

**AGENDA**  
**NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY**  
**REGULAR MEETING JULY 28, 2009**  
**CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET**

1. Call To Order.
2. Pledge Of Allegiance.
3. Invocation.
4. Roll Call.
5. Declaration Of Conflicts Of Interest.
6. Ceremonial Matters.
  - a. Proclamation - Walter Newman.
  - b. Presentation – Healthier Choices For Our West Side – By Supervisor DeMartini.
7. Items from the Public - Non-Agenda Items.
8. Consent Calendar
  - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
  - b. Approval Of Warrants.
  - c. Approval Of Minutes Of The July 14, 2009 Regular Meeting.
  - d. Adopt Resolution No. 2009- , Rejecting The Claim Of SCM Hearthstone LLC.
  - e. RDA Plan Amendment Disclosure Forms.
9. Public Hearings
  - a. Second Reading And Adoption Of Ordinance No. 2009- , Amending Title 5 Zoning And Adding Chapter 5.23.150 Storage Containers To The Newman City Code And Authorize Staff To Prepare And Publish A Summary Of Said Ordinance.
10. Regular Business
  - a. First Reading And Introduction Of Ordinance No. 2009- , Amending Tile 11 Public Ways And Property, Chapter 11.01 Public Ways Regulations, Of The Newman City Code.
11. Items From District Five Stanislaus County Supervisor

**12. Items From The City Manager And Staff.**

**13. Items From City Council Members.**

**14. Adjourn To Closed Session**

a. Conference With Legal Council - Potential Litigation – One Case - G.C. 54956.9.

b. Return To Open Session.

**15. Adjournment.**

## Calendar of Events

July 25 - Chamber Dinner-Dance 6:00 P.M.

July 28 - City Council - 7:00 P.M.

August 6 - Healthier Choices For Our Westside Kickoff

August 10 - Baseball Board Meeting - 6:00 P.M.

August 11 - CDBG Community Computer Classes Resume At The McConnell Center

August 11 - City Council - 7:00 P.M.

August 13 - Recreation Commission - 7:00 P.M.

August 19 - Mayors Meeting - 6:00 P.M. - Oakdale

August 17 - Two-On-Two Meeting With The School Board - 4:30 P.M.

August 20 - Planning Commission - 7:00 P.M.

August 25 - City Council - 7:00 P.M.

August 29 - Veterans Administration Service Appreciation Meeting - 10:00 A.M. To 2:00 P.M.

Date.: Jul 22, 2009  
Time.: 4:26 pm  
Run by: EMILY M. FARIA

CITY OF NEWMAN  
CASH DISBURSEMENTS REPORT

Page.: 1  
List.: NEW1  
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
036140	07/23/09	3921.75	AECOM USA, INC	GENERAL ENGINEERING SERVICES/05/02/09 TO 05/29/09
036140	07/23/09	4600.00	AECOM USA, INC	2008 STREET REPAIRS/PROFESSIONAL SERV 4/18 TO 6/26
036140	07/23/09	6290.00	AECOM USA, INC	ADDITIONAL SERVICE/2008 STREET REPAIRS/4/4 TO 5/29
036141	07/23/09	162.00	ROBERT ALCANTAR	SECURITY SERVICES/OHS PROM/ALCANTAR
036142	07/23/09	399.22	ARROWHEAD MOUNTAIN SPRING	BOTTLED WATER/JUNE 2009
036143	07/23/09	332.24	AT&T MOBILITY	WIRELESS ACCESS/PD/6/3/09 TO 7/2/09
036144	07/23/09	1.64	AT&T LONG DISTANCE	LONG DISTANCE FOR 862-4636/APRIL & MAY 09
036145	07/23/09	54856.47	B.C. CONSTRUCTION	WORK DONE ON REHAB OF PIONEER PARK
036146	07/23/09	3500.00	BUSH,ACKLEY,MILICH,HALLIN	LEGAL RETAINER FEE MAY AND JUNE 2009
036147	07/23/09	365.16	BUSINESS CARD	MEALS/CM/SUPPLIES FOR FIT KITS
036148	07/23/09	127.82	CAL TRAFFIC SIGNS	2 STREET SIGNS/1 HANDICAPE/2 NO PARK/2 L BRACKETS
036149	07/23/09	1332.45	CENTRATION, INC	PREP 2007/08 MANDATED COST CLAIMS/ANIMAL ADOPTION
036150	07/23/09	24.90	CRESCENT SUPPLY CO. #1	GOLD CLUTCH/SHOE LACES/CHIEF
036150	07/23/09	146.26	CRESCENT SUPPLY CO. #1	VIP UNIFORM SUPPLIES/VARGAS
036151	07/23/09	1029.00	ENERPOWER	ELECTRIC ENERGY SERVICES 4/9/09 TO 5/12/09
036152	07/23/09	2170.00	CITY OF GUSTINE	ANIMAL CONTROL SERVICES/JUNE 2009
036153	07/23/09	200.00	HARD DRIVE GRAPHICS	REPAIR SIGN/POLICE BLDG
036154	07/23/09	250.00	NOEL LANGLEY	REFUND MEMORIAL BLDG DEPOSIT/NOEL LANGLEY
036155	07/23/09	80.00	NOREEN SANDRA LOPEZ	CANCELLED SHERMAN PARK/REFUND RENT PER SONYA
036156	07/23/09	1466.92	MCDONOUGH, HOLLAND, ALLEN	PROFESSIONAL SERVICES THRU 6/30/09/RDA PLAN AMENDM
036157	07/23/09	50.00	NEWMAN FRIENDS OF THE LIBRARY	REFUND DEPOSIT ON SHERMAN PARK/FRIENDS OF LIBRARY
036158	07/23/09	137.60	LINDA OLESON	LINE DANCE INSTRUCTOR/6/09/09 TO 7/14/09/OLESON
036159	07/23/09	7283.00	PACIFIC MUNICIPAL CONSULTANTS	CAPITAL FACILITIES FEE UPDATE/INVOICE #2
036160	07/23/09	660.00	CITY OF PATTERSON	VIDEO REIMBURSEMENT/JUNE 2009

Date.: Jul 22, 2009  
Time.: 4:26 pm  
Run by: EMILY M. FARIA

CITY OF NEWMAN  
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
036161	07/23/09	205.08	P G & E	NATURAL GAS 6/8/09 TO 7/08/09/ELECTRIC 4/8-6/17/09
036162	07/23/09	3148.41	PRECISION INSPECTION, INC	Bldg Reg Inspec BLDG REGU
036163	07/23/09	660.00	SELF HELP ENTERPRISES	LOAN SERVICING FEE/JUNE 2009
036164	07/23/09	332.00	STATE OF CALIFORNIA	FINGERPRINTING APPS/FINGERPRINT FBI
036165	07/23/09	173.75	STANISLAUS COUNTY DEPT	BUS TICKET SALES 5/1/09 TO 6/30/09
036166	07/23/09	73.28	STAPLES BUSINESS ADVANTAGE	FILE FOLDERS/LABELS/COLOR PAPER/SHEET PROTECTORS
036166	07/23/09	177.30	STAPLES BUSINESS ADVANTAGE	SHARPIE/INDEX CARDS/RUBBERBANDS/PEN REFILLS
036167	07/23/09	369.54	UNIFIRST CORPORATION	UNIFORM CLEANING/MOP HEADS/TOWELS
036168	07/23/09	19965.38	URBAN FUTURES, INC	RDA PLAN AMENDMENT SERVICES/JUNE 2009
036169	07/23/09	3010.73	MATTOS NEWSPAPERS, INC.	PAPER/CITATION FORMS/LEGAL ADS/UPS/2009 CCR
036170	07/23/09	40.00	WEST SIDE PUBLIC SCALE	WEIGHT TAGS/WWTP/JUNE AND JULY 2009
Sub-Total:		----- 117791.90		
Grn-Total:		----- 117791.90		
Count:	36			

