uses	43
Section 16.12	Off-Street Parking Standards.....	44
Section 16.13	Off-Street Loading Requirements.....	47
Section 16.14	Minimum Number of Loading Spaces Required	47
Section 16.15	Americans with Disabilities Act (ADA) General Parking Standards.....	47
Section 16.16	Parking Spaces and Passenger Loading Zones for Disabled Persons	48
Section 16.17	Disabled Parking for Places of Assembly.....	49

ARTICLE XVII SIGN REGULATIONS

Section 17.01	Signs Shall Meet Requirements of this Section	50
Section 17.02	No Signs Shall Hamper Traffic Safety	50
Section 17.03	Locations Prohibited	50
Section 17.04	Illumination Not to be a Nuisance.....	50
Section 17.05	Signs not Requiring a Permit.....	50

Section 17.06	Maximum Area Signs.....	51
Section 17.07	General Standards for Point of Business Signs, Incidental Use Signs, Bulletin Boards and Identification Signs.....	51
Section 17.08	Standards for Off-Site Advertising Signs (Billboards)	52
Section 17.09	Issuance of Permits, Administration and Filing Procedure	53

ARTICLE XVIII MANUFACTURED HOMES, MANUFACTURED HOME PARKS AND TRAVEL TRAILER PARK REGULATIONS

Section 18.01	Statement of Purpose.....	54
Section 18.02	Location of Manufactured Homes, Manufactured Home Parks and Travel Trailer Parks	54
Section 18.03	Travel Trailers: General Requirements.....	54
Section 18.04	Travel Trailer Parks: Accessory Uses Permitted.....	55
Section 18.05	Manufactured Home Parks: General Requirements.....	56
Section 18.06	Manufactured Home Parks: Improvements	58
Section 18.07	Non-Conforming Manufactured Home Parks.....	59
Section 18.08	Area, Placement and Development Requirements.....	59
Section 18.09	Other Requirements.....	59

ARTICLE XIX SCHEDULE OF REGULATIONS

Schedule of Regulations.....	60
------------------------------	----

ARTICLE XX ADMINISTRATION AND ENFORCEMENT

Section 20.01	Enforcement.....	61
Section 20.02	Permits	61
Section 20.03	Certificates of Occupancy	61
Section 20.04	Fees.....	62
Section 20.05	Amendments	62
Section 20.06	Zoning Policies and Procedures	63
Section 20.07	Policies and Procedures for City Initiated Zoning Activities	63
Section 20.08	Procedures for Rezoning Request Made by a Private Citizen/ Property Owner.....	65
Section 20.09	Conditional Uses.....	65
Section 20.10	Variances.....	66
Section 20.11	Criteria for the Consideration of Variance Requests	67
Section 20.12	Appeals	67
Section 20.13	Fees.....	68

**ARTICLE XXI
ESTABLISHMENT OF THE
CITY OF NEWTON PLANNING COMMISSION**

Section 21.01	Statement of Purpose.....	69
Section 21.02	Membership	69
Section 21.03	Organization, Rules, Safety and Finances.....	69
Section 21.04	Powers, Duties and Responsibilities.....	69
Section 21.05	Members, Terms of Appointment and Officers.....	70
Section 21.06	City Clerk or Appointee as Executive Secretary.....	71
Section 21.07	Agenda and Minutes.....	71
Section 21.08	Meetings.....	72
Section 21.09	Order of Business at Meetings.....	72
Section 21.10	Rules of Procedure for Meetings.....	73
Section 21.11	Cancellation of Meetings.....	74
Section 21.12	Quorum	74
Section 21.13	Voting	74
Section 21.14	Conflict of Interest	74
Section 21.15	Committees	75
Section 21.16	Assistance of other Departments	75
Section 21.17	Maximum Time for Action	75
Section 21.18	Robert's Rules of Order	76

**ARTICLE XXII
INTERPRETATION, APPLICATION, VIOLATIONS,
VALIDITY, CONFLICT AND EFFECTIVE DATE**

Section 22.01	Interpretation, Purpose and Conflict.....	77
Section 22.02	Violations and Penalties	77
Section 22.03	Validity	77
Section 22.04	Conflicting Provisions Repealed	77
Section 22.05	Effective Date	77

**ZONING ORDINANCE
NEWTON, GEORGIA**

PREAMBLE

An Ordinance of the City of Newton, Georgia, to regulate the use of land and buildings by dividing the City of Newton into districts; defining certain terms used therein; imposing regulations, prohibitions and restrictions governing the erection, construction and reconstruction of structures and buildings and the use of lands for business, industry, residence, social and other specified purposes; regulating and limiting the density of population; limiting congestion on the public streets; providing for the gradual elimination of nonconforming uses of land, buildings and structures; establishing the boundaries of districts; providing the means of enforcing said Ordinance and providing a penalty for violation of said Ordinance; and repealing conflicting ordinances.

**ARTICLE I
INTRODUCTION**

SECTION 1.01. SHORT TITLE. This Ordinance shall be known and may be cited as the "Zoning Ordinance of the City of Newton, Georgia".

SECTION 1.02. JURISDICTION. This Ordinance shall apply to all land and structures within the incorporated City of Newton, Georgia.

SECTION 1.03. AUTHORITY OF ENACTMENT. The Mayor and City Council of the City of Newton enact this Ordinance under the exercise of powers conferred upon them by the Georgia State Constitution, Section 36-66-1 of the Code of Georgia, Article IX, Section II, Paragraph XIV.

SECTION 1.04. PURPOSE. The purpose of said Zoning Ordinance is to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the corporate area, all in accordance with a comprehensive plan, which is hereby adopted and established as an official Zoning Ordinance for the City of Newton.

ARTICLE II DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "building" includes the "structures", the word "may" is permissive and the word "shall" is mandatory.

ACCESSORY BUILDING: A subordinate building or structure on the same lot, or part of the main building, occupied by or devoted exclusively to an accessory use.

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ADULT CARE FACILITY: Personal care and supervision in a protective setting for adults outside their own home for which a fee is charged. The program may include the provisions of daily medical supervision, nursing and other health care support, psycho-social assistance, or appropriate socialization stimuli or a combination of these. Adult care is available for those persons who, because of physical and/or mental disability, are not capable of full time independent living.

AGRICULTURE OR AGRICULTURAL: The bona fide use of a parcel of land for forestry, the cultivation of land, raising of crops, or the raising of livestock, animals, poultry, honeybees, aqua culture or similar agrarian activity and the related building structures and appurtenances necessary to carry out the aforementioned activities.

ANTIQUE STORE: A retail business that buys and sells second hand items that are generally considered of value due to the age of the item.

APARTMENT, GARAGE: Garage apartments are defined as residential dwelling units located on the upper floor or level of an existing accessory garage building.

APARTMENT HOUSE: A residential structure containing three (3) or more apartments (independent dwelling units).

APARTMENT UNIT: One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in building containing three (3) or more dwelling units.

BED AND BREAKFASTS: Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation. **Comment:** Bed and breakfast (B&B) accommodations differ from rooming and boarding houses in that they are truly transient accommodations, with guests rarely staying more than a few days. In addition, the owner almost always lives in the

facility. The impact of a B&B should not be much greater than that of a private home with frequent house guests, with the exception of parking demand.

BOARDING HOUSE: A dwelling where meals or lodging and meals, are provided for compensation to three (3) or more persons by pre-arrangement for definite periods. A boarding house is to be distinguished from a hotel, motel or a nursing home.

BUFFER STRIP: Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances. Buffer Strips may be required to include fences or berms, as well as shrubs and trees.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING, PRINCIPAL: A building in which is conducted the primary or predominant use of any lot.

BUILDING HEIGHT: The vertical distance measured from the curb level to the highest point of the roof surface, if a flat roof; to the deck line of mansard roofs; and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs.

CARPORT: A roofed structure providing space for parking or storage of motor vehicles and enclosed on not more than three (3) sides.

CEMETERY: A cemetery is an area of land set apart for the sole purpose of the burial of bodies of dead persons or animals and for the erection of customary markers, monuments, and mausoleums.

CLINIC: A professional office where the services of more than one practitioner can be obtained and where patients are examined and/or treated on an out-patient basis and where no over-night accommodations are provided.

CLUB OR LODGE: Buildings and facilities owned or operated by a corporation, association or other established group of persons for religious, social, educational or recreational or other like activities on a regular basis for the benefit of its members and not the general public.

CLUSTER DEVELOPMENT: A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

CONDITIONAL USE: A use which within certain districts specified by this ordinance is not permitted as a matter of right but may be permitted within these districts by the Mayor and City Council after they have (1) received a referral from the Planning Commission, (2) reviewed that proposed site plans for the use, its location within the community, its arrangement and design, its relationship to neighboring property and other conditions peculiar to the particular proposal which would determine its desirability or undesirability; (3) have found the proposal not to be contrary to the intent of this ordinance; and (4) have recommended the use as specified after a Public Hearing. (See Section 20.09, Conditional Uses).

CONDOMINIUM HOME: A form of ownership of less than the whole of a building or system of buildings under a statute which provides the mechanics and facilities for formal filing and recording of divided interest in real property, whether the division is vertical or horizontal.

CONVALESCENT HOME: A convalescent home is a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two (2) or more persons are cared for. Said home shall conform and qualify for license under State laws.

CONVENIENCE STORE: A retail business with primary emphasis placed on providing the public with a convenient location to quickly purchase from a wide array of consumable products and services. Generally, the business will: 1) have a building size less than 5,000 sq. feet; 2) provide off street parking and/or convenient pedestrian access; and 3) provide the public with extended hours of operations, many being open 24 hours, seven (7) days per week.

DAY CARE FACILITIES: There are three (3) types of day care:

(a) Family Day Care Homes - means a private residence operated by any person who receives therein pay for supervision and care for fewer than twenty-four (24) hours per day, without transfer of legal custody, three (3) but not more than six (6) children under eighteen (18) years of age who are not related to such persons and whose parents or guardians are not residents in the same private residence.

(b) Group Day Care Homes - means any place operated by any person(s), partnership, association or corporation wherein pay is received for group care of not less than seven (7) nor more than eighteen (18) children under eighteen (18) years of age for less than twenty-four (24) hours without transfer of legal custody and which is required to be licensed or commissioned by the Department of Human Resources.

(c) Day Care Centers - means any place operated by a person, society, agency, corporation, institution or group wherein pay is received for group care, for fewer than twenty-four (24) hours per day without transfer of legal custody, nineteen (19) or more children under eighteen (18) years of age, and which is required to be licensed or commissioned by the Department of Human Resources.

DENSITY: The number of dwelling units developed on an acre of land. As used in this Ordinance, all densities are stated in dwelling units per gross acre. **NOTE:** Gross density includes all the area within the boundaries of the particular area, excluding nothing.

DRIVE-IN ESTABLISHMENTS: An establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicle.

DRIVE-IN RESTAURANT: A drive-in restaurant or other drive-in establishment serving food and/or drink so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle.

DWELLING, DUPLEX: A building either designed, constructed, altered or used for two (2) adjoining dwelling units that are connected by a common wall and/or of two (2) stories by a common floor.

DWELLING, MULTIPLE: A building or portion thereof used or designed as a residence for three (3) or more families living independently of each other. This definition includes three-family houses, four-family houses, and apartment houses, but does not include hotels or motels.

DWELLING, SINGLE FAMILY: A building or portion thereof used or designed for use as a residence for a single family.

EGRESS: An exit.

FAMILY: One or more persons living together and related by blood, marriage, or legal adoption, and occupying a dwelling unit as a single non-profit housekeeping unit as distinguished from a group occupying a hotel, club, boarding house, fraternity or sorority house. A family shall be deemed to include domestic servants, gratuity guests, and not more than three foster or boarded children whose room and board is paid by a recognized child care agency or organization.

FLEA MARKET: A market at which new and used items are temporarily displayed and sold on rented tables. A flea market may be open or enclosed.

GARAGE, MECHANICAL: Buildings and premises where the functions and services for the repair and maintenance of automobiles, motorcycles, lawn mowers or other motor vehicles may be rendered. A mechanical garage which provides for the storage of vehicles for the purpose of salvaging parts for sale or repair shall be classified as a junk yard.

GARAGE, PRIVATE: An accessory building designed or used for the storage of motor driven vehicles owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC: Any premises used for the storage or care of motor driven vehicles, or place where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

GAS STATION/MINI-MART: Any building or other premises, or portion thereof, used for a combination automobile service station and retail sales of food and other items excluding any automotive service or repair areas; including but not limited to the sales of consumable products, rental of video tapes, use of self service hot and cold beverage facilities and microwave ovens by customers for purchased food items.

GROUP HOME: A facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household. **Comment:** A group care facility may include half-way houses; recovery homes; and homes for orphans, foster children, the elderly, battered children and women. It also could include a specialized treatment facility providing less than primary health care.

GUEST HOUSE: A building or portion thereof used or designed for uses as a residence, specifically as an accessory use to be the principal building.

HALF-WAY HOME: A group home facility which is licensed or supervised by any Federal, State or County health/welfare agency relating to drug abuse problems, offender rehabilitation or similar purposes.

HOME OCCUPATION: Any use conducted entirely within the dwelling and carried on by the immediate family members thereof, which use is incidental and secondary to the use of the dwelling and does not change the character thereof (See Section 3.19).

IMPERVIOUS SURFACE: Any material which reduces and prevents absorption of storm water into previously undeveloped land.

INDUSTRIALIZED BUILDING (MODULAR HOME/UNIT): A structure or component which is wholly or in substantial part made, fabricated, formed or assembled in or at manufacturing facilities and delivered to a building site for fabrication and installation in such assemblies that all parts or processes can not be inspected except by disassembly, by the City Building Official but in lieu of such inspection bears an insignia, label, or decal issued by the Georgia Department of Community Affairs to certify the unit as to construction and safety standards. **NOTE:** Industrialized buildings do not include manufactured housing.

INGRESS: Access or entry.

JUNK: Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, processed, salvaged, stored, baled, disposed or other use or disposition. Junk shall include vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.

JUNK YARD: Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery or two (2) or more unregistered, inoperable motor vehicles or other type of junk. **Note:** Buffers are required for junk yards. (See Protective Screenings, Section 3.14).

KENNEL: Any lot or premises on which three (3) or more dogs, cats, or other domestic as well as non-domestic animals, four (4) months or more old, are kept either permanently or temporarily, for purpose of sale, care, breeding or training for commercial purposes.

LOT OF RECORD: A lot or parcel of land which has been lawfully recorded by subdivision plat or deed on the public records of the City of Newton on or before the date of adoption of this ordinance.

MANUFACTURED HOME: "Manufactured Home" is a detached single family dwelling unit, designed for long-term occupancy, which has been prefabricated and then transported to its site or to a sales lot usually on its own wheels, and requires only minor work before occupancy such as connection to utilities or to a foundation. Such units are usually fully equipped and furnished. The manufactured home shall bear an insignia issued by the U. S. Department of Housing and Urban Development (HUD) certifying that the unit is constructed in conformance with the Federal Manufactured Home Construction and Safety Standard which came into effect on June 15, 1976.

MANUFACTURED HOME PARKS: "Manufactured Home Park" shall mean a licensed business operation which leases spaces for permanent or for temporary occupancy for periods exceeding thirty (30) days for manufactured homes and, under some conditions, travel trailers.

MINI-WAREHOUSE: A building(s) that contains varying sizes or individual, compartmentalized and control-access stalls or lockers for storing the excess personal property of an individual or family. No business activities other than the rental of storage units shall be conducted on the premises.

MOBILE HOME: "Mobile Home" is a dwelling manufactured prior to June 15, 1976, and is transportable in one or more sections. Notwithstanding the provisions of Article XV of this Ordinance and any other provisions hereof, no mobile home may be located within the city limits of Newton unless brought into compliance with Southern Building Codes, as amended, within 1 year after adoption of this Ordinance.

MODULAR HOME: See definition for industrialized buildings.

NON-CONFORMING STRUCTURE OR BUILDING: Any structure, including an accessory structure legally existing prior to the effective date of this Ordinance which does not conform to the requirements of this Ordinance.