# July Hand Checks

Date.: Jul 21, 2009  
Time.: 10:54 am  
Run by: EMILY M. FARIA

CITY OF NEWMAN  
CASH DISBURSEMENTS REPORT

Page.: 1  
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Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
036134	07/21/09	13618.00	ANTHEM BLUE CROSS	HEALTH INSURANCE PREMIUM/AUGUST 2009
036135	07/21/09	40.00	JEREMY COOKSEY (NT)	S.T.O.P TRAINING/PER DIEM/JEREMY COOKSEY
036136	07/21/09	662.98	HARD DRIVE GRAPHICS	REPAIRS TO CITY HALL SIGN/48 ORANGE T-SHIRTS/PW
036137	07/21/09	200.00	GINA LANE-LESSEL	SOCCER CAMP COACH/GINA LANE-LESSEL
036138	07/21/09	813.00	STANISLAUS CNTY SHERIFF'S	S.T.O.P TRAINING/JEREMY COOKSEY/REGISTRATION
036139	07/21/09	200.00	ERIKA VELASQUEZ	SOCCER CAMP COACH/ERIKA VELASQUEZ
Sub-Total:		----- 15533.98		
Grn-Total:		----- 15533.98		
Count:		6		

July 2009

Date.: Jul 20, 2009  
Time.: 2:37 pm  
Run by: EMILY M. FARIA

CITY OF NEWMAN  
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
036094	07/10/09	1534.34	MID VALLEY IT, INC	MONTHLY IT SERVICES/JULY 2009
036095	07/16/09	15498.00	ANTHEM BLUE CROSS	HEALTH INSURANCE PREMIUM JULY 2009
036096	07/20/09	2493.00	ALLIANCE	STRENGTHENING STANISLAUS ANNUAL INVESTMENT 09/10
036097	07/20/09	64.28	AT&T	TELEPHONE SERVICE/JULY 2009 FOR 668-3946
036098	07/20/09	200.00	ELEANOR BEACH	REFUND MEMORIAL BLDG DEPOSIT/BEACH
036099	07/20/09	200.63	BIG DAN'S CUSTOM POWDER COATIN	2 NEW TIRES MOUNTED AND BALANCED/PW
036100	07/20/09	1407.81	W.H. BRESHEARS, INC.	UNLEADED GASOLINE/DYED DIESEL/WWTP
036100	07/20/09	73.72	W.H. BRESHEARS, INC.	60 GALLONS 10W30 OIL/WWTP
036101	07/20/09	96.29	BUSINESS CARD	CAR WASHES/MEALS/GAS/MEALS/SUPPLIES
036102	07/20/09	100.00	JEFF CARTER	PARKING LOT RENT/JULY 2009
036103	07/20/09	240.50	CBA (ADMIN FEES)	DENTAL-VISION ADMIN FEES/JULY 2009
036104	07/20/09	288.51	CENTRAL SANITARY SUPPLY	CANLINERS/FOLDED PAPER TOWELS/TOILET TISSUE
036105	07/20/09	162.87	CIT TECHNOLOGY FIN SERV, INC	MS GSA OFFICE PRO PLUS/JULY 2009/PD
036106	07/20/09	28132.13	CNH CAPITAL	PAYOFF OF REMAINING BALANCE ON BACKHOE
036107	07/20/09	50.00	CARL J. COELHO (CHUCK)	Veh Operation FIRE/JULY 2009
036108	07/20/09	94.90	COMCAST CABLE	HIGH SPEED INTERNET/6/22/09 TO 7/21/09
036109	07/20/09	140.00	ECONOMIC TIRE SHOP	1 NEW TIRE MOUNTED
036110	07/20/09	650.27	ENERGY SYSTEMS	OIL AND FUEL FILTER/CANAL SCHOOL LIFT STATION
036111	07/20/09	34.95	FIREtoWIRE, INC	WEB HOSTING 7/17/09 to 8/17/09
036112	07/20/09	2857.50	GDR ENGINEERING, INC.	PROFESSIONAL SERV/JUNE 09/FRESNO STREET
036113	07/20/09	2500.00	HARLEY ENTERPRISES	LIFT METER BOXES/ADJUST HEIGHT/CLOVE & BASIL COURT
036114	07/20/09	590.86	HEWLETT-PACKARD FINANCIAL SERV	HARDWARE LEASE/7/18/09 TO 8/17/09/PD
036115	07/20/09	328.38	IKON OFFICE SOLUTIONS	COPIER LEASE/6/25/09 TO 7/24/09/PD
036116	07/20/09	623.00	KAISER PERMANENTE	HEALTH INSURANCE PREMIUM/AUGUST 2009

Date.: Jul 20, 2009  
Time.: 2:37 pm  
Run by: EMILY M. FARIA

CITY OF NEWMAN  
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
036118	07/20/09	340.00	MENEZES SALES	STEEL TOE WORK BOOTS/PERRY/VARGAS
036119	07/20/09	200.00	MAYRA MERCADO	CANCELLED USE OF MEMORIAL BLDG/MAYRA MERCADO
036120	07/20/09	297.30	MIDWAY USA	RIFLE GUN CASE/AMMUNITION CARRIER/CYLINDER BORE
036121	07/20/09	140.40	MODESTO BEE	52 WEEK SUBSCRIPTION/MODESTO BEE/PD
036122	07/20/09	2215.13	NBS	ADMIN FEES/LMD ADMINISTRATION/7/1/09 TO 9/30/09
036123	07/20/09	129.72	PERSONNEL CONCEPTS	6 CALIF & FEDERAL LABOR LAW POSTERS
036124	07/20/09	1000.60	PHILATELIC FULFILLMENT SE	4 BOXES PRE-STAMPED WINDOW ENVELOPES
036125	07/20/09	439.00	PRINCIPAL LIFE INSURANCE CO	ANNUAL LIFE INSURANCE PREMIUM/HOLLAND
036126	07/20/09	51300.00	RAMINHA CONSTRUCTION, INC	PROGRESS PAYMENT #1/WWTP EXPANSION
036127	07/20/09	75.00	LYDIA RENTERIA	REFUND MEMORIAL BLDG DEPOSIT/JAVIER CORRAL/APOSTOL
036128	07/20/09	74.00	SAN JOAQUIN VALLEY AIR	ANNUAL GENERATOR PERMIT TO OPERATE 09/10/PD
036128	07/20/09	222.00	SAN JOAQUIN VALLEY AIR	ANNUAL PERMIT TO OPERATE GENERATOR/WELL #1R 09/10
036128	07/20/09	443.00	SAN JOAQUIN VALLEY AIR	ANNUAL PERMIT TO OPERATE GENERATOR/WELL #8
036129	07/20/09	3558.06	STANISLAUS COUNTY	2009/2010 CITY'S ANNUAL CONTRIBUTION TO LAFCO
036130	07/20/09	200.00	NATIVIDAD TORRES	REFUND MEMORIAL BLDG DEPOSIT/NATIVIDAD TORRES
036131	07/20/09	1086.00	UNITED WAY OF STAN CNTY 2-1-1	FY 09-10 UNITED WAY OF STAN CNTY 211 HELP LINE
036132	07/20/09	50.00	GEORGE VARGAS	VEH OPERATION FIRE/JULY 2009
036133	07/20/09	25.00	MATTOS NEWSPAPERS, INC.	ANNUAL NEWSPAPER SUBSCRIPTION/PD
Sub-Total:		120216.72		
Grn-Total:		120216.72		
Count:	43			