NON-CONFORMING USE: A use or activity that was lawful prior to the adoption, revision or amendment of the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NURSING HOMES: A facility that admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision. It maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be responsible for the general medical and dental supervision of the home. It otherwise complies with the rules and regulations contained in Chapter 290-5-8: Nursing Homes (Rules of the Georgia Department of Human Resources) as same hereafter may be amended.

OPEN AIR BUSINESS USES: Open air business uses shall include the following:

- a. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- b. Retail sale of fruit and vegetables.
- c. Miniature golf, golf driving range, children's amusement park or similar recreation uses.
- d. Bicycle, trailer, motor vehicles, boats or home equipment sales, service or rental services.
- e. Outdoor display and sale of garages, swimming pools and similar use.
- f. Outdoor display and sale of items not suitable for indoor sales.

PERMITTED USE: Those uses specifically listed in a district which are permitted by right, not to include the non-conforming use or conditional use and subject to the restrictions applicable to that zoning district.

PERSONAL CARE HOME: A building or group of buildings, a facility, or place in which is provided two (2) or more beds and other facilities and services--including rooms, meals, and personal care for non-family ambulatory adults for which a fee is charged. It otherwise complies with the rules and regulations contained in Chapter 290-5-35: Personal Care Homes (Rules of the Georgia Department of Human Resources) as same hereafter may be amended. For the purpose of this Ordinance, Personal Care Homes are classified as follows:

A. Family Personal Care Home: A home for adults in a family type residence, non-institutional in character, which offers care to two (2) through six (6) persons.

B. Group Personal Care Home: A home for adult persons in a residence or other type of building(s), non-institutional in character, which offers care to seven (7) through fifteen (15) persons.

C. Congregate Personal Care Home: A home for adults which offers care to sixteen (16) or more persons.

PERSONAL SERVICE: Establishments primarily engaged in providing services involving the care of a person or his or her apparel, for example, laundry, photographic studios, beauty shops, shoe repair, health clubs, clothing rental, etc.

PLANNED UNIT DEVELOPMENT: A Planned Unit Development is a single parcel of land within which a number of buildings are located or intended to be located in accordance with an overall plan of design and not in relation to a prearranged pattern of land subdivision. Examples of a Planned Unit Development (P.U.D.) include a complex of apartment buildings or a commercial shopping center. A comprehensive development plan for such a project shall be submitted to the Mayor and City Council for their review and approval.

PLANNING COMMISSION: The Newton Planning Commission, as established by Article XXI of this Ordinance.

PLAT, SKETCH: A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

QUICK-SERVICE FOOD STORE (QSR): Any building which is used for the retail sale of food or food and other items. This may be the combination of the gas station/mini-mart as well as the addition of fast food restaurants.

SERVICE STATION: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar other operating commodities and accessories for motor vehicles.

SETBACK: The minimum horizontal distance between the street property line, rear or side property lines of the lot, and the front, rear or side lines of a building. The term required setback means a line beyond which a building is not permitted to extend under the provisions of this ordinance establishing the minimum depths and widths of yards.

SIGN, BILLBOARD: A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises which the sign is located.

SIGN, OUTDOOR ADVERTISING: Any card, cloth, paper, metal, glass, plastic, wood, plaster, stone or sign of other material of any kind, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "place" as used in the definition of "Outdoor Advertising Sign" and "Outdoor Advertising Structure" shall include erecting, construction, posting, painting, printing, tacking, nailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever. See also "SIGN, BILLBOARD".

SITE PLAN: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by approving authority.

SPOT ZONING: Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and that does not further the comprehensive land use plan.

STRUCTURE: Anything constructed or erected, the use which requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground.

THRIFT STORE: A retail business that operates from the resale of used household items that are donated or purchased at a very low rate. These items may be new or used.

TOWNHOUSE: One of a group of two or more attached single family residences. Each townhouse unit is separated from the adjoining unit or units by an approved fire wall or walls. Fire walls shall be located on the lot line. Each town house has a front and rear ground level entrance. The town house is located on its own approved, recorded "lot".

TRAVEL TRAILER: A motorized camper, converted bus, tent-trailer or other similar vehicular or portable structure used or designed for temporary portable housing or occupancy while on vacation, recreation or other trips which provide sleeping accommodations.

TRAVEL TRAILER PARKS: Travel trailer park where the principal use is for overnight tourists, or for vacationers whose stay will not exceed 180 days.

UNDUE HARDSHIP: A condition which shall be considered to exist only when one (1) or more of the following apply to a particular piece of property, and such condition has not been created by action of the property owner.

- a. The owner cannot comply with the provisions of this ordinance without violating some other ordinance or sections of this ordinance.
- b. The provisions of this ordinance create for the property owner a peculiar condition not common to other nearby property owners.
- c. A conforming use or requirement is incongruous with the remainder of the area in which the property is located.
- d. The topography of the land or shape of a particular lot precludes a conforming use.

VARIANCE: A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the particular property and not the result of any action of the applicant, a literal enforcement of the requirements of this Ordinance would result in unnecessary and undue hardship (See Section 18.10).

ZERO LOT LINE: The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

ARTICLE III GENERAL PROVISIONS

In addition to the other requirements, the use of land shall be subject to the following general provisions.

SECTION 3.01. CONFLICTING REGULATIONS. Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provision of this Ordinance shall govern.

SECTION 3.02. SCOPE. No building or structure, or part thereof, shall hereinafter be erected, constructed, reconstructed, or altered and maintained, and no new use or change shall be made or maintained of any building, structure, or land, or part thereof, except in conformity with the provisions of this Ordinance, and except as otherwise provided herein.

SECTION 3.03. STREET AND ALLEYS RIGHT-OF-WAYS. All streets and alley rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting such streets or alleys right-of-ways. Where the center line of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

SECTION 3.04. PERMITTED USES. No building shall be erected, converted, enlarged or structurally altered; nor shall any building or land be used, designed or arranged for any purpose other than is permitted in the zoning district in which the building or land is located.

SECTION 3.05. PERMITTED AREA. No building shall be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the area regulations of the district in which the building is located.

SECTION 3.06. ONLY ONE MAIN STRUCTURE (PRINCIPAL USE) PER LOT. Only one main structure or building and its customary accessory structures shall hereafter be placed or erected on any residential lot, except within the PUD zoning districts. Within the PUD districts site development plans will be reviewed by and approved by the Mayor and City Council.

SECTION 3.07. SUBSTANDARD LOTS. Any residentially zoned lot which was of record at the time of the adoption of this Ordinance that does not meet the requirements of this Ordinance for yards or other area or open space, may be utilized for single residence purposes, provided the area for such yard or court in width, depth, or open space is not less than seventy-five (75%) percent of that required by the terms of this Ordinance, excepting that vacant lots having a total continuous frontage of one hundred (100) feet or more shall not be subject to this exception. The purpose is to allow use of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.

SECTION 3.08. FRONTAGE. Every principal residential dwelling shall front upon a public street, except that in the case of the planned unit developments in the R-PUD multiple residential zone.

SECTION 3.09. SITE DISTANCE AT INTERSECTIONS. In all Zoning Districts, other than the Central Business District, no fence, wall, hedge or shrub planting which obstructs the site lines at elevations between two (2) and twelve (12) feet above the roadways shall be placed on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines.

SECTION 3.10. REDUCTION OF LOT AREA PROHIBITED. No lot shall be reduced in size so that lot width, yard requirements, lot area per dwelling unit, or other requirements of this Ordinance are not maintained.

SECTION 3.11. ACCESSORY RESIDENTIAL BUILDINGS. Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- a. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
- b. Accessory buildings, except garages, shall be erected in any required yard except a front yard, providing further that in no instance shall such a building be nearer than five (5) feet to any adjoining side lot line or rear lot line.
- c. An accessory building shall not exceed the height of the primary structure.
- d. An accessory building shall not be located on that portion of the lot in the area of the principal building except when structurally attached to the principal building.
- e. No detached accessory building shall be located closer than ten (10) feet to any principal building.
- f. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on said streets in the same block or adjacent blocks.
- g. When an accessory building is to be located on a corner lot, said building shall not project beyond the front yard line required on the lot of such corner lot.
- h. Garages/Carports. In any residential zone, no garage or carport shall be erected closer to the side lot line than the permitted distance for the dwelling, unless the garage or carport shall be completely to the rear of the dwelling in which event, the garage or carport may be erected five (5) feet from the side and rear lot line.

SECTION 3.12. PROHIBITED USES IN ALL RESIDENTIAL DISTRICTS.

- a. It shall be prohibited use in all residentially zoned districts, including manufactured home parks, to park or store wrecked or junked vehicles, power driven construction equipment, used lumber or metal, or any other miscellaneous scrap or salvageable material in large quantities that exceed those needed for the homeowner use. This restriction does not include storage of heavy equipment used in the routine maintenance of a Manufactured Home Park.
- b. Tractor-trailer combinations, tractors or trailers shall not be placed or stored in residentially zoned districts.
- c. Kennels.
- d. Commercial ingress and egress will not be permitted in any residentially zoned districts.

SECTION 3.13. SERVICE STATIONS (PUBLIC GARAGES), GAS STATIONS/ MINI-MARTS, AND QUICK SERVICE FOOD STORES (QSRs). In order to regulate and control the problems of noise, odor, light, fumes, vibrations, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of service stations, gas stations/mini-marts, and QSRs and to regulate and control the adverse effects which these and other problems incidental may exercise upon adjacent and surrounding areas, the following regulations and requirements are provided herein for service stations, gas stations/mini-marts, and QSRs located in any zone. No service station, gas station/mini-marts, or QSRs existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this section than existed on the effective date of this Ordinance.

- a. A service station, gas station/mini-mart, or QSR shall be located on a lot having a frontage along the principal street of not less than one hundred fifty (150) feet, and having a minimum area of not less than fifteen thousand (15,000) square feet.
- b. A service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line, and not less than ten (10) feet from any other lot line.
- c. For commercial driveways when one or more driveway serves a given frontage, no single approach shall exceed (50'). When a commercial establishment controls (75') or more of street frontage, the number of driveways shall be limited to two for the first (75') or part thereof and not more than one additional driveway for each additional (75'). No portion of a driveway shall be less than (10') away from the property line not located at an intersection. When only one lane of traffic is provided in a single driveway, the width of a driveway approach shall not exceed (20').
- d. A raised curb six (6) inches in height shall be erected along all street lot lines, except for driveway openings.

- e. The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed asphalt material or if any part of the lots is not so surfaced, then that area shall be landscaped and separated from all surface areas by a low barrier or curb.
- f. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or services while parked upon or overhanging any public sidewalk, street or right-of-way.
- g. A service station, gas station/mini-mart or QSR located on a lot having an area of fifteen thousand (15,000) square feet shall include not more than eight (8) dispensing nozzles and service stations may include up to two (2) enclosed stalls for servicing, lubricating, greasing and/or washing motor vehicles. An additional two (2) dispensing nozzles for service stations, gas stations/mini-marts, and QSRs and one (1) enclosed stall for service stations may be included with the provision of each additional two thousand (2,000) square feet of lot area.
- h. Where a service station, gas station/mini-mart, or QSR adjoins any property located in any residentially zoned districts, or is separated from any such property by a public alley only, a landscaped greenbelt, fencing, or wall shall be provided and maintained by owners of said service station, gas station/mini-mart or QSR as spelled out in Section 3.14, Protective Screenings.
- i. All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent public and private property.

SECTION 3.14. PROTECTIVE SCREENING. All planting plans shall be submitted to the Mayor and City Council for approval as to suitability of planting materials and arrangement thereof in accordance with the provisions of this Ordinance. If, in the opinion of the Mayor and City Council, the green belt would serve no good purpose, the Mayor and City Council may waive such requirements.

- a. Residential Buffers. In order to provide adequate protective screening for residential areas adjacent to or near non-residential areas, the following regulations shall apply:

Adjacent Residential Property. Where Manufacturing or Commercial District abuts directly upon a residentially zoned district, a landscaped greenbelt, fencing, or wall shall be provided and maintained by owners of said manufacturing or commercial properties as deemed appropriate by the Mayor and City Council. The following regulations and specifications for Protective Screening shall apply:

(1) Landscaped Greenbelt-Such greenbelt shall not be less than ten (10) feet wide and shall be planted with deciduous trees, evergreens, flowering trees or ornamental trees.

(2) Fencing-The fencing shall be opaque and made of any of the following types of materials: Clear heart redwood, heart cypress, red cedar, or treated Southern yellow pine or other suitable like materials. Such fencing shall be at least six (6) feet in height.

(3) Wall-The wall shall consist of brick, stone or other suitable like materials and shall be at least six (6) feet in height.

b. Junk Yard Buffers. In order to provide adequate protective screening for areas adjacent to or near junk yards, the following regulations shall apply:

(1) No junk yard shall be permitted closer than three hundred (300) feet to any R-1, R-2, or R-PUD district; and,

(2) A fence or wall, not less than eight (8) foot, shall be provided around the perimeter of said junk yard. Such fencing or wall shall be opaque and constructed of wood (as defined in Section 3.16, Part A, Number 2) or masonry. Such fencing or wall shall be used to shield contents of said junk yard from view of public streets or adjacent areas. Fences or walls shall be properly maintained at all times; and,

(3) No operations shall be conducted within junk yards which may cause a nuisance or endanger the public health; and,

(4) There shall be no temporary or permanent storage at a junk yard of vehicles or junk outside of the fence or wall required [(See Section 3.16, Part b, Number (2))], nor shall there be any cars or junk piled higher than seven (7) feet in height.

(5) All junk yards which are in existence on the effective date of this Ordinance, shall be required to meet all the conditions set forth in Section 3.16, Part b, Numbers (1), (2), (3) and (4) above within one (1) year from the effective date of this Ordinance.

Where the development of manufactured commercial property or the establishment of a junk yard requires a buffer zone to protect the surrounding properties, said buffer zone should be depicted on plat and/or recorded on deed of said property.

SECTION 3.15. RADIO, TELEVISION STATIONS. All commercial radio, television and other transmitting or relay stations shall be permitted in any commercial or industrial district.

SECTION 3.16. SATELLITE RECEIVING DISH ANTENNA.

a. Satellite Receiving Dish Antenna shall be allowed in all zoning districts.

b. However, in all residential zones, the following requirements will apply:

- (1) Antenna will be erected only in a rear yard and the setback requirements from the property line will be the same as those required of an accessory building.
 - (2) Location of the antenna must be approved by the Zoning Administrator before installation can begin.
- c. In all other zoning districts, antenna will be so placed as not to create a hazard to traffic or public utilities.
 - d. A property owner who has in place a non-conforming antenna at the effective date of this Ordinance may continue to maintain the antenna.

SECTION 3.17 HARDSHIP MANUFACTURED HOMES/TRAVEL TRAILERS. The Planning Commission may recommend to the Mayor and City Council approval of a variance for the use of one (1) hardship manufactured home or travel trailer per lot. The application for such a variance shall follow the general procedures for the rezoning including advertisement and public hearing requirements. The placement of one (1) hardship manufactured home or travel trailer on an occupied residential lot may be allowed if it is established that a genuine hardship exists only by reason of medical disability or age and the following variance criteria are met:

- a. The subject occupant of the manufactured home or travel trailer is a relative by blood or marriage of the owner of the property; and,
- b. Documentation of medical disability or age infirmity is required to be certified by a medical doctor's statement. This certification will be valid for a one (1) year period. If an extension is needed after one year, a new application for a hardship variance shall be submitted along with a new advertising fee; and,
- c. Said manufactured home or travel trailer shall be removed from the premises within sixty (60) days when the specified disability ceases to exist; and,
- d. Under no circumstances shall the manufactured home or travel trailer be rented or otherwise occupied by anyone other than the approved applicant, nor shall it be used for storage, or other similar uses; and,
- e. The Planning Commission may impose reasonable requirements which would affect the interests of the public health, safety, and general welfare.

SECTION 3.18. ZONING OF ANNEXED AREAS. The Mayor and City Council shall make a study of any property proposed for annexing into the City of Newton.