**MINUTES**  
**NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY**  
**REGULAR MEETING JULY 14, 2009**  
**CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET**

1. **Call To Order** - Mayor Pro Tem Martina 7:02 P.M.
2. **Pledge Of Allegiance.**
3. **Invocation** - Mayor Pro Tem Martina.
4. **Roll Call PRESENT:** Kelly, Davis, Candea And Mayor Pro Tem Martina.  
**ABSENT:** Mayor Katen (Excused)
5. **Declaration Of Conflicts Of Interest** - None

**6. Ceremonial Matters**

- a. Recognition Of Sergeant Randy Richardson's Graduation From The Sherman Block Supervisory Leadership Institute.

Chief McGill Publicly Recognized Sergeant Randy Richardson's Graduation From The Sherman Block Supervisory Leadership Institute.

**7. Items from the Public - Non-Agenda Items**

David Reed, Newman Chamber Of Commerce, Invited Everyone To Attend The Chamber's Annual John T. Silveira Award Dinner On Saturday, July 25<sup>th</sup> At 6:00 P.M.

David Lopes Asked The Council To Look Into Issues With Neighbors Living Around His 94 Year Old Mother And Stated That He Was Concerned About Her Safety And Overall Wellbeing. Lopez Commented That He Thinks His Concerns Are Valid And Asked That Something Be Done.

**8. Consent Calendar**

- a. Waive All Readings Of Ordinances And Resolutions Except By Title.
- b. Approval Of Warrants.
- c. Approval Of Minutes Of The June 23, 2009 Regular Meeting.
- d. Approval Of City Furlough Program.

**ACTION:** On Motion By Candea Seconded By Kelly And Unanimously Carried, The Consent Calendar Was Approved.

## 9. Public Hearings

- a. Adopt Resolution No. 2009-50, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

Mayor Pro Tem Martina Opened The Public Hearing At 7:13 P.M.

There Being No Public Comment Martina Closed The Public Hearing At 7:14 P.M.

**ACTION:** On Motion By Kelly Seconded By Candea And Unanimously Carried, Resolution No. 2009-50, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4, Was Adopted.

- b. Second Reading And Adoption Of Ordinance No. 2009-6, Amending Title 9 Police Regulations, Adding Chapter 9.14 Disorderly Social Events Or Gatherings To The Newman City Code And Authorize Staff To Prepare And Publish A Summary Of Said Ordinance.

Mayor Pro Tem Martina Opened The Public Hearing At 7:16 P.M.

There Being No Public Comment Martina Closed The Public Hearing At 7:17 P.M.

**ACTION:** Ordinance No. 2009-6, Had Its Second Reading By Title Only. A Motion By Candea Seconded By Candea Said Ordinance Was Unanimously Adopted Upon Roll Call Vote And Staff Was Authorized To Prepare And Publish A Summary Of Said Ordinance.

- c. Second Reading And Adoption Of Ordinance No. 2009-7, Amending Title 9 Police Regulations, Adding Chapter 9.15 Driving Under The Influence Emergency Cost Recovery To The Newman City Code And Authorize Staff To Prepare And Publish A Summary Of Said Ordinance.

Mayor Pro Tem Martina Opened The Public Hearing At 7:18 P.M.

There Being No Public Comment Martina Closed The Public Hearing At 7:19 P.M.

**ACTION:** Ordinance No. 2009-7, Had Its Second Reading By Title Only. A Motion By Kelly Seconded By Davis Said Ordinance Was Unanimously Adopted Upon Roll Call Vote And Staff Was Authorized To Prepare And Publish A Summary Of Said Ordinance.

## 10. Regular Business

- a. Introduction And First Reading Of Ordinance No. 2009- Amending Title 5 Zoning And Adding Chapter 5.23.150 Storage Containers To The Newman City Code.

**ACTION:** Ordinance No. 2009- , Amending Title 5 Zoning And Adding Chapter 5.23.150 Storage Containers To The Newman City Code Was Introduced By Council Member Kelly. The Council Authorized Staff To Prepare And Publish A Summary Of Said Ordinance. Ordinance Had Its First Reading By Title Only.

- b. Adopt Resolution No. 2009-51, Awarding The Bid For The 2009 Street Maintenance Project And Authorizing The City Manager To Execute An Agreement For Said Project.

**ACTION:** On Motion By Kelly Seconded By Candea And Unanimously Carried, Resolution #2009-51, A Resolution Awarding The Bid For The 2009 Street Maintenance Project To Tom Mayo Construction In The Amount Of \$263,847.60 And Authorizing The City Manager To Execute An Agreement For Said Project, Was Adopted.

- c. Approve Updated Proposal For Master City Engineering Services From AECOM USA, Inc. And Authorize The City Manager To Execute An Agreement For Services.

**ACTION:** On Motion By Candea Seconded By Kelly And Unanimously Carried, The Council Approved An Updated Proposal For Master City Engineering Services From AECOM USA, Inc. And Authorized The City Manager To Execute An Agreement For Services.

- d. Adopt Resolution No. 2009- 52 Approving And Adopting Updated City Improvement Standards.

**ACTION:** On Motion By Davis Seconded By Kelly And Unanimously Carried, Resolution #2009-52, A Resolution Approving And Adopting Updated City Improvement Standards, Was Adopted.

- e. Adopt Resolution No. 2009-53, Approving The Pick-Up Of Employee Contributions To California Public Employees Retirement System (CalPERS).

**ACTION:** On Motion By Kelly Seconded By Candea And Unanimously Carried, Resolution #2009-53, A Resolution Approving The Pick-Up Of Employee Contributions To California Public Employees Retirement System (CalPERS), Was Adopted.

## **11. Items From District Five Stanislaus County Supervisor.**

Supervisor DeMartini Informed The Council That Congressman Dennis Cardoza Has Secured An Additional \$460,000.00 For Additional Studies Of The Orestimba Creek Flood Control Project. DeMartini Reminded The Council That He Will Be Giving The Council An Overview Of The West Side Healthcare Taskforce At The July 28, 2009 Council Meeting. DeMartini Explained That The West Side Healthcare Taskforce Will Be Hosting A Biggest Loser Contest As Part Of Their Health Fair On August 6, 2009 At The West Side Theatre.

## **12. Items From The City Manager And Staff.**

City Manager Holland Reminded The Council About The Two-On-Two Meeting With The School Board On Monday, July 20 ,2009 And That The Free CDBG Computer Classes Would Resume At The McConnell Center On August 11, 2009. Holland Informed The Council That The New Street Sweeping Contractor Had Begun Servicing The City And That The New Sweeping Schedule Had Been Mailed To Residents And Is Also Available On The City's Website. Holland Explained That The Development Of Hill Park Had Some Issues But That It Is Now Progressing And That Grover Landscaping Will Now Be The Contractor For The Project. Holland Thanked Rotary For Their

Generous Donation Of A New Barbeque Pit At Pioneer Park. Holland Commented That The City Had Made Repairs To Some Sidewalks Along "P" Street. Holland Remarked That The City Council Meetings Have Been A Popular Addition To The City's Website. Holland Reported The Council That The City Was Currently In Escrow With Two Properties Through The Neighborhood Stabilization Program. Holland Notified That F&A Dairy Was In The Process Of Being Sold To Saputo, Inc. Holland Mentioned That He Had Recently Attended An EDAC Meeting That Newman Will Be Submitting Funding Requests For Two Projects.