If the annexation is requested by anyone other than the City of Newton, the applicant will pay the appropriate fees for a zoning petition.

- a. Zoning of property to be annexed may begin after the jurisdiction currently governing the

property is notified in writing of the proposed annexation.

(1) A zoning public hearing must be conducted prior to the annexation of the subject property into the City.

(2) A notice of the zoning public hearing must be published in a newspaper of general circulation and a sign shall also be placed on the property to be annexed and zoned in accordance to Article XX Section 20.08

b. The zoning classification approved by the City following the required public hearing shall become effective on the later of the following two dates:

(1) The date the zoning is approved by the City; or

(2) The date the annexation becomes effective pursuant to Code Section 36-36-2.

SECTION 3.19. STORM WATER CONTROL. The Mayor and City Council shall review and approve an architectural storm water drainage plan for all classes of construction and property development prior to permits being issued by the zoning administrator. This plan must show retention of surface waters, controlled release into the Newton storm water drainage system, and diversion of any existing drainage pattern that may affect adjoining properties. Watershed into the drainage system can not exceed predevelopment flow rates. The developer must bear the costs of controlling their storm water.

SECTION 3.20. HOME OCCUPATIONS.

The following regulations shall apply for home occupations:

- a. One (1) non-illuminated name plate, which is not more than two (2) square feet in area, may be attached to the building which shall contain only the name and occupation of the resident of the premises.
- b. No internal or external alterations or construction features, equipment, machinery, or outdoor storage not customary in residential uses.
- c. No article or service is sold or offered for sale on the premises, except such as is produced by such occupation.
- d. Barber shops, beauty parlors, tanning bed salons, and other similar uses as interpreted by the Mayor and City Council shall not be deemed as home occupations.
- e. Any violations of aforementioned regulations shall be cause for revocation of home occupation permit after giving due notice to all parties concerned and granting full opportunity for a hearing.

SECTION 3.21. PROPERTY DIVIDED BY A ZONING DISTRICT. Where a zoning district divides a lot, tract or parcel of land at the time such district boundary is established, the use classification of the less-restricted district may be extended to the property line, but shall not be extended more than a distance of one hundred (100) feet without the permission of the Mayor and City Council.

SECTION 3.22. DEVELOPMENT OF REGIONAL IMPACT THRESHOLD REVIEW. Developments of Regional Impact are large development projects that are likely to create impacts in other local jurisdictions. The City of Newton will comply with State intergovernmental review procedures relating to new developments proposed within the City which meet or exceed the minimum thresholds identified in the Department of Community Affairs' Procedures and Guidelines for the Review of Development of Regional Impact (DRI). A copy of the Procedures and Guidelines for the Review of DRIs can be found in the Appendix.

SECTION 3.23. MODULAR OFFICE UNITS. Modular Office units will be permitted uses only in the C-3 and I districts with the following restrictions:

- a. All modular office units will be placed on a permanent foundation; and,
- b. All modular office units will be oriented to parallel the public street on which the office fronts; and,
- c. Required to meet the Southern Standard Building Codes.

*Mobile homes may not be used as offices. A manufactured home may only be used as an office for the sale of manufactured housing. Uses existing on the effective date of this Ordinance which are in violation of these provisions shall be terminated within 1 year after adoption of this Ordinance.

SECTION 3.24. TELECOMMUNICATION ANTENNAS AND TOWERS. The purpose of this section is to establish standards and regulations for the siting of antennas and towers.

- a. All applicants for permits for antennas and towers will be required to submit site plans to the Mayor and City Council for approval.
- b. Each applicant for an antenna and/or tower shall provide an inventory of its existing towers that are either within the City limits of Newton or within one-quarter mile of the border thereof, including specific information about the location, height, and design of each tower.
- c. The following shall govern the location of all towers and the installation of all antennas. If, in the opinion of the Mayor and City Council, these requirements would serve no good purpose, the Mayor and City Council may waive such requirements.

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as not to be an eyesore.

(2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.

(3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment not an eyesore.

(4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

d. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the governing authority may, in the manner provided in Sections 41-2-8 through 41-2-17 of the Official Code of Georgia, remove such antenna or tower at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

SECTION 3.25. CONDITIONAL ZONING. The Mayor and Council may change, modify or otherwise impose conditions on any zoning proposal which would be in the interest of public health, safety or welfare.

ARTICLE IV LIST OF ZONING DISTRICTS

SECTION 4.01. DISTRICTS. Newton is hereby divided into ten (10) classes of zoning districts known as follows:

R-1	Single-Family Residential District
R-2	Single-Family, Two-Family and Multiple-Family Residential District
R-PUD	Residential Planned Unit Development District
C-1	Neighborhood Commercial District
C-2	Central Business District
C-3	Highway Commercial District
C-PUD	Commercial Planned Unit Development District
I	Industrial District
FH	Flood Hazard District
A	Agricultural District

SECTION 4.02. LIMITED USE (L.U.) PROVISION. Newton establishes the "Limited Use" Provision for the purpose of allowing an applicant to request that a certain property be classified as a limited use. In some areas of the City, a particular land use activity selected out of a general zoning classification may have less community impact than some of the other uses within that classification. For this reason, an applicant may request a rezoning petition to limit the use of a proposed property to a specified use only (i.e., C1-L.U.). For example: Neighborhood Commercial District limited to a "Beauty Shop". The limited use must be among the uses permitted in the zone district for which the limited use is taken. In the event that the conditions for which the limited use zoning was granted is violated, the property would revert to the prior zoning classification.

SECTION 4.03. OFFICIAL ZONING MAP. The boundaries of these districts are shown on the map which is designated as the Official Zoning Map of the City of Newton. The official Zoning Map is on file in the office of the City Clerk and all notations, references and other information shown thereon are a part of this Ordinance and have the same force and effects as if said Zoning Map and all such notations, references and other information shown there were fully set forth or described herein.

Except where reference on said Zoning Map to a street or other designated line is made by dimensions shown on said Map, the district boundary lines follow lot lines or the center lines of the streets or alleys, or such lines extended and the corporate limits of the City of Newton as they existed at the time of adoption of this Ordinance. Where uncertainty exists with respect to the boundaries of any zoning district as shown on the Zoning Map, the Mayor and City Council shall rule on such boundaries.

ARTICLE V
R-1, SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 5.01. STATEMENT OF PURPOSE. This Single Family Residential District is established as a district in which the principal use of land is for low density single family dwelling units. For the R-1 single family residential district, the specific intent is:

- a. To encourage the construction of and the continued use of the land for low density single family residential development within the City.
- b. To discourage land uses which would generate traffic on minor or local streets, other than normal traffic to serve the residences on those streets.

SECTION 5.02. PERMITTED USES.

- a. Single family detached dwellings, except **mobile and manufactured homes**.
- b. Accessory buildings or uses customarily incidental to any of the permitted uses, when located on the same lot and not involving any business, profession, trade or occupation.
- c. Industrialized homes (modular units).

SECTION 5.03. CONDITIONAL USES.

- a. Churches, provided that the proposed site is not less than one (1) acre and a complete site development sketch is submitted with the application and provision is made for off-street parking.
- b. Cemeteries, provided that a complete site development sketch is submitted with the application.
- c. Clubs and lodges not operating for profit provided that:
 - (1) The buildings are not placed closer than fifty (50) feet to any property lines; and
 - (2) There is a planted buffer strip at least ten (10) feet wide along the side and rear lot lines.
- d. Public buildings, structures or other public land uses.
- e. Hospitals and clinics.
- f. Home Occupations - Home occupations as limited and defined in Article II.

- g. Family day care homes (family day care homes as limited and defined in Article II) provided that no play equipment be located in the front yard and signs be compatible to the neighborhood and not larger than regulated for home occupations. All state licensing requirements and regulations shall also apply.
- h. Family personal care homes--as limited and defined in Article II.
- i. Bed and breakfasts--as limited and defined in Article II.
- j. All radio, cellular phone or similar transmission/receiving antennas.
- k. Other uses similar to the above and compatible with the particular neighborhood and environment as interpreted and approved by the Mayor and City Council.

SECTION 5.04. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the Schedule of Regulations, Article XIX).

ARTICLE VI
R-2, SINGLE FAMILY, TWO-FAMILY AND MULTIPLE-FAMILY RESIDENTIAL
DISTRICT

SECTION 6.01. STATEMENT OF PURPOSE. The intent of the R-2 Residential District is to provide for medium to high density residential development; to provide for variety in the City's housing stock, to encourage neighborhood maintenance and preservation by allowing the conversion of large and older single-family homes to two-family and apartment use; and to provide suitable areas for new multi-family development.

SECTION 6.02. PERMITTED USES.

- a. Any use permitted in the R-1 residential districts.
- b. Manufactured homes (See Article XVIII).

SECTION 6.03. CONDITIONAL USES.

- a. Any use listed under Section 5.03 of the R-1 zoning district.
- b. Two-family (Duplex) residential.
- c. Multiple-family (apartments, condominiums and townhouses)*
- d. Nursing homes--as limited and defined in Article II.
- e. Boarding homes.
- f. Group homes.
- g. Professional offices.
- h. Public building, structures and other public land uses.
- i. Group day care homes (group day care homes as limited and defined in Article II) provided that no play equipment be located in the front yard and that signs be compatible to the neighborhood and not larger than regulated for home occupations. All state licensing requirements and regulations shall also apply.
- j. Group personal care homes--as limited and defined in Article II.
- k. Manufactured home and travel trailer parks (See Article XVIII).

1. Other uses similar to the above and compatible with the particular neighborhood and environment as interpreted approved by the Mayor and City Council.

SECTION 6.04. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the Schedule of Regulations, Article XIX).

*For development of apartment units of only one (1) apartment building on a given site. The R-PUD development standards Article VII, will apply to apartments of more than one (1) building on a given parcel or lot.

ARTICLE VII

R-PUD, RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 7.01. STATEMENT OF PURPOSE. It is the intention of this section to provide areas of sufficient size and allowing reasonable flexibility in design and orientation for the establishment of a group of structures, **which includes multiple dwellings designed in a planned unit development of more than one building on a given development site.**

Therefore, the Zoning Ordinance regulations relative to area, bulk and placement may, in the Planned Unit Development District, be modified by the Mayor and City Council, in the case of a plan for a large scale development which, in the judgment of the Mayor and City Council, provides adequate open space and improvements for circulation, recreation, light, air and service needs of the tract when fully developed, provided that in no case may the density of the proposed planned unit development exceed two (2) dwelling units per acre and provided further than the minimum site size for the residential planned unit development is two (2) acres.

SECTION 7.02. GENERAL PROCEDURES FOR PUD (R-PUD) APPROVAL. Any proposed property for PUD development must first be zoned to the R-PUD zoning classification. The PUD zoning procedure will generally follow the same procedures as other zoning requests. However, the applicant for PUD zoning shall submit a **preliminary site development plan** of the proposed development at the same time a petition for PUD zoning is made.

No rezoning for PUD will be granted to a petitioner until **the preliminary site plan is reviewed and approved by the Mayor and City Council**, respecting other property rezoning criteria established by the City. All plans must also be approved by the Health Department.

SECTION 7.03. PERMITTED USES. In all R-PUD Districts, no building or land, except as otherwise provided in this Ordinance, shall be erected or used except for one or more of the following specified uses:

- a. Single family detached dwellings, **except manufactured and mobile homes.**
- b. Duplexes.
- c. Townhouses.
- d. Multi-family dwellings.
- e. Condominiums.

SECTION 7.04. CONDITIONAL USES.

Any use listed under Sections 6.03 of R-2 zoning district.

SECTION 7.05. PRELIMINARY REVIEW. Preliminary review is recommended as an aid to both the developer and to the City. Under this procedure, a developer provides the information which is described below and the Mayor and City Council then acts on the information provided.

This review is intended to serve as a guide for the immediate inspection of the Mayor and City Council, subject to a thorough study and analysis. Changes and additions which may have to be made before a mutual agreement is reached can be made at such time without excessive engineering or other costs to the developer.

SECTION 7.06. PROCEDURE FOR PRELIMINARY APPROVAL. An application shall be submitted to the Mayor and City Council by the owner or his/her authorized representative for approval of a preliminary site plan of any proposed development anticipated under the Residential Planned Unit Development district provision of this Ordinance. Appropriate copies of the Preliminary Plan at a scale not more than one hundred (100) feet to the inch, showing the following, shall be submitted with the application.

- a. The title under which the proposed development is to be recorded and the name of the present owner.
- b. Names of owners of adjacent property.
- c. A topographic map showing the general location of existing property lines, streets, alleys, buildings, easements, swamps, water courses, and other physical site features which relate to the development.
- d. The proposed method of water supply, sewage disposal and storm drainage (In some cases, permits from Environmental Protection Division may be required).
- e. All proposed uses of the property to be developed shall be appropriately indicated on the plan.
- f. Date, North point and graphic scale.
- g. Other information required by the Mayor and City Council to insure compliance with the provisions of this Ordinance.

The developer shall furnish to the Mayor and City Council a statement indicating the proposed use to which the development will be put, along with a description of the type of residential building and number of units contemplated. Upon receiving approval of the Preliminary Plan, the developer may proceed to develop the Final Plan. No building permit shall be issued until approval of the Final Plan is given.

SECTION 7.07. PROCEDURE FOR FINAL PLAN APPROVAL. An application in writing shall be submitted to the Mayor and City Council by the owner or his/her authorized representative for approval of the Final Plan for any proposed development anticipated under the

Residential Planned Unit Development District of this Ordinance. Appropriate copies of the Final Plan, at a scale of not more than one hundred (100) feet to the inch, showing the following information shall be submitted with the application.

- a. The title under which the proposed development is to be recorded, the legal description of the land to be developed, the name of the present owner, and the name and address of the technical author of the plan.
- b. Names and owners of adjacent property and general information as to boundaries thereof as well as the existing zoning on such tracts.
- c. A map showing the location of existing property lines, the adjoining streets, alleys, buildings, drains, easements, water courses, and other physical site features which relate to the development.
- d. The proposed method of water supply, sewage disposal and storm drains, and other engineering data required by the Mayor and City Council to clearly indicate the general design of said utility services. It shall be mandatory that the development use the City water, that sewage systems comply with Health Department regulations and all streets in the development be paved in accordance with City standards.
- e. The size and capacity of existing sewer, water, storm drains, and thoroughfares in the area.
- f. The location and dimensions to the nearest foot of lots, building lines, alleys, easements, parks, and other public properties on the property to be developed. All lots in a preliminary plan shall be designated by consecutive numbers beginning with number one (1).
- g. All proposed uses of the property to be developed shall be indicated on the plan.
- h. Date, North point and graphic scale.
- i. Proposed development restrictions and/or protective covenants to be imposed upon the property after development.
- j. Bearings and distances of all courses of the exterior boundary of the proposed development and its area in acres to the third decimal place.
- k. The developer shall furnish to the Mayor and City Council a statement indicating the proposed use to which the development will be put, along with a description of the type of residential buildings and number of units contemplated, so as to reveal the affect of the development on traffic, fire hazards or congestion of population.

SECTION 7.08. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the Schedule of Regulations, Article XIX.)

ARTICLE VIII
C-1, NEIGHBORHOOD COMMERCIAL DISTRICT

SECTION 8.01. STATEMENT OF PURPOSE. The Neighborhood Commercial District is intended to permit retail business and service uses which are needed to serve nearby residential areas. In order to promote such business development uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation. The intent of this district is also to encourage the concentration of local business areas in locations which poses the mutual advantages of both the consumers and merchants, and thereby promotes the best use of land at certain strategic locations.

SECTION 8.02. PERMITTED USES.

- a. Antique Stores.
- b. Barber shops/beauty shops and other personal service establishments.
- c. Clubs and lodges (See Section 5.03c).
- d. Day Care Centers (Day care centers as limited and defined in Article II) provided that no play equipment be located in the front yard and that signs be compatible to the neighborhood and not larger than regulated for home occupations. All state licensing requirements and regulations shall also apply.
- e. Laundry or dry cleaning establishments.
- f. Professional offices.
- g. Repairs, electrical or other household appliances, locks, radios, television and the like.
- h. Restaurants, in existing structures with no more than 2,000 square feet of floor space devoted to such use.
- i. Small retail businesses selling convenience goods and serving the adjacent residential neighborhoods such as drug, food, bakery and tailor shops.
- j. Thrift stores.
- k. Bed and Breakfasts.

SECTION 8.03. CONDITIONAL USES.

- a. Churches, or other religious institutions. (See Section 5.03a).
- b. Service stations.
- c. Convenience Store.
- d. Antique Mall.
- e. Adult Care Facilities.
- f. Congregate Personal Care Homes--as limited and defined in Article II.
- g. All radio, cellular phone, or similar transmission/receiving antennas.
- h. Other uses similar to the above and compatible with the particular neighborhood and environment as interpreted and approved by the Mayor and City Council.

SECTION 8.04. PROTECTIVE SCREENING. Protective screening for C-1 Districts adjacent to residential districts shall be in compliance with the regulations set forth in Section 3.14 of this Ordinance.

SECTION 8.05. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the Schedule of Regulations, Article XIX).

ARTICLE IX
C-2, CENTRAL BUSINESS DISTRICT

SECTION 9.01. STATEMENT OF PURPOSE. The C-2 Central Business District is intended to project and promote suitable areas for business and commercial uses which benefit from proximity to each other, to encourage the eventual elimination of uses inappropriate to a central business area, and to encourage the intensive development of a centralized business center for the City of Newton.

SECTION 9.02. PERMITTED USES.

- a. Any use listed under Section 8.02 of the C-1 zoning district.
- b. Retail business and service establishments.
- c. Financial institutions.
- d. Commercial Planned Unit Developments in accordance with provisions of Article XI.
- e. Hotels/Motels.
- f. Professional offices.
- g. Other uses similar to the above and compatible with the particular neighborhood and environment as interpreted and approved by the Mayor and City Council.

SECTION 9.03. CONDITIONAL USES.

- a. Churches and other religious institutions. (See Section 5.03a).
- b. Clinics and nursing homes.
- c. Public buildings, structures or other public land uses.
- d. Multiple family residential dwellings, boarding or rooming houses.
- e. All radio, cellular phone, or similar transmission/receiving antennas and/or towers.
- f. Other uses similar to the above and compatible with the particular neighborhood and environment as interpreted and approved by the Mayor and City Council.

SECTION 9.04. PROTECTIVE SCREENING. Protective screening for requirements of C-2 District adjacent to or near residential districts shall be in compliance with the Regulations set forth in Section 3.14.

SECTION 9.05. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the Schedule of Regulations, Article XIX).

ARTICLE X
C-3, HIGHWAY COMMERCIAL DISTRICT

SECTION 10.01. STATEMENT OF PURPOSE. The purpose of the highway commercial district is to provide for and encourage appropriate development along the City's major streets which will include a variety of sales and services that will both accommodate the needs of the City and the traveling public. Adequate off-street parking, adequate building set backs and reduction of traffic hazards are prime city objectives for business development along the city's major streets.

SECTION 10.02. PERMITTED USES.

- a. All permitted uses in the C-1 and C-2 zoning districts.
- b. Automobile sales and auto service.
- c. Service stations.
- d. Agricultural implement sales and service.
- e. Wholesale stores, storage buildings, warehouses, mini-warehouses, distributing plants, freezers and lockers.
- f. Small fabrication and manufacturing shops, when employing not more than ten (10) employees in the office and manufacturing operations.
- g. Monument and statuary sales.
- h. Manufactured housing sales.
- i. Outdoor furniture and equipment.
- j. Tent and canopy sales.
- k. Swimming pools and hot tub sales.
- l. Trade shops including sheet metal, roofing, upholstering, electrical plumbing, venetian blind, cabinet making and carpentry, rug and carpet cleaners and sales, and sign painting, providing that all operations are conducted entirely within a building.
- m. Shopping Centers.
- n. Museums.

SECTION 10.03. CONDITIONAL USES.

- a. All conditional uses in the C-1 and C-2 zoning districts.
- b. Cemeteries, provided that a complete site development sketch is submitted with the application.
- c. Churches and other religious institutions (See Section 5.03a).
- d. Hospitals, clinics, personal care homes and nursing homes.
- e. Public buildings, structures or other public land uses.
- f. Open air business--as limited and defined in Article II.
- g. Flea Markets (a planted natural buffer strip of at least ten (10) feet wide along the side and rear lot lines is required).
- h. Other similar uses to the above and compatible with the particular neighborhood and environment as interpreted and approved by the Mayor and City Council.

SECTION 10.04. PROTECTIVE SCREENING. Protective screening requirements of C-3 Districts adjacent to or near residential districts shall be in compliance with the regulations set forth in Section 3.14. All outdoor sales areas are subjected to establishing a planted and maintained natural buffer strip of at least ten (10) feet in width and four (4) feet in height on side and rear lot lines.

SECTION 10.05. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the Schedule of Regulations, Article XIX).

SECTION 10.06. PROCEDURES FOR PROJECT APPROVAL. In connection with the above uses, a sketch plan of the proposed development shall be furnished to the Mayor and City Council showing the approximate location of buildings, roads, parking areas, sidewalks, landscaping, buffers, lighting, etc.

ARTICLE XI
C-PUD, COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 11.01. STATEMENT OF PURPOSE. It is the intention of this section to provide areas of sufficient size and allowing reasonable flexibility in design and orientation for the establishment of a structure or group of structures which include one or more retail sales, service and office enterprises on a single parcel of land.

Within the Commercial Planned Unit Development Districts, the following regulations shall apply:

SECTION 11.02. PERMITTED USES.

- a. Any use permitted in non-residentially zoned districts.

SECTION 11.03. CONDITIONAL USES.

- a. Churches and other religious institutions (See Section 5.03a).
- b. Medical facilities and nursing homes.
- c. Public buildings, structures or other public land uses.

SECTION 11.04. PROCEDURE FOR PROJECT APPROVAL. In connection with all of the above uses, the following requirements shall be complied with before any building permit is issued. The developer shall furnish the Building Inspector with appropriate copies of the Letter of Intent and the Development Plans for any use permitted in the Commercial Planned Unit Development District, drawn to scale, showing the general location of all buildings, roads, parking area, open areas, sidewalks and street lighting. Typical elevations of all four sides of the proposed building, proposed number of units by type and floor space, shall be submitted (e.g., furniture sales, 800 square feet).

SECTION 11.05. PROCEDURE FOR PRELIMINARY AND FINAL APPROVAL. (Shall be in compliance with Sections 7.02-7.07, General Requirements for Planned Unit Development Approval).

SECTION 11.06. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the attached Schedule of Regulations, Article XIX).

ARTICLE XII

I-INDUSTRIAL DISTRICT

SECTION 12.01. STATEMENT OF PURPOSE. The intent of the industrial district is to provide suitable areas for wholesaling, warehousing, storage, manufacturing, processing, repair services and sale lots in addition to other retail and service establishments; to expand or extend districts only where there is adequate and direct access to appropriate transportation facilities and where there is minimum conflict with residential districts.

SECTION 12.02. PERMITTED USES*.

- a. Any use permitted in the commercial zone districts.
- b. Manufacturing.
- c. Warehousing, wholesaling, shipping and receiving.
- d. Agriculture.

SECTION 12.03. CONDITIONAL USES.

- a. Petroleum bulk plant.
- b. Junkyards, automobile salvage yards or scrap metal processors. (Site plan approval, including protective screenings, See Section 3.14).
- c. Asphalt plants.
- d. Cement, lime gypsum, or plaster of paris manufacturing.
- e. Fat rendering and fertilizer manufacturing.
- f. Paper and pulp manufacturing.
- g. Corrosive acid and alkali manufacturing, explosives.
- h. Public buildings, structures or other public land uses.
- i. Tire reclamation facilities.
- j. Cemeteries, provided that a complete site development sketch is submitted with the application.
- k. Chemical plants.

- l. Churches (See Section 5.03a).
- m. Solid waste collection, treatment and disposal facilities.
- n. Armories.
- o. Extractions, or removal of sand, gravel, top soil or other natural resources.
- p. Solid waste recycling operations.
- q. Grain elevators.
- r. Hazardous waste facilities.
- s. Lumber yards, planing and sawmills.
- t. Petroleum refining and storage.
- u. Septic tank cleaning services.
- v. Commercial incinerators.
- w. Rifle, pistol and skeet ranges.
- x. All radio, cellular phone or similar transmission/receiving antennas and/or towers.
- y. Other uses similar to the above and compatible with the particular neighborhood and environment as interpreted and approved by the Mayor and City Council.

SECTION 12.04. AREA AND PLACEMENT REQUIREMENTS. In accordance with the Schedule of Regulations, Article XIX).

*Within any I, Industrial Zoning District, the following special regulations will apply to all permitted uses:

1. All open portions of any lot shall be suitable graded and, except when paved or similarly improved, they shall as a minimum, be seeded and maintained in grass. Preferably, such open spaces may be further landscaped with trees, shrubs and ground cover.
2. All service drives and access roads and parking areas shall be paved.
3. All storage operations shall be fully enclosed.
4. Provisions shall be made for the adequate lighting of all parking areas and service drives.
5. Satisfactory provisions shall be made for storm drainage, sanitary sewerage and water supply. As much as possible, all power and telephone lines shall be provided for by easements along rear and side lot lines.

ARTICLE XIII

FH, FLOOD HAZARD DISTRICT

Section 13.01. STATEMENT OF PURPOSE. To restrict or prohibit uses which may be dangerous to health, safety or property in times of flood, or which may cause increased flood heights or velocities; to require that uses vulnerable to floods, including public facilities which serve such uses, be provided with physical flood protection features at the time of initial construction; to protect individuals from buying lands which are unsuited for intended purposes because of flood hazards; and other public requirements to protect against floods.

Section 13.02. DISTRICT BOUNDARIES. For the purpose of these regulations, the Flood Insurance Study for City of Newton, as prepared by the U.S. Department of Housing and Urban Development, Federal Insurance Administration is hereby made a part of these regulations. The Housing and Urban Development report shall be kept permanently in the office of the Zoning Administrator, where said reports shall be accessible to the general public. The boundaries of the Flood Hazard District shall be synonymous with the limits of the flood region as determined in the above said study (100 year flood plain). Requirements of the 1994 Newton Flood Regulation Ordinance shall apply, including the requirement to elevate structures to 1 foot above the 100 year flood plain.

Section 13.03. PERMITTED USES.

- A. Single family residences.
- B. Non-commercial recreational facilities involving only light structures primarily for purposes of shelter and equipment storage such as, fishing lakes, golf courses, tennis courts, archery clubs, swimming pools.
- C. Park and outdoor recreational facilities.

Section 13.04. CONDITIONAL USES.

- A. Agriculture, not to include poultry, livestock or other associated use which would not be in the interest of public health, safety or welfare.

Section 13.05. REQUIRED PLANS. No permit shall be issued for the construction of any building or structure within the Flood Hazard District until the plans for such construction or use have been submitted to the Planning Commission and approval is given in writing for such construction or use. In its review of plans submitted, the Planning Commission shall be guided by the following standards, keeping in mind that the purpose of this district is to prevent encroachment into the floodway which will unduly increase flood heights and endanger life and property.

- A. Any structure or the filling of land permitted shall be of a type not appreciably damaged by flood waters.
- B. Any permitted structures or the filling of land shall be designed, constructed and placed on the lot so as to offer the minimum obstruction to and effect upon the flow of water.
- C. Any structure, equipment or material permitted shall be firmly anchored to prevent it from floating away and thus damaging other structures and threatening to obstruct bridge openings and other restricted sections of the stream.
- D. Where in the opinion of the Planning Commission, topographic data, engineering and other studies are needed to determine the effects of flooding on a proposed structure or fill and/or the effect of the structure or fill on the flow of water, the Planning Commission may require the applicant to submit such data or other studies prepared by competent engineers and other technical people.
- E. The granting of approval of any structure or uses shall not constitute a representation, guarantee or warranty of any kind or nature by City of Newton or by any officer or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon of cause action against such public body, officer or employee for any damage that may result pursuant thereto.

Section 13.06. WARNING OF DISCLAIMER OF LIABILITY. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as bridge openings restricted by debris. These regulations do not imply that areas outside the Flood District boundaries or land uses permitted within such district will be free from flooding or flood damages. These regulations shall not create liability on the part of the government or any officer or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

Section 13.07. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS. (In accordance with the attached Schedule of Regulations, Article XIX).

ARTICLE XIV
AG, AGRICULTURAL DISTRICT

SECTION 14.01. STATEMENT OF PURPOSE. The purpose of the Agricultural District within City of Newton is to provide for continuing agricultural related development as but where the present application of non-agricultural related zoning controls would be unreasonable or premature.

SECTION 14.02. PERMITTED USES.

- a. Agriculture related activities.
- b. Single family detached dwellings, **except mobile homes.**
- c. Industrialized buildings (modular homes/units).
- d. Manufactured homes (See Article XIX).

SECTION 14.03. CONDITIONAL USES.

- a. Animal hospitals.
- b. Animal kennels.
- c. Churches (See Section 5.03a).
- d. Cemeteries (See Section 5.03b).
- e. Public buildings, structures or other public land uses.
- f. Home occupations--as limited and defined in Article II.
- g. Rodeos, cattle shows, horse shows, animal exhibitions.
- h. All radio, cellular phone, or similar transmission/receiving antennas and/or towers.
- i. Other uses similar to the above and compatible with the particular neighborhood and environment as interpreted and approved by the Mayor and City Council.

SECTION 14.04. AREA AND PLACEMENT REQUIREMENTS. (In accordance with the Schedule of Regulations, Article XIX).

ARTICLE XV NON-CONFORMING BUILDINGS AND USES

SECTION 15.01. SCOPE OF PROVISIONS. Any lawful use of the land or buildings existing at the date of passage of this Ordinance and located in a district in which it would not be permitted as a new use under the regulations of this Ordinance is hereby declared to be a "non-conforming use" and not in violation of this Ordinance at the date of adoption of this Ordinance; provided, however, that a non-conforming use shall be subject to, and the owner shall comply with, the following regulations:

SECTION 15.02. NON-CONFORMING RESIDENCES. A residence which is determined to be non-conforming within the C-2 (CBD) and C-3 zoning districts in which the residence is located may be continued and is exempted from the provisions of this Article.

SECTION 15.03. NON-CONFORMING USE OF LAND, CONTINUATION OF USE. The non-conforming use of land, which exists when this Ordinance becomes effective, may be continued provided that:

- a. No such non-conforming use of land shall in any way be expanded, extended or replaced except under the conditions of Section 15.02.
- b. If such non-conforming use of land or any portion thereof is discontinued for six (6) months or changed, any future use of such land shall be in conformity with the provisions of this Ordinance.

SECTION 15.04. RESTORATION. Any building which houses a non-conforming use which has been destroyed or damaged by fire, explosion, Act of God, or by public enemy to the extent of fifty (50%) percent of its market value - exclusive of the foundation at the time such damage occurred - shall thereafter be made to conform with the provisions of this Ordinance. If such damage is less than fifty (50%) percent of its market value before said damage occurred, exclusive of the foundation, then such structure may be restored to the same non-conforming use as existed before such damage, provided, however, that a building permit to initiate restoration must be obtained within six (6) months of the occurrence of damage; otherwise the provisions of Section 15.05 will apply.

SECTION 15.05. DISCONTINUANCE OR ABANDONMENT. Any non-conforming use of land or building which has become vacant or remains unoccupied owing to abandonment or discontinuance for a period of six (6) months shall thereafter conform to the provision of this Ordinance.

SECTION 15.06. CHANGE OF TENANCY OR OWNERSHIP. There may be a change in tenancy, ownership, or management of an existing non-conforming use, provided there is no change in the nature or character of such non-conforming use.