Chief McGill Informed The Council That During The Fourth Of July Weekend Six People Were Cited For Possessing Illegal Fireworks. McGill Commented That The Fourth Of July Weekend Had Been Relatively Calm But That The Following Weekend Had Been Very Busy For The Police Department Including Some Violence. Chief McGill Reported That The Police Department Will Be Launching Its First Citizen's Academy In September. Chief McGill Mentioned That The Police Department Is Collaborating With The Boy Scouts Of America To Host A Day Camp In September. Chief McGill Announced That The Second Animal Control Clinic Would Be Held Sometime In September And That Details Would Be Available In The Future.

Public Works Director Reynolds Thanked Rotary For The New Barbeque Pit At Pioneer Park. Reynolds Mentioned That The Fresno And T Street Sidewalk Infill Project Would Be Going Out To Bid In The Near Future And That The Wastewater Treatment Plant Expansion Project Is Well Underway.

### **13. Items From City Council Members.**

Council Member Davis Mentioned That Police Explorer Post Is In Need Of Some Additional Funds In Order To Attend Their Week Long Training Session In San Diego. She Stated Would Like To Donate \$300.00 From Her Allotment Of The Community -Promotions Fund To Help Send The Explorers To San Diego.

Council Member Kelly Expressed Concerns About Raised Sidewalks In His Neighborhood. Kelly Asked That \$300.00 Of His Community-Promotions Money Be Donated To The Police Explorer Post As Well. Kelly Informed Everyone That He Would Be Unable To Attend The July 28, 2009 City Council Meeting.

Council Member Martina Thanked Everyone For Attending The Council Meeting And Thanked Mr. Lopes For Coming Forward With His Concerns.

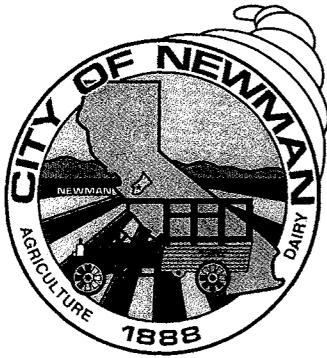
### **14. Adjourn To Closed Session - 8:08 P.M.**

- a. Conference With Legal Council - Potential Litigation - One Case - G.C. 54956.9.
- b. Public Employee Personnel Evaluation - City Manager - G.C. 54957.
- c. Return To Open Session - 8:23 P.M.

No reportable action was taken.

### **15. Adjournment.**

**ACTION:** On Motion By Candea Seconded By Kelly And Unanimously Carried, The Meeting Was Adjourned At 8:24 P.M.



**City of Newman  
City Manager's Office  
Memorandum**

**Date:** July 22, 2009

**To:** City Council

**From:** Michael E. Holland *MEH*

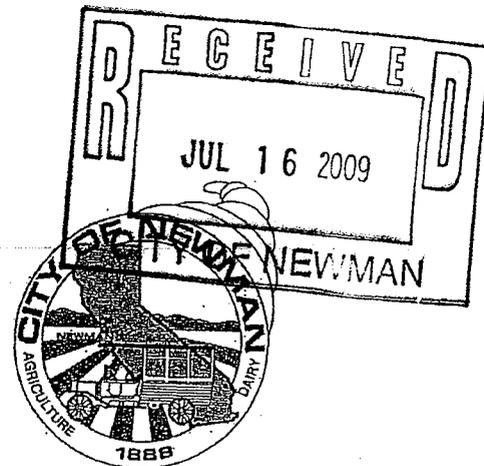
**Subject: Rejection of claim.**

A claim against the City of Newman was filed by SCM Hearthstone LLC on July 16, 2009. The City Attorney has reviewed the claim and recommends that the attached resolution be adopted rejecting said claim. A copy of the claim submitted by SCM Hearthstone LLC and the proposed resolution rejecting the claim are attached. Any discussions of the claim must be done in closed session as potential litigation.

CITY OF NEWMAN

CLAIM FORM

Form B



CLAIM AGAINST City of Newman

(Name of Entity)

Claimant's name: SCM Hearthstone LLC

Claimant's address: 1920 Standiford Ave., Suite 1, Modesto, CA 95350

Address where notices about claim are to be sent, if different from above:

P.O. Box 20, Stockton, CA 95201-3020

Date of incident/accident: n/a

Date injuries, damages or losses were discovered: Failed to respond to demand of July 1, 2009

Location of incident/accident: n/a

What did entity or employee do to cause this loss, damage or injury? Failed to refund unused

portions of deposit.

(Use back of this form or separate sheet if necessary to answer this question in detail)

What are the names of the entity's employees who caused this injury, damage or loss (if known)?

What specific injuries, damages, or losses did claimant receive? Loss of revenues, consequential

damage and attorney fees.

(Use back of this form or separate sheet if necessary to answer this question in detail)

What amount of money is claimant seeking, or if amount is in excess of \$10,000, which is the appropriate court of jurisdiction: Note: If Superior and Municipal Courts are consolidated you must represent whether it is a "limited civil case" [see Government Code 910(f)].

Stanislaus Superior Court Unlimited Civil Case

How was this amount calculated (please itemize)? Amount to be determined by City reconciliation.

(Use back of this form or separate sheet if necessary to answer this question in detail)

Date Signed: 7/16/09 Signature: [Handwritten Signature]

If signed by representative: Representative's Name Clifford W. Stevens Address 509 W. Weber Ave. Stockton, CA

Telephone # (209) 948-8200

Relationship to Claimant Legal Counsel



77595-35720

*Clifford W. Stevens*

509 WEST WEBER AVENUE  
FIFTH FLOOR  
STOCKTON, CA 95203

POST OFFICE BOX 20  
STOCKTON, CA 95201-3020

(209) 948-8200  
(209) 948-4910 FAX

FROM MODESTO:  
(209) 577-8200  
(209) 577-4910 FAX

*Via U.S. Mail and Email*

July 16, 2009

Michael E. Holland  
City of Newman  
P.O. Box 787  
Newman, CA 95360

Re: SCM Hearthstone LLC Claim (CA Government Code Section 910)  
July 1, 2009 Demand

Dear Mr. Holland:

On behalf of our client SCM Hearthstone LLC, a demand for refund and instructions for deposited funds was presented to the City of Newman on July 1, 2009. The demand requested a response and satisfaction on or before July 15, 2009. To date, SCM Hearthstone LLC has not received a refund of deposited funds held in trust by the City of Newman, nor has it received a response to the July 1, 2009 letter and the corresponding reconciliation.

Please find enclosed the City of Newman Claim Form under CA Government Code Section 910.

If you have any questions, please feel free to contact me directly.