ARTICLE XVI
OFF-STREET PARKING AND LOADING REQUIREMENTS

SECTION 16.01. SCOPE OF PROVISIONS. Except as provided in this Section, no application for a building permit shall be approved unless there is included with the plan for such building, improvements, or use, a plot showing the required space reserved for off-street parking and service purposes. Occupancy shall not be allowed unless the required off-street parking and service facilities have been provided in accordance with those shown on the approved plan.

SECTION 16.02. PARKING SPACES MAY NOT BE REDUCED. Off-street parking spaces shall not be reduced below the minimum required number for the use or facility to which they are assigned.

SECTION 16.03. DRAINAGE, CONSTRUCTION AND MAINTENANCE. All off-street parking, loading and service areas shall be constructed of concrete or asphalt, or a pervious surface may be permitted as deemed appropriate by the Mayor and City Council and final approval by Mayor and City Council. All such areas shall be at all times maintained at the expense of the owners thereof, in a clean, orderly and dust-free condition.

SECTION 16.04. SEPARATION FROM WALKWAYS, SIDEWALKS AND STREETS. All off-street parking, loading and service areas shall be separated from walkways, sidewalks and streets by curbing or other suitable protective device. Curbing and other protection devices must be set back a minimum of three feet to prevent vehicle overhang.

SECTION 16.05. PARKING AREA DESIGN. Parking stalls shall have a minimum width of nine (9) feet and length of eighteen (18) feet. There shall be provided adequate interior driveways to connect each parking space with a public right-of-way. Interior driveways shall be at least twenty-four (24) feet wide where used with ninety (90) degree angle parking, at least eighteen (18) feet wide where used with sixty (60) degree angle parking, at least thirteen (13) feet wide where used with forty-five (45) degree parking, and at least twelve (12) feet wide where used with parallel parking, or where there is no parking, interior driveways shall be at least ten (10) feet wide for one-way traffic movement and at least twenty (20) feet wide for two-way traffic movement.

SECTION 16.06. JOINT PARKING FACILITIES. Two (2) or more neighboring uses, of the same or different types may provide joint facilities provided the number of off-street parking spaces are not less than the sum of the individual requirements.

SECTION 16.07. PAVEMENT MARKINGS AND SIGNS. Each off-street parking space shall be clearly marked, and pavement directional arrows or signs shall be provided in each travel way wherever necessary. Markers, directional arrows and signs shall be properly maintained so as to ensure their maximum efficiency.

SECTION 16.08. NUMBER OF PARKING SPACES. In order to assure a proper and uniform development of public parking areas throughout the area of jurisdiction of this Ordinance, to relieve traffic congestion on the streets, and to minimize any detrimental effects on adjacent properties, off-street parking space shall be provided and maintained as called for in the following schedule. For any use or class of use not mentioned in this schedule, the requirements shall be the same as a similar use as mentioned herein. Parking requirements for additions to existing uses shall be based only upon the new addition even if the existing use is deficient.

SECTION 16.09. STREET PARKING REQUIREMENTS. In all zoning districts, off-street parking spaces for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, or enlarged after the effective date of this Ordinance, shall be provided as herein prescribed. Required parking spaces shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance. The owner or owners of a building structure or other land use requiring off-street parking spaces must show, to the satisfaction of the City Manager, that he/she is the record title holder of the property devoted to said principal land use and of the property proposed for off-street parking use, or that he/she is the lessee of such property.

SECTION 16.10. PLANTED AREAS. Any off-street parking facility of ten (10) cars or more shall also provide the equivalent of one (1) parking space per each ten (10) cars and each fraction thereof, to be planted with at least one (1) tree with a minimum diameter (measured at the location of its greatest width) of 1 1/2 inches, and grass and/or ground cover. The exact location within the parking facility is optional with each design, but the planted area herein referred to shall be in addition to perimeter buffer strips and to other landscaping on the property outside the parking facility.

The purpose of this requirement is to aid in providing visual definition, oxygenation, shade, wind modulation, drainage absorption and relief from other problems as may result from total coverage paving.

SECTION 16.11. LOCATION OF PARKING SPACE FOR OTHER LAND USES. The off-street parking facilities required for all other uses shall be located on the lot or within one thousand (1000) feet of the permitted use requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.

SECTION 16.12. OFF-STREET PARKING STANDARDS.

	USE	NUMBER OF PARKING SPACES REQUIRED
1.	Apartment and Multi-family dwelling	Two spaces for each dwelling family dwelling unit plus 1 space for each 10 units for travel trailers, boats and other vehicles.
2.	Apartments for the Elderly	One (1) space for each dwelling unit.
3.	Appliance Store	One (1) space for each four hundred (400) square feet of gross floor area.
4.	Auditorium, stadium assembly hall, gymnasium, theater, community recreation center	(a) one (1) space per three (3) fixed seats in largest assembly room or area, or (b) or (1) space for each forty (40) square feet of floor area available for the accommodation of movable seats in the largest assembly room, or combination of fixed and moveable sets; or (c) one (1) space per each one hundred fifty (150) square feet of gross floor area; whichever is greatest.
5.	Automobile Service Stations	(1) space (in addition to service area) for each pump and grease rack and one (1) space for each two (2) employees during period of greatest employment but not less than four (4) spaces.
6.	Automobile Parts and Accessories	One (1) space for each four hundred (400) square feet of gross floor area.
7.	Automobile sales and repair, service stations and auto washeterias	Same as Use 5 above plus one (1) space for each five hundred (500) square feet of gross floor area of the shop or washeteria.
8.	Automotive Repair Services and Garages	One (1) space for each four hundred (400) square feet of retail area plus two (2) spaces for each service bay.
9.	Bowling Alley	Four (4) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.
10.	Club or Lodge	One (1) space for each two (2) employees plus one (1) space for each two hundred (200) square feet of gross floor area within the main assembly area plus additional spaces for other uses permitted within the premises.
11.	Church	One (1) space per four (4) seats in main place of assembly.
12.	Combined Uses	Parking spaces shall be the total of the spaces required for each separate use established by this schedule.
13.	Dance School	One (1) space for each employee plus one (1) space per one hundred fifty (150) square feet of gross floor area plus safe and convenient loading and unloading of students.
14.	Duplex Dwelling Unit	One (1) unpaved space per each unit. Residential driveways will satisfy this need.

SECTION 16.12 OFF-STREET PARKING STANDARDS (CONTINUED)

	USE	NUMBER OF PARKING SPACES REQUIRED
15.	Financial Institution	One (1) space for each two hundred fifty (250) square feet of gross floor area and two (2) waiting spaces for each drive-thru window.
16.	Furniture Store	One (1) space for each four hundred (400) square feet of gross floor area.
17.	Grocery Store (including small convenience type food store)	One (1) space for every two hundred fifty (250) square feet of gross floor area.
18.	Group Home	See "Nursing Home".
19.	High Schools, Schools	One (1) space for each teacher, employee and administrative personnel plus safe and convenient loading of students plus (5) spaces for each classroom.
20.	Hospital	One (1) space for each bed plus one (1) space for each employee (nurse, attendant, etc.) per shift plus one (1) space for each staff or visiting doctor.
21.	Hotel	One (1) space for each guest room suite or unit plus one (1) space for each two (2) employees.
22.	Indoor and outdoor recreational (commercial) areas	(a) one (1) space for each one hundred fifty (150) square feet of gross floor, building, ground area or combination devoted to such use; or (b) one (1) space per each four (4) seats or facilities available for patron use, whichever is greater.
23.	Industrial or manufacturing establishment or warehouse	Two (2) spaces for each three (3) employees on shift of greatest employment, plus one (1) space for each vehicle used directly in the conduct of the business.
24.	Kindergarten, nursery schools and day care	One (1) space for each employee plus safe and convenient loading of children.
25.	Motel	One (1) space for each unit plus one (1) space for each two (2) employees.
26.	Nursing Home	One (1) space for each two (2) beds plus one (1) space for each employee on shift of greatest employment.
27.	Office, professional building or similar use	One (1) space for each three hundred fifty (350) square feet of the gross floor area or one (1) space for each two (2) employees, whichever is greater.
28.	Personal service establishment.	One (1) space for every three hundred fifty (350) square feet of the gross floor area, or one (1) space for each two (2) employees, whichever is greater.
29.	Repair Shop	One (1) space for every three hundred (300) square feet of gross floor area plus one (1) space for each employee.

SECTION 16.12 OFF-STREET PARKING STANDARDS (CONTINUED)

	USE	NUMBER OF PARKING SPACES REQUIRED
30.	Restaurant or place dispensing food, drink or refreshments to be consumed on the premises	One (1) space for each one hundred (100) square feet of gross floor area with a minimum of ten (10) parking spaces.
31.	Restaurant or place dispensing food, drink or refreshments for carry out only (and having outdoor seat area)	One (1) space for each one hundred fifty (150) square feet of gross floor area (with a minimum of ten (10) spaces for this); plus one (1) additional space for each three (3) outdoor seats provided.
32.	Restaurant or place dispensing food, drink or refreshments for carry out (no seating provided).	One (1) space for each one hundred fifty (150) square feet of gross floor area; with a minimum of ten (10) parking spaces.
33.	Restaurant or place dispensing food, drink or refreshments to be consumed on the premises and also having a drive-thru service	One (1) space for each one hundred (100) square feet of gross floor area; with a minimum of ten (10) parking spaces and providing an adequate lane for thru traffic which will not obstruct the required parking and drive-way for the restaurant.
34.	Schools, elementary	One (1) space for each teacher one (1) space for each two (2) employees and administrative personnel and one (1) for each classroom, plus safe and convenient loading and unloading of students.
35.	Senior Citizen Homes	One (1) space for each two (2) beds, plus one (1) space for each employee on shift of greatest employment.
36.	Shopping Center (if over 35,000 square feet of gross floor area)	One (1) space for every three hundred fifty (350) square feet of gross floor area.
37.	Shopping Center (If 35,000 square feet or less of gross floor area)	One (1) space for every three hundred (350) square feet of gross floor area.
38.	Swimming Pool	One (1) space for each two hundred (200) square feet of water surface area plus requirements for additional uses in association with the establishment such as a restaurant, etc.
39.	Trailer Park	One (1) space for each trailer stall plus one (1) space for each two (2) employees.
40.	Retail stores	One (1) space for each 200 square feet of gross floor area.

SECTION 16.13. OFF-STREET LOADING REQUIREMENTS. On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, truck freight terminal, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot of adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.

Such loading and unloading space, unless otherwise adequately provided for, shall be an area ten (10) feet by fifty (50) feet, with fifteen (15) foot height clearance, and shall be provided according to the following schedule:

0 - 10,000	None
10,001 - 100,000	One (1) space for the first 10,001 square feet plus one (1) additional space for each additional 40,000 square feet in excess of the 100,001 square feet.
Over 500,000	Seven (7) spaces for the first 500,001 square feet plus one (1) space for each additional 100,000 square feet in excess of 500,001 square feet.

SECTION 16.14. MINIMUM NUMBER OF LOADING SPACES REQUIRED. Industrial, wholesale and rental operations shall provide space as follows:

1. Off-street loading spaces shall be provided as appropriate to the functions and scope of operation of individual or groups of buildings and uses.
2. Off-street loading spaces shall be designed and constructed so that all maneuvering to park and unpark within the property lines of the premises. Loading spaces shall be provided so as not to interfere with the free, normal movement of vehicles and pedestrians on public right-of-way.

SECTION 16.15. AMERICANS WITH DISABILITIES ACT (ADA) GENERAL PARKING STANDARDS.

1. The City encourages the placement of handicap parking spaces at each off-street parking lot and at selected on street parking locations. Any business shall install the appropriate sign(s) and painted spaces.
2. Each parking space reserved for the disabled shall be painted and have a sign as per the requirements set out in the "Manual on Uniform Traffic Control Devices".
3. For all buildings considered "public", at least one accessible walk having no steps or abrupt changes in level, and complying with all criteria specified within this ordinance, shall be

provided from the parking spaces for disabled people into each accessible primary building entrance. Accessible walks shall also be provided between buildings on a common site. Doors swinging onto or away from walks shall have level areas. Walk surfaces shall be stable, firm, and of sufficient texture to resist slippage.

SECTION 16.16. PARKING SPACES AND PASSENGER LOADING ZONES FOR DISABLED PERSONS.

1. A safe place, located either on or off the street, shall be designated for handicapped passengers to get into and out of cars. It shall be:

- a. As near as possible to the building entrance provided for the handicapped.
- b. Zoned to prohibit parking.
- c. Provided with a ramp to the sidewalk level, if located at a curbside.

PARKING SPACES AND PASSENGER LOADING ZONES FOR HANDICAPPED

TOTAL SPACES OR ZONES	REQUIRED NUMBER TO BE RESERVED FOR HANDICAPPED
UP TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1000	2% OF TOTAL
OVER 1000	20 PLUS 1 FOR EACH 100 OVER 1000

SECTION 16.17. DISABLED PARKING FOR PLACES OF ASSEMBLY.

DISABLED PARKING FOR PLACES OF ASSEMBLY	
TOTAL SPACES	REQUIRED NUMBER TO BE HANDICAPPED
0 TO 500	3
501 TO 750	5
751 TO 1000	8 PLUS 2 FOR EACH 500 OVER 1000

Spaces shall be :

1. As near as possible to the building entrance provided for the handicapped with a maximum travel distance of 200 feet.
2. Identified (wheelchair symbol) and controlled for use by individuals with physical disabilities.
3. A minimum of nine (9) feet in width, with a four (4) foot wide pedestrian access aisle on one side of the space.
4. Spaces shall be substantially level (1/8 inch per foot slope for drainage), suitable for wheeling and walking, and accessible to the building by a clear, level or ramped path of travel.

(Note: Spaces parallel to a curb (4 inches high maximum) on the building side of the parking area are desirable. If perpendicular parking is necessary, four (4) foot wide access aisles between every other bay will be required.)

ARTICLE XVII SIGN REGULATIONS

SECTION 17.01 SIGNS SHALL MEET REQUIREMENTS OF THIS SECTION. All signs within Newton shall be erected, constructed or maintained in accordance with the provision of the sections below and only those signs that are permitted by these Regulations shall be erected within the City.

SECTION 17.02. NO SIGNS SHALL HAMPER TRAFFIC SAFETY. All signs shall not be erected or constructed that:

1. Obstructs the sight distance along a public right-of-way.
2. Would tend by its location, color or nature, to be confused with or obstruct the view of traffic signs or signals, or to be confused with a flashing light of an emergency vehicle.
3. Would by its nature or moving parts tend to confuse motorists or create any potential hazard to motorists.
4. Uses admonitions such as "stop", "go", "slow", "danger", etc., which might be confused with traffic directional signals.

SECTION 17.03 LOCATIONS PROHIBITED. No sign shall be attached to or painted on any telephone pole, light pole, telegraph pole, or any tree, rock or other natural object. No signs other than those signs erected by public governmental agencies or signs required by law, shall be placed so as to overhang any portion of public right-of-ways or other public properties by more than six (6) inches.

SECTION 17.04. ILLUMINATION NOT TO BE A NUISANCE. Illumination devices such as, but not limited to, flood or spot lights shall be so placed and so shielded as to prevent the rays or illumination therefrom being cast into neighboring dwellings and/or approaching vehicles.

SECTION 17.05. SIGNS NOT REQUIRING A PERMIT. The following signs shall not require a permit.

1. Signs to regulate traffic.
2. Signs required to be posted by law.
3. Warning signs and no trespassing signs.
4. Signs established by Governmental agencies.
5. Signs indicating bus stops, taxi stands and similar transportation facilities.

6. Signs not exceeding ten (10) square feet in area giving information concerning the location of use of accessory off street parking facilities or loading and unloading facilities.
7. Temporary real estate signs on residentially zoned property shall be limited to a maximum of ten (10) square feet and temporary real estate signs in any zones other than residential shall be a maximum of thirty-two (32) square feet.
8. Any sign not exceeding ten (10) square feet in area other than Advertising, Separate Use, or signs requiring electrical wiring.
9. Temporary signs on private land or religious, charitable, civic, fraternal, political or similar organizations.
10. A temporary sign for a non-conforming business shall not exceed a maximum of 32 square feet.
11. Construction signs and temporary subdivision signs should not exceed a maximum of 50 square feet.