Sincerely,

CLIFFORD W. STEVENS  
Attorney at Law

Cc: Newman City Council Members:

Mayor Ed Katen  
Robert Martina  
Nicholas Candea  
Roberta Davis  
Ted Kelly  
Thomas Hallinan, City Attorney  
Steve Mothersell

**RESOLUTION NO. 2009-**

**A RESOLUTION REJECTING THE CLAIM OF SCM HEARTHSTONE LLC**

WHEREAS, a claim for damages in an amount within the Superior Court jurisdiction was filed against the City of Newman by SCM Hearthstone LLC, on July 16, 2009 for alleged damages.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that it hereby rejects the said claim for alleged damages in an amount within the Superior Court jurisdiction against the City of Newman for alleged damages.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 28<sup>th</sup> day of July, 2009, by Council Member \_\_\_\_\_, who moved its adoption, which motion was duly seconded and it was upon roll call carried and the resolution adopted by the following roll call vote:

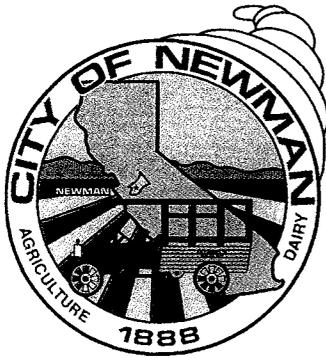
AYES:  
NOES:  
ABSENT:

APPROVED:

\_\_\_\_\_  
Mayor of the City of Newman

ATTEST:

\_\_\_\_\_  
Deputy City Clerk



**City of Newman  
City Manager's Office  
Memorandum**

**Date:** July 22, 2009

**To:** Redevelopment Agency Board

**From:** Michael E. Holland, Executive Director *MEH*

**Subject: Disclosure Forms for RDA Plan Amendment**

In January 2009, the Newman Redevelopment Agency authorized a Plan amendment to be conducted by Urban Futures, Inc. As part of the process, the Agency Board and staff are required to disclose any direct or indirect financial interest in any property included within the a project area. As recommended by Agency legal counsel, the attached letter is being submitted into the minutes as part of the permanent record.



**McDonough Holland & Allen PC**  
Attorneys at Law

**Iris P. Yang**  
Attorney

Sacramento Office  
916.444.3900 tel  
916.444.8334 fax  
iyang@mhalaw.com

July 22, 2009

Members of the City Council  
of the City of Newman  
Members of the Redevelopment Agency  
of the City of Newman and  
Members of the Planning Commission  
of the City of Newman

Re: Newman Redevelopment Plan Amendment

Ladies/Gentlemen:

The purpose of this letter is to inform all concerned of the requirements of Section 33130 of the Health and Safety Code which (1) prohibit the acquisition of a financial interest in a redevelopment project area; and (2) require the disclosure of any existing financial interest within a redevelopment project area. This section is separate from and imposes different requirements from those of the Political Reform Act of 1974.

The requirements of the section apply to any agency or city officer or employee who, in the course of his or her duties, is required to help formulate or to approve plans or policies for redevelopment of a project area. Thus, it includes not only the City Council and Redevelopment Agency members but also the City Manager, Planning Commissioners, and City and Agency staff.

The section has three specific provisions. First, it requires that any such officer or employee who owns or has any direct or indirect financial interest in any property included within a project area immediately make a written disclosure of that interest to the Agency and the City Council. Failure to make such disclosure constitutes misconduct in office.

Second, except as described in the following paragraphs, Section 33130 strictly prohibits any officer or employee from acquiring an interest in any property included within a project area. The section provides an exception for an officer or employee who is acquiring an interest as an owner or who is reentering into business if that person has owned a substantially equal interest as that being acquired for the three years immediately preceding the selection of the project area.

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Members of the City Council of Newman  
Members of the Redevelopment Agency of Newman and  
Members of the Planning Commission of Newman  
July 22, 2009  
Page 2

Third, Section 33130 provides that a rental agreement or lease of property which meets all of the conditions described below is not an interest in property for purposes of the prohibition. The four conditions are:

1. The rental or lease agreement contains terms which are substantially equivalent to the terms of a lease available to the public for comparable property in the project area.
2. The rental or lease agreement prohibits subleasing the property for a rate higher than the one set in the original agreement.
3. The property being rented is used in the pursuit of the principal business, occupation, or profession of the officer or employee.
4. The officer or employee must immediately make a written disclosure of the lease or rental agreement to the Agency and the legislative body.

In addition, Section 33130.5 permits an officer, employee, consultant, or agent of the Agency or City to purchase or lease property within a project area for personal residential use subject, however, to certain restrictions. The Agency must first certify that the improvements to be built or other work to be done on the property to be leased or purchased has been completed or that no work needs to be done on the property. Any such officer or employee who purchases or leases such property must immediately disclose that fact in writing to the Agency and the City Council, and the disclosure must be entered on the Agency's minutes. Any such officer or employee is thereafter disqualified from voting on any matters directly affecting such lease, purchase, or residency. A failure to disclose such interest constitutes misconduct in office.

A sample form for use in disclosing interests in the Newman Redevelopment Project Area is attached. Completed forms must be kept on file in the Agency's offices.

This letter shall be entered into the minutes of the City Council of the City of Newman and the Redevelopment Agency of the City of Newman.

Very truly yours,

Iris P. Yang

Attachments

DISCLOSURE STATEMENT

List any direct or indirect financial interest in any property included within the Newman Redevelopment Project Area (shown on attached map).

Location	Nature of Financial Interest (e.g., business, ownership, income)

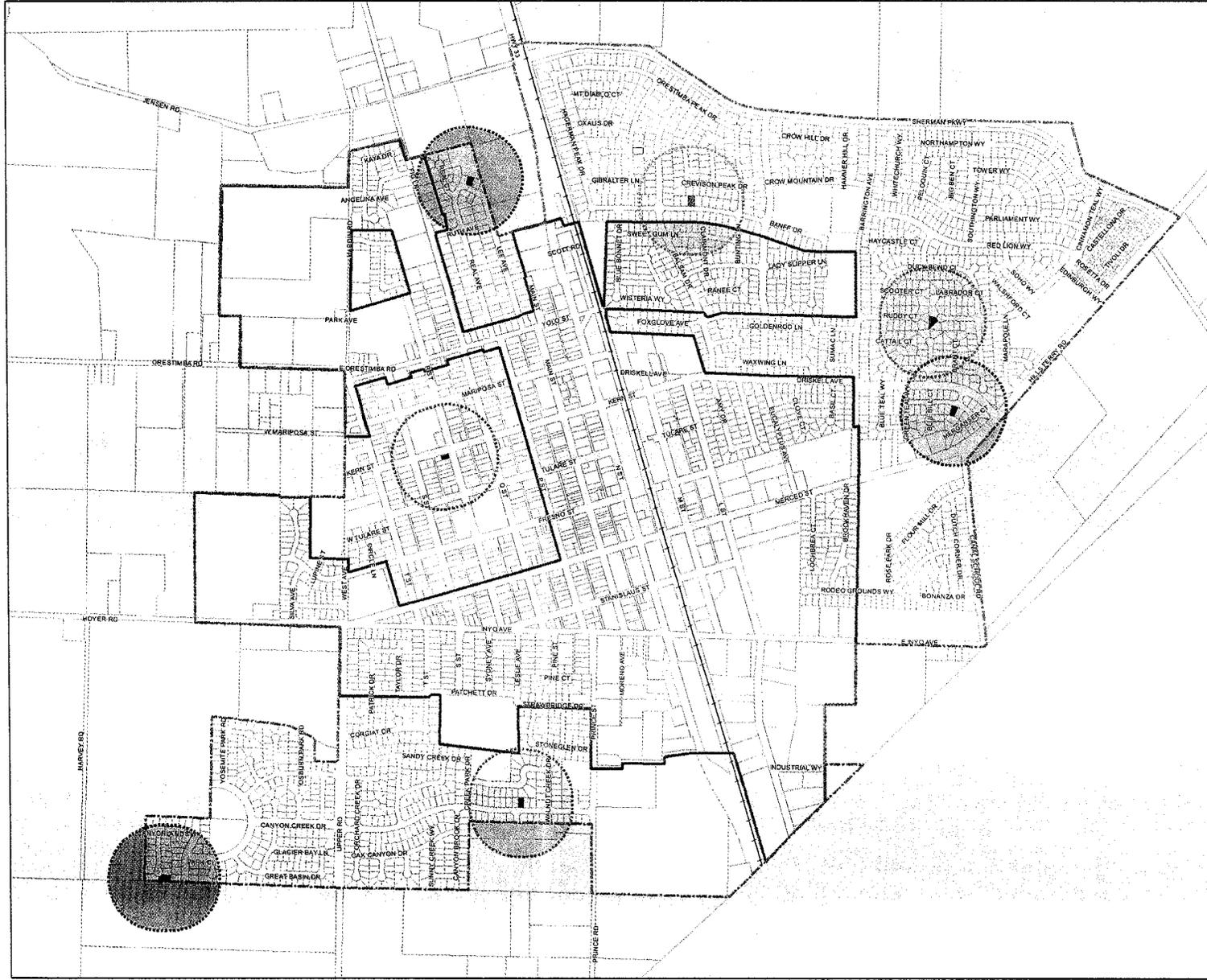
Date: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title or Position