SECTION 17.06. MAXIMUM AREA SIGNS.

The maximum area of a point of business sign, an incidental use sign, a bulletin board sign or an identification sign shall be one hundred fifty (150) square feet. All signs except identification sign and non-permitted signs as identified in Section 17.05 shall be no larger than ten (10) square feet in area and shall not be illuminated directly or indirectly.

SECTION 17.07. GENERAL STANDARDS FOR POINT OF BUSINESS SIGNS, INCIDENTAL USE SIGNS, BULLETIN BOARDS AND IDENTIFICATION SIGNS.

1. Do not utilize colors such as red, green, blue and yellow in any way which might be confused with traffic, safety or emergency signals. Within thirty (30) days from the effective date of this Ordinance, this provision must be complied with.
2. No revolving or rotating beam or beacon of light that resembles or simulates any emergency light device shall be permitted as part of any sign. Flashing devices shall not be permitted upon a sign; however, illuminated signs which indicate customary public information, such as time, date, temperature or other similar information shall be permitted. Within thirty (30) days from the effective date of this Ordinance this provision must be complied with.
3. External lighting, such as floodlights, thin line and goose neck reflectors are permitted, provided the light source is directed on the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the thoroughfare. Within thirty (30) days from the effective date of this Ordinance, this provision must be complied with.

4. The illumination of any sign within one hundred feet of a residential zone lot line shall be diffused or indirect in design to prevent direct rays of light from shining into those adjoining zones. Within thirty (30) days from the effective date of this Ordinance, this provision must be complied with.
5. Owners of signs shall be responsible for meeting codes, such as the National Electrical Code, as to placement and/or height when and where there is a conflict or potential conflict with City utilities.
6. Shall have a maximum of 35 feet.

SECTION 17.08. STANDARDS FOR OFF-SITE ADVERTISING SIGNS (BILLBOARDS).

A. Location where allowed: Off-site advertising signs (billboards) shall be allowed only in the following zoning districts (applicable to State designated primary highways only):

1. C-3 zoning districts
2. I (Industrial)

B. Off-site Advertising Sign Requirements

1. Sign Surface Area:

1. Sign Surface Area:

Maximum - 750 square feet per face.

2. Maximum Number of Signs: Two (2) signs per sign structure which may be single or double-faced, provided that each side shall have no more than 750 square feet.

3. Height: maximum -- ^{35'}~~750~~ Square feet ~~per face~~.

4. Minimum clearance required under sign will be ten (10) feet.

5. Minimum Set-back: 5 feet from the nearest right-of-way line; and ten (10) feet from the right-of-way line intersection point measured at any angle.

6. Minimum Spacing: 300 feet on the same side of the road from another off-site sign.

- C. Priority of Signs: Where the location of two or more off-site advertising signs conflicts under the requirements of this Ordinance, the sign meeting the requirements of this Ordinance, and having the earliest dated permit for its erection shall have priority over other signs in conflict herewith.
- D. Off-site advertising signs shall not be established at any location having principal frontage on any street within one hundred (100) feet of any church, school, cemetery, public park, public playground, or residential districts.
- E. No revolving or rotating beam or beacon of light that resembles or simulates any emergency light device shall be permitted as part of any sign. Illuminated signs which indicate customary public information, such as time, date, temperature or other similar information shall be permitted. Within thirty (30) days from the effective date of this Ordinance this provision must be complied with.
- F. External lighting, such as floodlights, thin line and goose neck reflectors are permitted, provided the light source is directed on the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the thoroughfare. Within thirty (30) days from the effective date of this Ordinance, this provision must be complied with.
- G. The illumination of any sign within one hundred feet of an R-1, R-2, or C-1 zone lot line shall be defused or indirect in design to prevent direct rays of light from shining into those adjoining zones. Within thirty (30) days from the effective date of this Ordinance, this provision must be complied with.

SECTION 17.09. ISSUANCE OF PERMITS, ADMINISTRATION AND FILING PROCEDURE.

- 1. Issuance of Permits: No sign, except those listed in Section 17.05 shall be erected, hung or placed or structurally altered without a permit from the City Clerk.
- 2. Filing Procedure: Application for permits to erect, hang or place a sign shall be submitted on forms obtainable from the City Clerk. Each application shall be accompanied by plans showing the area of the sign, size and character and the method of illumination, if any, the exact location proposed for such sign and in the case of a projecting sign, the proposed method of fastening said sign to the building structure, the vertical distance between such sign and the finished grade and the horizontal distance between such sign and the street right-of-way line.
- 3. Additional Information: Each applicant shall, upon the request of the City Clerk submit any additional information deemed necessary.

ARTICLE XVIII
MANUFACTURED HOMES, MANUFACTURED HOME PARKS
AND TRAVEL TRAILER PARK REGULATIONS

SECTION 18.01. STATEMENT OF PURPOSE. These regulations shall govern the location and occupancy of manufactured homes within the City of Newton. All manufactured homes located within and outside of manufactured home parks and all travel trailer parks shall be governed by the regulations within this Ordinance.

SECTION 18.02. LOCATION OF MANUFACTURED HOMES, MANUFACTURED HOME PARKS AND TRAVEL TRAILER PARKS. Manufactured home parks and travel trailer parks within the City shall be located only in the R-2 zoning district. Manufactured homes shall be located only in R-2 and Ag zoning districts.

SECTION 18.03. TRAVEL TRAILERS: GENERAL REQUIREMENTS: Any travel trailer located within the City of Newton shall meet the following general requirements:

A. Occupancy.

For sites specifically designed for travel trailers within travel trailer parks, the residential occupancy of a travel trailer shall be limited to a short term occupancy of 180 days.

B. Storage.

Travel trailers, when stored on a residential lot, shall be located at least ten (10) feet from adjoining property lines and at least ten (10) feet from any residence unless stored within a portion of the dwelling or accessory structure. No plumbing facilities (both water and sewerage) in such trailers may be connected while they are stored. Storage of same on public rights-of-way is hereby prohibited. When a travel trailer is stored on a lot in any residential district it shall not be utilized as a residence or occupied by household members, their guests, or as a rental unit.

C. Density.

A maximum of four (4) travel trailer stands per acre is allowed.

D. Walks.

1. General Requirements: All travel trailer park developments shall be provided with safe and convenient, pedestrian accesses of adequate width for their intended use and same shall be durable and convenient to maintain.

2. Common Walk System: A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3 ½) feet.

3. Individual Walks: All travel trailer stands shall be connected to common walks, or to streets, or to driveways, or to parking spaces. Such individual walks shall have a minimum width of two (2) feet.

E. Travel Trailer Parks:

Each travel trailer park development shall be required to be provided with the following minimum accommodations:

1. Interior Street Access: Each stand shall be provided with access frontage of at least twenty (20) feet.

2. Electric Power Supply: Each stand shall be provided with a properly grounded, waterproofed electrical receptacle. A properly sized over-current device shall be installed as a part of each power outlet. Said fixtures shall meet the standards established by applicable city codes.

3. Stand Identification: A property and street number designation or other appropriate numbering device properly identifying each travel trailer stand shall be placed at the interior side lot line at a point ten (10) to fifteen (15) feet from the interior road system of the park. Such device shall be clearly visible from the street and shall be embossed with reflectorized glaze for the numbers. Such numbers shall be a minimum of three (3) inches in height.

SECTION 18.04. TRAVEL TRAILER PARKS: ACCESSORY USES PERMITTED: The following establishments of a commercial nature may be permitted as customary accessory uses in a travel trailer park, provided such uses do not occupy more than ten (10%) percent of the area of the park, are located a minimum distance of one hundred (100) feet from any adjoining property line or street or highway right-of-way, and are primarily intended for the convenience of and service to the occupants of the park:

A. Coin-operated laundry.

B. Coin-operated vending machines of types allowed under applicable Codes of the City of Newton, provided such are located within a building and are not visible from the street or from adjoining property lines.

C. One (1) or more signs identifying the name of the park and the services provided therein; signs regulating traffic or provided for the convenience and welfare of park residents.

SECTION 18.05. MANUFACTURED HOME PARKS: GENERAL REQUIREMENTS:
All manufactured home parks located within the City of Newton shall meet the following general requirements:

A. Establishment of Manufactured Home Parks.

1. From and after the adoption of this Ordinance, each proposed manufactured home park development shall be presented in site plan form by the developer to the Mayor and City Council for review and approval and shall conform to the minimum design and improvement standards required herein. Site development plans of the proposed manufactured home park shall include at least the following items:
 - (a) A site plan at a scale no smaller than one (1) inch equal to fifty (50) feet.
 - (b) The title under which the development is to be recorded, the legal description of the land to be developed, the name of the present owner and the name and address of the technical author of the plan.
 - (c) All property lines and dimensions; the location and dimensions of each building and unit.
 - (d) The layout and location of off-street parking, total number of spaces, ingress and egress lanes, pedestrian ways, sidewalks and curb lines.
 - (e) The proposed method of water supply, sewage disposal and storm drainage and other data as may be required to clearly indicate the general design of said utility services.
 - (f) All proposed uses of property and buildings to be developed shall be indicated on the plan.
2. No private construction or public improvements shall commence on any land to be used as a manufactured home park prior to the approval and certification of the required development plans.
3. A person, firm or corporation desiring to develop a manufactured home park within the City of Newton shall provide appropriate copies of a sketch plan of a proposed layout which shall conform to the minimum requirements stated herein and shall file said copies of said sketch plan with the Mayor and City Council for review.

B. Expansions of Manufactured Home Parks.

A person, firm or corporation desiring to expand a manufactured home park to include more manufactured homes or manufactured home sites, shall submit plans and specifications for such improvements to the Mayor and City Council for review prior to initiating construction and improvements.

C. Design.

The design of a manufactured home park shall conform to the following design requirements:

1. Setback.

The manufactured home park shall be so designed that manufactured homes (and travel trailers) and their accessory structures shall be a minimum distance of twenty-five (25) feet from adjoining property lines, ten (10) feet from internal park streets and at least twenty-five (25) feet from any publicly dedicated street. Manufactured home stands shall be designed so as to provide a distance of at least thirty (30) feet between manufactured homes.

2. Density.

A maximum of four (4) dwelling units (manufactured home or travel trailer) per acre is allowed.

3. Access.

The manufactured home park shall front upon a public street. Each manufactured home site and its parking area shall have direct access to the internal street system of the park.

4. Streets.

Streets within a manufactured home park shall be privately owned, privately constructed and privately maintained. Such private streets shall be well drained and provided with a paved or all-weather road surface treatment with a minimum surface of ten (10) feet for one-way streets and twenty (20) feet for two-way streets.

5. Parking.

Each manufactured home stand shall be provided with a minimum of two (2) off-street parking spaces. Parking on interior streets within a park is hereby prohibited. The required front yard may be used for the minimum parking.

6. Minimum Area of Tract.

A manufactured home park shall have a minimum size of five (5) acres.

7. Length of Residential Occupancy.

No space within a manufactured home park shall be rented for residential use of a manufactured home except for periods of thirty (30) days or longer.

8. Manufactured Home Inspections.

It shall be the initial responsibility of each manufactured home or trailer park operator to notify the Building Official to inspect manufactured homes being placed within the confines of any park under this jurisdiction, control or supervisions, for compliance with the provisions of this Ordinance, prior to the placement of any such manufactured home on its stand and within such park and to the connection of utility services to and occupancy of the manufactured home.

9. Issuance of Permit:

At least once each year, the Building Official at his/her convenience shall inspect each manufactured home park and the manufactured home units within said parks to determine that same are in full compliance with the Codes of the City of Newton. The Building Official shall issue a permit for such use for each manufactured home park and each manufactured home unit which in the course of each such inspection he/she finds to be in full compliance with the requirements of this Ordinance, and such permit shall be valid for a period of one (1) year from the date of its issue.

SECTION 18.06. MANUFACTURED HOME PARKS: IMPROVEMENTS: Manufactured home parks constructed or reconstructed within the City of Newton shall be provided by the developer with the following minimum improvements:

A. Sewage.

The manufactured home park shall be provided with an approved sewage collection system by the Health Department.

B. Water.

A potable water supply shall be provided by the park operator. If city water is available at the proposed site, water service shall be connected to the systems and fire hydrants shall be placed within five hundred (500) feet of each manufactured home stand. If the proposed park is located within one thousand (1,000) feet of a public system, the owner or developer shall promptly enter into negotiations to receive service and shall take all steps necessary to promptly obtain same.

C. Easement.

Public dedicated easements of proper size for their respective intended purpose shall be provided within the park if individual manufactured home stands and accessory park uses are to be serviced by a public utility system.

D. Utility Placement.

All water, sewer or gas lines shall be buried a minimum of eighteen (18) inches below the finished ground surface of the manufactured home park and shall be provided with adequate valve systems to follow the cutoff of utility service to a manufactured home space at the manufactured home space and at the entrance of the utility service from the space to the trunk line of the utility system. If overhead service lines are provided within the park, such lines shall be a minimum of twenty-five (25) feet above the grade of interior streets and so placed that no wires extend over a manufactured home space.

E. Lighting.

All recreation areas, park entrances, park streets and pedestrian easements shall be illuminated to provide at least three tenths (0.3) foot candles of lighting.

F. Garbage and Refuse.

Garbage and refuse service shall conform with all city ordinances.

SECTION 18.07. NON-CONFORMING MANUFACTURED HOME PARKS. Any non-conforming manufactured home park in the City of Newton which becomes vacant and remains unoccupied due to abandonment or discontinuance for a period of six (6) months shall not begin new operations until the park is brought into compliance with these regulations. All non-conforming manufactured home parks which are in existence on the effective date of this Ordinance, shall be required to meet all the conditions set forth in this Article within one (1) year from the effective date of this Ordinance.

SECTION 18.08. AREA, PLACEMENT AND DEVELOPMENT REQUIREMENTS. (In accordance with Schedule of Regulations, Article XIX).

SECTION 18.09. OTHER REQUIREMENTS.

Manufactured homes located outside of a manufactured home park shall comply with the following general requirements:

- A. Any additions to a manufactured home or accessory buildings constructed on a lot shall comply with the requirements of the Building, Electrical, Plumbing and Gas Codes.
- B. The undercarriage (wheels, axles and tongue) shall be removed from each manufactured home occupying a residential lot.
- C. Each manufactured home shall be sufficiently supported, tied down and the undercarriage (entire perimeter of home) shall be completely enclosed by block, brick, stone, vinyl or masonite skirting.
- D. Before a certificate of occupancy is issued, the required permits and inspections must be obtained from the Building Department.
- E. All manufactured homes must be oriented on the private lots so that its long axis is parallel with the street.

**ARTICLE XIX
SCHEDULE OF REGULATIONS**

Zoning District	Minimum Lot Area Sq. Ft.	Minimum Lot Width	Front Yard Setback Ft.	Side Yard Ft.	Rear Yard Ft.
R-1	20,000	100	30	10	30
R-2					
Single Family	14,500	85	30	10	30
Two Family	15,000	75	25	10	30
Multi-family	3,500 per d.u.	75	25	15	30
R-PUD*	2 acres				
C-1	-	60	25	10	20
C-2	-	30	-	-	-
C-3	-	60	35	10 or 0(a)	10 or 0(a)
C-PUD**	-	-	-	-	-
I	-	100	30	20	30
FH	-				
A	-				

Minimum lot area standards established are for lots within public water and public sewerage. Lots developed with only public water require 20,000 sq. ft. of area. Lots without public water or sewerage require one acre. See Baker County Health Department for assistance.

REFERENCES:

Refer to Section VII*

Refer to Section XI**

NOTE: Soil characteristics, topography, drainage, ground water and other physical conditions may require greater lot areas.