Attach: Map

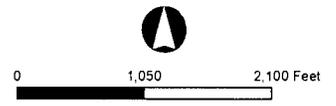
H&SC §33130  
H&SC §33130.5



**LEGEND**

- City Limits
- Existing Project Area
- Location of Real Property and Business Interests\*\*  
(Name; Position; Type of Interests)
- Katen, Ed\*; Mayor; Residence
- Candea, Nicholas\*; Council Member; Residence
- Davis, Roberta; Residence
- Kelly, Edward\*; Council Member; Residence
- Martina, Robert; Council Member; Residence
- Martina, Robert; Council Member; Rental Property
- Holland, Mike; City Manager; Residence
- Holland, Mike; City Manager; Rental Property

\* No reportable interests on the California Form 700.  
 \*\* Dotted lines indicate 500 feet from parcel boundaries.  
 (Please note that the locations of real property and business interests are based on the California Form 700s provided by the City in April 2009.)



**Newman Redevelopment Agency**

**PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE NEWMAN REDEVELOPMENT PROJECT**

**CITY COUNCIL/AGENCY BOARD MEMBERS AND CERTAIN CITY STAFF MEMBER LOCATION OF REAL PROPERTY AND/OR BUSINESS INTERESTS**

(California Code of Regulations Section 18704.2)



Prepared By: Urban Futures, Inc.  
 Source: Urban Futures, Inc.  
 Base Map Source: City of Newman  
 Date: 05/21/09  
 File: NM\_CCL\_CC\_v2.mxd

California Community Redevelopment Law

Health and Safety Code Section 33130

**§33130. Acquisition of interest in property in project area by agency personnel:  
Disclosure: Failure to disclose as misconduct**

(a) No agency or community officer or employee who in the course of his or her duties is required to participate in the formulation of, or to approve plans or policies for, the redevelopment of a project area shall acquire any interest in any property included within a project area within the community. If any such officer or employee owns or has any direct or indirect financial interest in property included within a project area, that officer or employee shall immediately make a written disclosure of that financial interest to the agency and the legislative body and the disclosure shall be entered on the minutes of the agency and the legislative body. Failure to make the disclosure required by this subdivision constitutes misconduct in office.

(b) Subdivision (a) does not prohibit any agency or community officer or employee from acquiring an interest in property within the project area for the purpose of participating as an owner or reentering into business pursuant to this part if that officer or employee has owned a substantially equal interest as that being acquired for the three years immediately preceding the selection of the project area.

(c) A rental agreement or lease of property which meets all of the following conditions is not an interest in property for purposes of subdivision (a):

(1) The rental or lease agreement contains terms that are substantially equivalent to the terms of a rental or lease agreement available to any member of the general public for comparable property in the project area.

(2) The rental or lease agreement includes a provision which prohibits any subletting, sublease, or other assignment at a rate in excess of the rate in the original rental or lease agreement.

(3) The property which is subject to the rental or lease agreement is used in the pursuit of the principal business, occupation, or profession of the officer or employee.

(4) The agency or community officer or employee who obtains the rental or lease agreement immediately makes a written disclosure of that fact to the agency and the legislative body.

California Community Redevelopment Law

Health and Safety Code Section 33130.5

**§33130.5. Officer or employee acquiring agency property for residential use: Full disclosure**

Notwithstanding any other provisions of law, an officer, employee, consultant, or agent of the agency or community, for personal residential use, may purchase or lease property within a project area after the agency has certified that the improvements to be constructed or the work to be done on the property to be purchased or leased have been completed, or has certified that no improvements need to be constructed or that no work needs to be done on the property. Any such officer or employee who purchases or leases such property shall immediately make a written disclosure to the agency and the legislative body, which disclosure shall be entered on the minutes of the agency. Any such officer or employee shall thereafter be disqualified from voting on any matters directly affecting such a purchase, lease, or residency. Failure to so disclose constitutes misconduct in office.

Honorable Mayor and Members  
of the Newman City Council

Agenda Item: **9.a.**  
City Council Meeting  
of July 28, 2009

**REPORT ON PROPOSED ORDINANCE AMENDING TITLE 5, ZONING,  
OF THE NEWMAN MUNICIPAL CODE**

**RECOMMENDATION:**

1. Open Public Hearing
2. Conduct Second Reading of Proposed Ordinance #2009- amending Title 5, Zoning, of the Newman Municipal Code.
3. Approve Ordinance #2009-

**BACKGROUND:**

The proposed ordinance was introduced at the July 14, 2009 meeting of the Newman City Council.

**ANALYSIS:**

Taking a proactive approach by prohibiting/regulating the amount of time a storage container may be placed on residential property will address the inappropriate utilization of temporary storage containers in residential districts.

To further assist in maintaining the quality of neighborhood expected by our residents, the proposed ordinance amendment will (1) provide a definition of storage containers and (2) regulate the usage of said containers

**FISCAL IMPACT:**

1. Costs associated with the adoption of this ordinance are nominal.
2. A proposed application fee in the amount of \$50.00 will be submitted to Council for approval through resolution on the August 11, 2009 regular meeting.

**CONCLUSION:**

Staff recommends Council approval of the proposed ordinance amending Newman Municipal Code Title 5, Zoning.

**ATTACHMENTS:**

1. Exhibit A – First Reading Council Staff Report.

Respectfully submitted,



Stephanie Ocasio  
Assistant Planner

**REVIEWED/CONCUR**



Michael Holland  
City Manager

Honorable Mayor and Members  
of the Newman City Council

**REPORT ON PROPOSED ORDINANCE AMENDING TITLE 5, ZONING,  
OF THE NEWMAN MUNICIPAL CODE**

**RECOMMENDATION:**

It is recommended the City Council introduce by title and waive further reading of the attached ordinance amending Title 5, Zoning, of the Newman Municipal Code.