ARTICLE XX
ADMINISTRATION AND ENFORCEMENT

SECTION 20.01. ENFORCEMENT. The Zoning Administrator shall enforce this Ordinance, and is hereby given the authority and responsibility to enforce all provisions of this Ordinance under the direction of the Mayor and City Council which includes but is not limited to the following duties:

- A. To maintain in a timely and current manner the Official Zoning Map reflecting thereon any and all rezoning amendments approved by Mayor and City Council. Amendments of the Official Zoning Map will be recorded by the Zoning Administrator within seven (7) calendar days following approval of such action by Mayor and City Council.
- B. To perform any other zoning duties as directed by Mayor and City Council.

SECTION 20.02. PERMITS. The following shall apply in the issuance of any permits:

- A. **Permits Required.** It shall be unlawful for any person to commence excavation for, or construction of any building structure, or moving of any existing building without first obtaining a building permit from the Building Inspector. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this Ordinance, showing that the construction proposed is in compliance with the provisions of this Ordinance.

No plumbing, electrical, drainage or other permit shall be issued until the Building Inspector has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this Ordinance.

SECTION 20.03. CERTIFICATES OF OCCUPANCY. It shall be unlawful to use or permit the use of any land, building or structure for which a building permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired, or moved, until the Building Inspector has issued a Certificate of Occupancy stating that the provisions of this Ordinance have been complied with.

- A. **Certificate Validity.** The certificate of Occupancy as required for new construction of, or renovations to existing buildings and structures shall also constitute Certificates of Occupancy as required by this Ordinance.
- B. **Certificates for Existing Buildings.** Certificates of Occupancy shall be issued for existing buildings, structures or parts thereof, or such use of land, which are in conformity with the provisions of this Ordinance.

- C. **Temporary Certificates.** Temporary Certificates of Occupancy may be issued for a part of a building or structure prior to the occupation of the entire building or structure, provided that such Temporary Certificate of Occupancy shall not remain in force more than six (6) months, nor more than five (5) days after the building or structure is fully completed and ready for occupancy and, provided further, that such portions of the building or structure are in conformity with the provisions of this Ordinance.
- D. **Records of Certificates.** A record of all Certificates of Occupancy shall be kept in the office of the Building Inspector, and copies of such Certificates of Occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.
- E. **Certificates for Accessory Buildings to Dwellings.** Accessory buildings or structures to dwellings shall not require a separate Certificate of Occupancy, but rather may be included in the Certificate of Occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use.
- F. **Application for Certificates.** Certificates of Occupancy shall be applied for coincident with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions and requirements of this Ordinance. If such Certificate is refused for cause, the applicant therefore shall be notified of such refusal and the cause thereof within ten (10) days.

SECTION 20.04. FEES. Fees for inspections and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance shall be collected by the Building Inspector in advance of the issuance of such permits or certificates.

The amount of such fees shall be established by the Mayor and City Council, from time to time, and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance. The fees shall be deposited with the City Clerk.

SECTION 20.05. AMENDMENTS. The Mayor and City Council of Newton may amend, supplement or change the regulations of the district boundaries of this Ordinance as established herein. The procedure for submitting a request for an amendment to the Zoning Ordinance text or district boundaries of the official Zoning Map shall be as follows:

- A. The applicant shall complete and submit to the Zoning Administrator a rezoning application not less than thirty (30) days of the next scheduled Mayor and City Council meeting.
- B. At the time of application submittal, the applicant shall deposit the appropriate fee amount with the Zoning Administrator to cover the cost of processing the application.

- C. Within ten (10) days of the next scheduled Mayor and City Council meeting, the Zoning Administrator shall compile all of the rezoning requests for the next scheduled meeting. This agenda shall be mailed to all Mayor and City Council members.

SECTION 20.06. ZONING POLICIES AND PROCEDURES. The following policies and procedures are herein established to provide guidelines for the following zoning activities:

- A. The adoption of a new City Zoning Ordinance.
- B. The adoption of an Amendment to the Zoning Ordinance which changes the text of the Zoning Ordinance (Text Amendment).
- C. The adoption of an Amendment to a Zoning Ordinance (Map Amendment) which rezones property from one zoning classification to another.
- D. The procedural requirements for Zoning Amendments sponsored by the City of Newton.
- E. The procedural requirements for Zoning Amendments sponsored by a private citizen or property owner.
- F. The procedural requirements for Conditional Use request sponsored by the City of Newton or a private citizen.

SECTION 20.07. POLICIES AND PROCEDURES FOR CITY INITIATED ZONING ACTIVITIES:

- A. In the case of developing an initial zoning plan (map and text), or updating or amending an existing zoning plan, the Newton Planning Commission and the Mayor and City Council will where appropriate, utilize any new or existing land use studies, land use plans or other relevant documents as a resource for ordinance development or ordinance amendment.
- B. Upon the completion of a preliminary zoning document(s) by the Planning Commission and after the draft document has been presented to and reviewed by the Mayor and City Council, public hearings will be scheduled by both the Newton Planning Commission and the Mayor and City Council, respectively. The **official public hearing** will be held by the Mayor and City Council, and public notice will be given no less than fifteen (15) days nor more than forty-five (45) days prior to the **official hearing date**.
- C. Public hearing notices will be published in the local paper. The public notice will state the time, place, and purposes of the hearing.
- D. When the boundary lines of an established zoning district are proposed for change (rezoning), the Mayor and City Council will consider the following criteria in making zoning decision :

ZONING CRITERIA

- (1) Existing uses and zoning of nearby property.
 - (2) The extent to which property values are diminished by the present zoning restrictions.
 - (3) The extent to which the destruction of property values, resulting from existing zoning of specific parcels promotes the health, safety, morals or general welfare of the public.
 - (4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner by the proposed zoning classification.
 - (5) The suitability of the subject property for the zoning purposes as proposed.
 - (6) The length of time the property has been vacant under the present zoning classification, considered in the context of land development in the area in the vicinity of the property.
 - (7) Conformity with or divergence from the City's Land Use Plan.
- E. The public hearings will be convened at the advertised time and place and will be presided over by the appropriate officials.
- F. The Presider of each respective public hearing will review for those present, the following operating procedures for the public hearing:
- (1) In order for a person in attendance to speak, the Chair must recognize him/her. The person recognized will identify himself/herself. The Chair may also request that the person furnish a home or business street address, as appropriate.
 - (2) A minimum of ten (10) minutes per side (proponents and opponents) will be allowed for discussion. The applicant or an authorized representative of the applicant will be given the option of speaking first at the hearing.
 - (3) Additional persons will be recognized per the above procedure for the purpose of addressing additional concerns of the revisions or to make additional points with regard to elements already addressed, but not to rehash points already made. -
 - (4) Appropriate notes or minutes will be recorded by the Mayor and City Council at the public hearing.
- G. The Newton Planning Commission shall prepare and submit the necessary minutes, evaluations and/or recommendations to the Mayor and City Council prior to the Mayor and City Council's official public hearing.

- H. The Newton Mayor and City Council, at its public hearing, will review the evaluations and recommendations from the Planning Commission and may choose to adopt or reject or modify the recommendations, or the business may be tabled for additional study to the next regular Council meeting with the consent of the applicant.

SECTION 20.08. PROCEDURES FOR REZONING REQUEST MADE BY A PRIVATE CITIZEN/ PROPERTY OWNER.

- A. An application for rezoning must be filed with the Zoning Administrator at City Hall on a prescribed form and fees paid as set by the Mayor and City Council. The application shall be filed thirty (30) days prior to the following Mayor and City Council meeting.
- B. All applications for rezoning requests will be accompanied by a plat of the parcel in question or a legal description. If the parcel's boundaries conform to the lot boundaries within an existing subdivision for which a plat is recorded in the land records of the County, then the lot block, and subdivision designation with appropriate plat references and a copy of the deed to the land so described as required above.
- C. The Zoning Administrator will inform applicant of the public hearing date. Although the Newton Planning Commission will convene a public hearing on each proposal, **the official public hearing will be held by the Mayor and City Council** and public notice will appear no less than fifteen (15) days nor more than forty-five (45) days of the **official public hearing**.
- D. The public hearing notice will name the applicant, the location of property to be affected, the present zoning classification, the proposed zoning classification and the date, time and place of both the Planning Commission hearing and the public hearing held by the Mayor and City Council.
- E. The Zoning Administrator shall have erected upon the property for which rezoning is to be considered a sign of no less than 17" x 24" announcing the public hearings, stipulating the dates, times, and places for the hearing, the present zoning classification and the proposed zoning classification. The sign shall be clearly visible from a public street. It shall be erected not less than fifteen (15) days before the official public hearing date.
- F. The public hearing held by the Newton Planning Commission will follow essentially the same meeting procedures as that of the Mayor and City Council, as provided for in Section 20.07 (F-G).
- G. Any application for rezoning of a particular parcel of property which is denied by the Mayor and City Council may not again be considered for rezoning until the expiration of at least twelve (12) months immediately following the defeat of the rezoning request.

SECTION 20.09. CONDITIONAL USES. The Planning Commission shall hear and recommend after a public hearing conditional uses as authorized. The Mayor and City Council

shall hear and recommend after a public hearing conditional uses as authorized. **The official public hearing will be held by the Mayor and City Council** and public notice will appear no less than fifteen (15) days nor more than forty-five (45) days of the **official public hearing**. The application to establish a conditional use shall be approved on finding by the Mayor and City Council that:

- A. The proposed use will not be contrary to the purpose of this ordinance.
- B. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood not affect adversely the health and safety of residents and workers.
- C. The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fumes generation, or type of physical activity.
- D. The proposed use will not be affected adversely by the existing uses; and the proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use.
- E. The parking and all development standards set forth for each particular use for which a permit may be granted have been met.
- F. Provided, that the Mayor and City Council may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood; and provided that wherever the Mayor and City Council shall find, in the case of any permit granted pursuant to the provisions of these regulations that any term, conditions or restrictions upon which such permit was granted, are not being complied with, said Council shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a hearing.

SECTION 20.10. VARIANCES: The Planning Commission shall have the power to authorize upon appeal such variance from the terms of this ordinance as will not be contrary to the public interest, where a literal enforcement of the zoning requirements would result in undue hardship.

- A. Procedure: Applications for variance shall be filed with the Office of the City Clerk; such applications must be filed thirty (30) days before the date of the following Planning Commission meeting in order that the required public notice may be given before the next scheduled meeting. Each application shall be accompanied by a simple sketch of the site, showing the following:

- (1) General location of the existing structures and property lines; and,
- (2) Location of the proposed buildings and land uses; and
- (3) Setbacks if applicable to the request.

- B. Public hearing: A public hearing shall be held by the Planning Commission for the review of an application for a variance. Notice of time and place of such hearing shall be published at least fifteen (15) days before the hearing in a newspaper of general circulation in the City of Newton.
- C. Fee: Each application for a variance shall be accompanied by an application fee set by the Mayor and City Council to partially defray administrative costs.
- D. Conditions and limitations: The Planning Commission shall include any condition, requirement, or limitation which may be necessary to protect adjacent properties and to carry out the provisions of this Ordinance.

SECTION 20.11. CRITERIA FOR THE CONSIDERATION OF VARIANCE REQUESTS. The following criteria shall be utilized when considering specific cases where the variance from the terms of the Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in unnecessary hardship so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done. Such a variance may be granted in such individual cases of unnecessary hardship upon the finding of the Planning Commission that:

- A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and,
- B. The application of this Ordinance to this particular piece of property would create an undue hardship; and,
- C. Such conditions are peculiar to the particular piece of property involved and not the making of the applicant; and,
- D. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this Ordinance, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this Ordinance; and,
- E. The proposed use will be of such location, size, and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood; and,
- F. The proposed use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved; and,
- G. The location, size, intensity, site layout and periods of operation of any such proposed use will be designed to eliminate any possible nuisance emanating from the use which might be noxious to the occupants of any other nearby permitted uses whether by reason of dust, noises, fumes, vibration, smoke, or lights; and,

H. The location and height of buildings or structures and the location, nature and height of walls and fences will be such that the proposed use will not interfere with or discourage appropriate development and the use of adjacent land and buildings or unreasonably affect their value.

SECTION 20.12. APPEALS. An appeal by a person, firm, or corporation, or by any officer department, board or bureau may be taken to the Mayor and City Council where it alleged that there is an error in any order, requirement, decision or determination made by the Office of the Clerk or other administrative official in the enforcement and interpretation of this Ordinance. Such appeals shall be made within thirty (30) days of the administrative action by filing with the Newton City Clerk and the Mayor and City Council a Notice of Appeal specifying the grounds thereof. If the Notice of Appeal is not filed within thirty (30) days, the only recourse shall be a court of record.

The City Clerk shall then transmit to the Mayor and City Council all of the papers constituting the record upon which the action appealed was taken. The appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Mayor and City Council that after the Notice of Appeals has been filed, that by reason of the facts stated in the Notice, a stay would in the Zoning Administrator's opinion, cause immediate peril to life or property, in which case the proceedings shall not be stayed, other than by a restraining order, which may be granted by a court of record.

The Mayor and City Council shall fix a reasonable amount of time for the hearing of an appeal and shall give due notice to the parties concerned including all landowners within three hundred (300) feet of the premises in question. Such notice shall be delivered personally or by mail addressed to the respective owners at the address given on the last assessment roll. The Mayor and City Council shall decide the appeal within a reasonable period of time with regard to the purposes of the Ordinance. Upon the hearing, any party may appear in person or agent.

In the event that the petitioner for an appeals remains discontented with the Mayor and City Council's decision on an appeal application, the petitioner shall have thirty (30) days to appeal the action to the superior court system.

SECTION 20.13. FEES. Fees for the administration, inspections, submittal of rezoning, variance or conditional use applications and the issuance of permits or copies thereof required or issued under the provisions of this Ordinance shall be collected by the City Clerk in advance of the issuance of such permits.

The fee for a rezoning, variance or conditional use application shall be established by the Mayor and City Council to cover the cost of the administration, inspection, and supervision resulting from the enforcement of this Ordinance.

ARTICLE XXI
ESTABLISHMENT OF THE
CITY OF NEWTON PLANNING COMMISSION

SECTION 21.01. STATEMENT OF PURPOSE. In order to guide and accomplish a coordinated and harmonious development of the municipality which will, in accordance with existing and future needs, best promote the public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, that the City of Newton Planning Commission, hereinafter referred to as the Planning Commission, is hereby created and established as authorized by the Georgia Constitution.

SECTION 21.02 MEMBERSHIP. The Planning Commission shall consist of five (5) members, who shall be residents of the City of Newton, Georgia, appointed by the Mayor and Council of the City. Any vacancy in membership shall be filled by the Mayor and Council who shall also have the authority to remove any member for cause, on written charges, after a public hearing. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

SECTION 21.03 ORGANIZATION, RULES, SAFETY AND FINANCES. The Planning Commission shall elect its Chairman from among its members. The term of the Chairman shall be one year with eligibility for re-election. The Planning Commission shall determine its time of meeting. All meetings of the Planning Commission, at which official action is taken, shall be open to the public and all records of the Planning Commission shall be a public record.

The Planning Commission may appoint such employees and staff (approved by the Mayor and Council) as it may deem necessary for its work. The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Mayor and Council.

SECTION 21.04. POWERS, DUTIES AND RESPONSIBILITIES. From and after the time when the Planning Commission shall have organized and selected its officers, then said Planning Commission shall have the powers, duties and responsibilities set forth.

1. Develop and maintain comprehensive plan, administrative procedures, zoning plan/ordinance, subdivision regulations, and design ordinances for local government adoption;
2. Recommend and/or develop and maintain other plans, ordinances, and "tools" as needed. Such documents may include sign ordinance, redevelopment plan, downtown plan and others;

3. Hold public hearings regarding changes in plans/ordinances;
4. Review requests for rezoning, conditional uses, zoning variances, subdivision redevelopment and annexation; and
5. To research, review and make recommendations to the City Council on amendments to the Land Development Ordinance and the Official Land Development Maps, the comprehensive plan and the elements thereof, and other policies and procedures of the City of Newton and related matters.
6. To advise the City Council on environmental, public health, safety and general welfare matters which may include infrastructure, historic, business, residential and recreational matters, policies and procedures.
7. To work with various public and private organizations and agencies engaged in or interested in planning and development activities so as to provide leadership in identifying and implementing City objectives for planning and development.
8. To assist the City Clerk's Office, other City Departments, boards and authorities when appropriate to the purpose of the Planning Commission, and the City Council in carrying out their various functions by making recommendations to achieve the desired benefits on behalf of present and future Newton residents and businesses as a whole.
9. To report to the City Council after research and review on any matter or class of matter referred to the Planning Commission by the City Council before action is taken thereon by them.

SECTION 21.05. MEMBERS, TERMS OF APPOINTMENT AND OFFICERS.

The Newton City Council shall appoint five (5) citizens of Newton, Georgia to serve as members of the Newton Planning Commission. The members of the Newton Planning Commission shall be appointed for terms of two (2) years, except in the appointment of the first Newton Planning Commission. Initial terms shall be for one (1) year and two (2) years, with two of the five members serving one year terms as designated by the City Council. The Newton Planning Commission shall elect as officers, one member to serve as Chairman, one member to serve as Vice-Chairman and one member to serve as Recording Secretary. The officers of the Planning Commission shall be elected annually at the first regular meeting scheduled in January of each year. Election shall be by a majority vote of the Planning Commission. The term of office for each officer shall begin immediately upon election. The Chairman shall serve until relieved of his or her duties by the City Council or until he or she voluntarily steps down. In the event of an extended absence of any officer, the Planning Commission may appoint either a temporary Chairman, Vice-Chairman or Recording Secretary to fill the office until the return of the absent officer or until the expiration of his or her term of office, whichever comes first.

1. **CHAIRMAN.** The Chairman shall be elected for a term of one year beginning in January and each year thereafter. The Chairman shall preside at all meetings and have all duties conferred by parliamentary usage on such officer. The Chairman shall decide all points of order and procedures subject to the rules of these Bylaws unless otherwise directed by a vote of the Planning Commission.

The Planning Commission, by adoption of these Bylaws, grants to the Chairman, the privilege of initiating motions and the privilege of voting on all matters before the Planning Commission. These same privileges shall be extended to the Vice-Chairman, temporary Chairman or Vice-Chairman when acting in the absence of the Chairman.

2. **VICE-CHAIRMAN.** The Vice-Chairman shall be elected for a term of one year beginning in January and each year thereafter. The Vice-chairman shall act as the Chairman in his or her absence. When acting as Chairman, the Vice-Chairman shall have the same powers, duties and privileges as the Chairman.
3. **RECORDING SECRETARY.** The Recording Secretary shall be elected for a term of one year beginning in January and each year thereafter. The Recording Secretary shall maintain minutes of Planning Commission meetings and public hearings with the assistance of the Executive Secretary.

SECTION 21.06. CITY CLERK OR APPOINTEE AS EXECUTIVE SECRETARY.

The City Clerk shall serve as the Executive Secretary of the Planning Commission and may delegate the performance of the tasks required by the Executive Secretary to his or her subordinates. The Executive Secretary shall provide such technical, secretarial and other support services as the Planning Commission may reasonably require in the conduct of its business, including the maintenance of minutes and records, the preparation of an agenda for all meetings, the providing of notice of all meetings, the placement of appropriate legal notices as required by ordinance, attendance to the correspondence of the Planning Commission, providing the Planning Commission with the final action by the City Council on the recommendations of the Planning Commission, and other services which may be required, to the extent such services can be provided within the budgetary limitations of the Code Official.

SECTION 21.07. AGENDA AND MINUTES. The Chairman and Executive Secretary shall determine the meeting agenda. All matters to be considered and/or acted upon by the Planning Commission, non-agenda matters, which in the judgment of the Chairman do not involve action directly affecting the public, may be discussed and voted thereon.

Meeting minutes shall include and indicate all important facts, a report of all actions taken, and shall include a listing of those members present and those absent, a record of the vote of each member on each action taken on each matter, and a record of any explanation or commentary which is relative to the decisions made on matters before the Planning Commission.

The Executive Secretary shall prepare sufficient copies of the agenda and the applicable rules of procedure for use by the audience attending a meeting of the Planning Commission.

SECTION 21.08. MEETINGS. Meetings shall be held in accordance with the schedule adopted by the Planning Commission annually, as amended. One meeting shall normally be held each month which shall be the fourth Tuesday of each month at 6:30 p.m. All meetings shall be voting sessions and open to the public.

1. **PUBLIC HEARINGS.** Public Hearings shall be used when required by resolution, ordinance or City policy or when desired by the Planning Commission to formally present matters before the Planning Commission, and provide a public forum for the proponents and opponents of matters, discussion of matters by the Planning Commission and the voting thereon.

Any other business of the Planning Commission may be discussed and/or voted upon by the Planning Commission at a public hearing in accordance with the rules and procedures of these Bylaws.

2. **SPECIAL CALLED MEETINGS.** The Chairman, Executive Secretary, or a majority of the Planning Commission may call a special meeting at any time, provided that 24 hour notice is given, and all other applicable requirements of the Georgia Open Meeting Act have been adhered to. The Executive Secretary shall prepare and cause to be delivered a written notice stating the specific purpose of the special called meeting to each Planning Commission member and the newspaper of general circulation in the County. No business other than the specific stated purpose shall occur at the special called meeting.

SECTION 21.09. ORDER OF BUSINESS AT MEETINGS. The normal order of business at meetings shall be:

- 21.09.1. Determination of a quorum.
- 21.09.2. Approval of minutes of previous meetings.
- 21.09.3. Voting on matters heard and tabled from previous public hearings.
- 21.09.4. Public comment, discussion by the Planning Commission and voting on matters which have had their public hearings continued from a previous meeting.

21.09.5. New business for:

- A. Amendments to the Land Development Ordinance and Official Land Development Maps of Newton.
- B. Subdivision plat approval.
- C. Other new business matters requiring a public hearing.
- D. Reports by staff and committee and other new business.
- E. Comments by staff and Planning Commission members.
- F. Adjournment.

The Chairman may change the order of the agenda on matters appearing on the agenda during the meeting, if, in his or her judgment, time and purpose may be served.

SECTION 21.10 RULES OF PROCEDURE FOR MEETINGS: The rules of procedure for meetings are as follows:

- A. The Chairman shall call the matter before the Planning Commission.
- B. The Chairman shall then call parties in interest who shall have privilege on the floor by appearing before the Planning Commission and identifying themselves by name, address and affiliation with any business or organization which would be relative to the matter being considered.

Proponents shall speak first, opponents shall speak second. All comments and questions from the parties in interest shall be directed to the Planning Commission. Neither proponents or opponents shall generally have more than ten minutes total to present their interest and the Chairman shall have the power to restrict or expand the period of time for presentations if, in his or her judgment, circumstances surrounding the matter may warrant such action.

- C. The Chairman shall call for questions from the Planning Commission to the proponents or opponents immediately after their individual presentation or at the conclusion of all presentations.
- D. The Chairman shall then call for discussion of the matter by the Planning Commission and the voting thereon. Once discussion by the Planning Commission has been called for, no further comment or presentation shall be made by parties in interest unless a Planning Commission member has a specific question for a party in interest, or, the Chairman deems further comment to be appropriate and germane to the issues surrounding the matter before the Planning Commission.

- E. All items on an advertised agenda for a public hearing shall be heard on the scheduled date except, if in the judgment of a majority of the Planning Commission, specific circumstances surrounding the matter warrant the continuance of the hearing on the matter to a specific future date and time. In the event that a public hearing is continued to a future time and date, notice must be published in accordance with Georgia Open Meeting Act.

SECTION 21.11. CANCELLATION OF MEETINGS. In the event that there is a lack of business to be discussed and/or voted upon at a future meeting, the Chairman or a majority of the Planning Commission may cancel the meeting in question.

SECTION 21.12. QUORUM. A quorum shall consist of a majority of the Planning Commission members and a majority vote of those present constituting a quorum shall be sufficient to decide all matters which come before the Planning Commission.

SECTION 21.13. VOTING. A Planning Commission member who is part of a quorum of the Planning Commission during the consideration of any matter, but not participating in the discussion or vote on a specific matter because of a conflict of interest, shall be considered present for quorum purposes but abstaining from the voting on that specific matter.

A majority vote of a quorum of the Planning Commission is required for approval of all motions. A tie vote shall be deemed as a denial of the motion. A motion which fails by a majority vote shall not be deemed as approval of the opposite positions and a new motion must be made to approve the opposite position, with any amendments and conditions, in order that the opposite position be submitted to the City Council as the recommendation of the Planning Commission.

The Planning Commission may add conditions to the approval of any application or matter it deems necessary so that the purposes of the City's resolutions, ordinances, regulations, policies and procedures are served, and so that the public health, safety and welfare of the residents of the City as a whole shall be protected and/or enhanced.

The vote of each Planning Commission member, along with any explanation or commentary related to the decision of the Planning Commission on all actions as a particular matter, shall accompany the Planning Commission's recommendation to the City Council.

SECTION 21.14. CONFLICT OF INTEREST. In the event that any Planning Commission member has any interest in any matter, proponent or opponent which may result in a gain or loss to that Planning Commission member, his or her immediate family by blood or marriage, or to any individual, partnership or corporation with whom that Planning Commission member has had any regular business or contractual relationships within the past twelve months, said Planning Commission member shall not participate

in the consideration, discussion, questioning and voting on that particular matter before the Planning Commission, nor shall said Planning Commission member take any action which may influence the vote of any other Planning Commission member. In the event that the Chairman has a conflict of interest, the Vice-Chairman shall preside over the meeting during consideration of that particular matter.

Any Planning Commission member may challenge another Planning Commission member and raise the question of conflict of interest regarding a particular matter. A majority of those without such challenge shall determine if such conflict of interest shall be left to the individual judgment of each Planning Commission member to determine if he or she is voting on the facts of a matter, for the general good of the City of Newton and for the public health, safety and welfare of its residents as a whole.

SECTION 21.15. COMMITTEES. The Chairman may appoint, with the concurrence of the Planning Commission, various standing and temporary committees to further the purposes of the Planning Commission. Such committees may include members of the staff of various City departments, residents and business owners of the City and other individuals whose background and knowledge may be of benefit to the Planning Commission in accomplishing its goals.

The purpose of committees shall be to make detailed investigations, studies and recommendations to the Planning Commission as instructed pertaining to matters or classes of matters falling within its purview.

The Chairman shall be an ex-officio member of all committees.

SECTION 21.16. ASSISTANCE OF OTHER DEPARTMENTS. The Planning Commission shall have the power to draw upon the resources and knowledge of all City departments, boards and authorities as deemed necessary for the fulfillment of its purposes, duties and responsibilities. All public officials shall, upon request, furnish to the Planning Commission all such information requested that it may reasonable require, to the extent available and within a reasonable period of time.

SECTION 21.17. MAXIMUM TIME FOR ACTION. The Planning Commission shall have thirty days from the date of its first regularly scheduled meeting on a matter in which to submit a recommendation to the City Council except where the City Council has established another specific time period for a specific matter. The Planning Commission may also request an extension of time from the City Council on any matter. If the Planning Commission fails to submit a recommendation within the allowed period of time or is denied its request for an extension of time, that particular matter before the Planning Commission shall be forwarded to the City Council with a "no comment" recommendation.

SECTION 21.18. ROBERT'S RULES OF ORDER. In the event that a conflict occurs between the rules and procedures of these Bylaws and Robert's Rules of Order, the rules and procedures of the Ordinance shall prevail. In all other procedural questions, Robert's Rules of Order shall apply.

ARTICLE XXII
INTERPRETATION, APPLICATION, VIOLATIONS,
VALIDITY CONFLICT AND EFFECTIVE DATE

SECTION 22.01. INTERPRETATION, PURPOSE AND CONFLICT. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, prosperity, and general welfare.

It is not intended by this Ordinance to interfere with, or abrogate, or annul any ordinance, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this Ordinance; nor is it intended by this Ordinance to interfere with, or abrogate, or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or requires larger open spaces, or larger lot areas than are imposed or required by such Ordinance or agreements, the provisions of this Ordinance shall control.

SECTION 22.02. VIOLATIONS AND PENALTIES. Any person violating or neglecting or refusing to comply with any of the provisions of this Ordinance shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be punished by imposition of the appropriate fine or by imprisonment in the discretion of the recorder's court. Each day that a violations is permitted to exist shall constitute a separate offense.

SECTION 22.03. VALIDITY. This Ordinance and the various articles, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

SECTION 22.04. CONFLICTING PROVISIONS REPEALED. All other ordinances and parts of ordinances in conflict with this Ordinance, to the extent of such conflict and not further, are hereby repealed.

SECTION 22.05. EFFECTIVE DATE. The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people of the City of Newton and are hereby ordered to be given immediate effect from and after June 1, 1999.

ORDINANCE NO. 99-_____

AN ORDINANCE ADOPTING A ZONING ORDINANCE FOR THE CITY OF NEWTON, GEORGIA; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, it is the desire of the City Council of the City of Newton to protect the health, safety, and welfare of the citizens of the City; and

WHEREAS, after careful study and review, it has been determined that the enactment of zoning procedures would be in the best interest of the citizens of Newton; and

WHEREAS, the City Council held public hearings on April 16, 1999, and May 4, 1999, to allow public input and discussion on the adoption of a zoning ordinance; and

WHEREAS, the City of Newton has carefully studied and reviewed the proposed ordinance and the comments from the public and has determined that the enactment of a zoning ordinance would dramatically improve the quality of life for the citizens of Newton; and

WHEREAS, the enactment of a zoning ordinance would protect the rights and interest of property owners within the City by providing reasonable regulations for the location of certain residences and enterprises within the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Newton, and it is hereby ordained by authority of the same as follows:

Section 1. The Zoning Ordinance attached hereto as "Exhibit A" is approved and adopted.

Section 2. The Zoning Map of the City of Newton attached hereto as "Exhibit B" is approved and adopted.

Section 3. This ordinance shall become effective on June 1, 1999.

Section 4. All ordinances or parts of ordinances in conflict herewith are repealed.

SO ORDAINED, this 16th day of May, 1999.

CITY OF NEWTON

By: BeBe Johnson
Mayor, BeBe Johnson

Attest: Pat Hart
Clerk, Pat Hart

(S E A L)

ORDINANCE NO. 99-_____

AN ORDINANCE ADOPTING A ZONING ORDINANCE FOR THE CITY OF NEWTON, GEORGIA; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, it is the desire of the City Council of the City of Newton to protect the health, safety, and welfare of the citizens of the City; and

WHEREAS, after careful study and review, it has been determined that the enactment of zoning procedures would be in the best interest of the citizens of Newton; and

WHEREAS, the City Council held public hearings on April 16, 1999, and May 4, 1999, to allow public input and discussion on the adoption of a zoning ordinance; and

WHEREAS, the City of Newton has carefully studied and reviewed the proposed ordinance and the comments from the public and has determined that the enactment of a zoning ordinance would dramatically improve the quality of life for the citizens of Newton; and

WHEREAS, the enactment of a zoning ordinance would protect the rights and interest of property owners within the City by providing reasonable regulations for the location of certain residences and enterprises within the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Newton, and it is hereby ordained by authority of the same as follows:

Section 1. The Zoning Ordinance attached hereto as "Exhibit A" is approved and adopted.

Section 2. The Zoning Map of the City of Newton attached hereto as "Exhibit B" is approved and adopted.

Section 3. This ordinance shall become effective on June 1, 1999.

Section 4. All ordinances or parts of ordinances in conflict herewith are repealed.

SO ORDAINED, this 6th day of May, 1999.

CITY OF NEWTON

By: BeBe Johnson
Mayor, BeBe Johnson

Attest: Pat Hart
Clerk, Pat Hart

(S E A L)

I hereby certify that the above Ordinance was passed at a regular session of the Mayor and City Council of the City of Newton, Georgia held on May 6, 1999 at Council Chambers, City Hall, Newton, Georgia.

BeBe Johnson
Mayor

ATTEST:

Pat Hart
Clerk

EFFECTIVE DATE:

May 6, 1999