**BACKGROUND:**

An issue often arising in the Code Enforcement field is the utilization of temporary storage containers in residential districts. More frequently, these temporary storage containers are left for months, if not years and can become not only a visual nuisance but a health and safety hazard as well. Additionally, the permanent placement of such containers in residential areas has the potential to adversely affect lot coverage, set back and the aesthetic quality of Newman's neighborhoods.

Taking a proactive approach by prohibiting/regulating the amount of time a storage container may be placed on residential property will address this matter and assist in maintaining the neighborhood quality expected by our residents.

**ANALYSIS:**

Currently, the municipal code does not include language pertaining to the use of storage containers. Given the emergence of said containers in recent years, staff felt that an ordinance amendment was necessary to regulate the issue. The proposed ordinance will (1) provide a definition of storage containers and (2) regulate the usage of said containers.

The intent of the proposed ordinance is as follows:

1. To prohibit the utilization of storage containers as an accessory buildings in residentially zoned areas.
2. To regulate the temporary keeping of storage containers for residential remodel/addition purposes.

The proposed ordinance would add a definition for "Storage Containers" and regulations for the temporary usage of said containers to Title 5 of the Newman Municipal Code. This ordinance will prohibit the utilization of storage containers as accessory buildings in residential zones and provide for the temporary usage of storage containers for ~~locations with an active building permit for a residential remodel or addition of 100 square feet or more (or~~ extenuating circumstances that exist that necessitate the use of a storage container for a temporary use). Examples ~~of this would include homes that are currently being remodeled where building materials and/or equipment need to~~ be secured.

The temporary usage of storage containers will be monitored through the use of a temporary storage container permit issued by the Community Development Department. This permit will allow a storage container to be utilized for a period not to exceed 60 days and may be extended once for 30 days; for a maximum of 90 days total. Should a temporary storage container permit be approved, the following conditions would apply:

1. An insurance certificate (explicitly covering said container) providing liability insurance in the amount of \$100,000 provided by the company supplying the storage container or proof of homeowner's insurance coverage by the property owner.
2. Temporary storage containers shall not be used as living space.
3. The storage container shall be kept in good condition and free of graffiti.
4. Electrical power shall not be provided to the storage container.
5. No more than one container may be located on a lot at any time, and the container shall be no larger than 8 feet in height and 8 feet wide by 20 feet long.
6. In no instance shall the container encroach into or be located within the public right-of-way.

ORDINANCE NO. 2009-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN AMENDING  
TITLE 5 ZONING**

WHEREAS, the placement of Storage Containers by private parties on City streets, roadways or alleys, has generated complaints from citizens regarding safety, parking and aesthetic value; and

WHEREAS, the current Municipal Code does not address the regulation of Storage Containers placed on City streets, roadways or alleys; and

WHEREAS, there is a need for adequate land use regulation related to the placement of storage containers in order to promote use of property that is compatible with the character of surrounding properties; and

WHEREAS, The placement and use of storage containers as permanent accessory structures or for long-term storage is detrimental to the appearance of residential property and surrounding properties within the City of Newman; and

WHEREAS, the absence of a provision in the Municipal Code addressing the regulation of said containers in the City is not practical; and

WHEREAS, there is a legitimate public purpose in the adoption of regulations that restrict the use of such structures;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWMAN DOES ORDAIN AS FOLLOWS:

Section 1.

Title 5, Chapter 5.01.070 of the Newman City Code is amended as follows:

5.01.070 Definitions.

For the purposes of this title certain terms are hereby defined. All definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future; words used in the singular shall include plural; the word "shall" is mandatory, and the word "may" is permissive. Definitions of the terms used in this title are as follows:

"A-frame sign" means a freestanding sign usually hinged at the top, or attached in a similar manner, and widening at the bottom to form a shape similar to the letter "A." Such signs are usually designed to be portable, hence they are not considered permanent signs.

"Abandoned sign" means any display remaining in place or not maintained for a period of 120 days or more which no longer advertises or identifies an ongoing business, product, or service available on the business premises where the display is located.

"Abutting" or "adjoining" means having district boundaries or lot lines in common.

"Accessory building" means a building or structure which is subordinate to, and the use of which is customarily incidental to that of the main building, structure or use on the same site, not including arbors, patio covers, lath houses, pergolas, *storage containers* or similar structures. If any accessory building is attached to the main building by a common wall or connecting roof, such accessory building shall be deemed to be a part of the main building.

"Accessory residential unit (also known as secondary or second dwelling unit)" means an attached or detached dwelling unit that is located on a single lot with another primary dwelling unit and provides complete facilities for independent living for one or more persons. These facilities include permanent provisions for living, sleeping, cooking and sanitation.

function relating to the use of outdoor space, but not including a house, garage, carport or storage building; provided, that it is not located within the front-yard setback or side-yard setback area of a main building.

“Arcade” means any establishment operating or exhibiting six or more amusement devices. An amusement device is a machine operated for the purpose of gaming as a contest of skill, or for amusement of any description, for which a fee is charged.

“Attached sign” means any sign which is affixed to and made an integral part of a building or structure. Attached signs include, but are not limited to, wall signs, roof signs, and projecting signs, to distinguish them from freestanding and ground signs.

“Awning” means a temporary or permanent structure attached to, or supported by, a building, designed for aesthetics, or shelter over a pedestrian or vehicular way and which may or may not project over public property.

“Balcony” means a platform that projects from the wall of a building, typically above the first level, and is surrounded by a rail, balustrade or parapet.

“Banner, flag, pennant or balloon” means any cloth, plastic, paper, or similar material used for advertising purposes attached to any structure, staff, pole, line, framing or vehicle, including captive balloons and inflatable signs but not including official flags of the United States, the State municipalities, official flags of foreign nations and nationally or internationally recognized organizations.

“Base density” means the number of dwelling units on a particular parcel of land which is in conformance with the General Plan and zoning.

“Basement” means any area of the building having its floor subgrade – i.e., below ground level – on all sides.

“Bed and breakfast inn” means an owner-occupied single-family dwelling where overnight lodging and a breakfast meal are provided to transient guests in a home atmosphere for compensation and where said accommodation is clearly subordinate to the primary residential function of the property.

“Block” means all property fronting upon one side of a street, between intersecting and intercepting streets, or between a street and railroad right-of-way, waterway, dead-end street or unsubdivided land. An intercepting street shall determine only the boundary of the block on the side of a street which it intersects.

“Blockface” means the properties abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street, unsubdivided land, watercourse, or City boundary.

“Boardinghouse” means a dwelling other than a hotel where lodging or lodging and meals for three or more persons is provided for financial or other compensation.

“Breezeway” means a roofed, open-sided passageway connecting two structures, such as a house and a garage.

“Building” means any structure having a roof supported by columns or by walls and designed for the shelter, housing or enclosure of any person, animal, chattel or property of any kind and having a fixed location upon the ground.

“Building height” means the vertical distance from the finished grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or from average grade to the highest gable of a pitch or hip roof.

“Building, main” means a building in which is conducted the principal use of the lot and/or building site on which it is situated.

“Building setback line” means the minimum distance as prescribed by this title between any property line, and the closest point on the foundation or any supporting post or pillar of any building or structure related thereto.

“Building site” means a lot or parcel of land, in single or joint ownership, and occupied or to be occupied by a main building and accessory buildings, or by a dwelling group and its accessory buildings,

to the citizens of the City, the Central Valley, the Northern California region, the State as a whole, or the Nation which may be eligible for designation or designated and determined to be appropriate for historic preservation by the Architectural Review Commission, or by the City Council on appeal, pursuant to the provisions of this chapter.

Day, Working and Calendar. For purposes of applying time periods within the context of this title, a period of 10 days or less will utilize a "working day" standard and 11 or more days will utilize a "calendar day" standard. A "working day" shall mean Monday through Friday except where one of these days is a recognized holiday and the City of Newman Business Offices are not open to conduct public business. "Calendar day" is considered any consecutive span of 24-hour days within a 365-day calendar.

"Deck" means a platform, either freestanding or attached to a building, that is supported by pillars or posts. See also "balcony."

"Demolition" means any act or process that destroys in whole or in part a building or structure.

"Design Review Committee" means the Architectural Review Committee of the City.

"Development" means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Dilapidated sign" means any sign or element of a sign which is excessively weathered or structurally unsound, or where the copy can no longer be seen or understood by a person with normal eyesight under normal viewing conditions.

"District" means a portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, all as set forth and specified in this title.

"Driveway" means a paved area on a lot necessary to provide direct access for vehicles between a street and either:

1. An area on a residential lot containing four or fewer parking spaces;
2. An aisle adjacent to parking spaces and providing access to a parking lot;
3. A loading berth; or
4. A refuse storage area.

"Dump" means a place used for the disposal, abandonment or discarding by burial, incineration or by any other means of any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals.

"Duplex." See "dwelling, two-family or duplex."

"Dwelling" means a building or portion thereof designated and used exclusively for residential occupancy, including one-family, two-family, three-family dwellings and apartments, multiple-family dwellings, but not including hotels, motels or boarding houses.

"Dwelling groups" means a group of two or more detached or semi-detached, one-family, two-family or multiple dwellings occupying a parcel of land in one ownership and having any yard or court in common.

"Dwelling, multiple" means a building or portion thereof, used and designed as a residence for four or more families living independently of each other and doing their own cooking in said building, including apartment houses, apartment hotels and flats, but not including motels, boarding houses and hotels.

"Dwelling, single-family" means a building designated for, or used to house not more than one family, including all necessary employees of such family.

"Dwelling, two-family (halfplex)" means a building designed for occupancy by two families living independently of each other, where each dwelling unit is attached and located on a lot which may be separately owned or conveyed.

"Dwelling, two-family or duplex" means a building containing not more than two kitchens, designed and/or used to house not more than two families, living independently of each other, including all necessary employees of each such family.

- “Garage or carport” means accessible and usable covered space of not less than nine feet by 20 feet each for a storage of motor vehicles.
- “Garage, repair” means a structure or part thereof, other than a private garage, where motor vehicles are repaired or painted.
- “Garden structure” means an arbor, deck, fountain, lath house, pergola, raised planting bed, trellis or other similar structure intended specifically to enhance the appearance of the garden or which has a function relating to the use of outdoor space, but not including a house, garage, carport or storage building.
- “General Plan” means the City of Newman General Plan, as amended.
- “Grade, average” means the average level on the surface defined as the shortest distance between finished grade at the highest and lowest sides of a structure.
- “Grade, existing” means the level of the ground or pavement at a stated location as it exists prior to disturbance in preparation for a project regulated by this title.
- “Grade, finished” means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.
- “Grade, street” means the top of the curb, or the top of the edge of the pavement or traveled way where no curb exists.
- “Guesthouse” means detached living quarters of a permanent type of construction and without kitchens or cooking facilities, and where no compensation in any form is received or paid.
- “Hazardous waste” means any waste, or combination of wastes as specified in Title 22 of the California Code of Regulations, which because of its quantity, concentration, physical, chemical or infectious characteristics may either cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible illness, or pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of, or otherwise managed.
- “Height” means the vertical dimension measured from finished grade, unless otherwise specified.
- “Height of building” means the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof, excluding elevator equipment rooms, ventilating and air conditioning equipment.
- “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- “Highway-oriented use” means any professional, retail/commercial, or industrial use located on property within 200 feet of the State Highway 33 right-of-way.
- “Historic district” means any area containing a concentration of improvements which have a special character, historical interest or aesthetic value, which possess integrity of location, design, setting, materials, workmanship, feeling and association, or which represent one or more architectural periods or styles typical of the history of the City, and that has been designated a historic district.
- “Home occupation” means a use or activity in any R District that is incidental, secondary and in addition to the principal use of a lot or site as a residence, conducted on the site of such residence, and established in accordance with the provisions of Chapter 5.20 NCC.
- “Hotel.” See “motel or hotel.”
- “Household pets” means domestic animals ordinarily permitted in a place of residence, kept for company and pleasure, such as dogs, cats, domestic birds, guinea pigs, white rats, rabbits, mice and other similar animals generally considered by the public to be kept as pets, excluding fowl and not including animals maintained as part of a formal school or 4-H sponsored youth animal husbandry project. For one-family residences, three adult dogs maximum, three adult cats maximum, two adult rabbits maximum, domestic birds and other similar animals are permitted, where the total number of adult animals in one place of residence shall not exceed 10. For multiple-family residences, including mobile homes in mobile home parks, one adult dog maximum, one adult rabbit maximum, two adult cats maximum, domestic birds and other similar

“Lot, through” means a lot having frontage on two parallel or approximately parallel streets.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“Manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

May. “May” is permissive; “shall” is mandatory.

“Medical building” means clinics or offices for doctors, dentists, oculists, chiropractors, osteopaths, chiropodists or similar practitioners of the healing arts, including accessory laboratories and a prescription pharmacy, but not including offices for veterinarians.

“Mobile recycling unit” means an automobile, truck, trailer, or van, licensed by the State Department of Motor Vehicles which is used for the collection of recyclable materials, including the bins, boxes or containers transported by trucks, vans or trailers and used for the collection of recyclable materials.

“Mobile home” means a structure having multiple sections equaling or exceeding exterior dimensions or eight feet in width and 40 feet in length, having a chassis and designed to be movable, with kitchen, bathroom and living facilities, designed for use as a single-family dwelling when connected to appropriate utility lines, with or without a permanent foundation.

“Mobile home parks” means any parcel or contiguous parcels of land under single ownership, designed or intended to be used to accommodate mobile homes on a permanent or semi-permanent basis.

“Motel or hotel” means a single building or a group of detached or semi-detached buildings containing guest rooms or guest apartments, which group is designed and used primarily for the accommodation of transient travelers.

“Motion picture and television filming” means all activity relevant to staging or shooting commercial motion pictures, television shows or programs, and commercials.

“Natural feature” means any tree, plant life, water feature, or rock outcropping.

“News media” means the filming or videotaping for the purpose of spontaneous, unplanned television news broadcast by reporters, photographers or cameramen.

“Nonconforming sign” means a sign, outdoor advertising structure, or display of any character that was lawfully erected or displayed, but that does not conform with currently applicable requirements prescribed for the district in which it is located by reason of adoption or amendment of this title, or by reason of annexation of territory to the City.

“Nonconforming structure” means a structure that was lawfully erected but which does not conform with the currently applicable requirements and standards for yard spaces, height of structures, or distances between structures prescribed in the regulations for the district in which the structure is located by reason of adoption or amendment of this title, or by reason of annexation of territory to the City.

“Nonconforming use” means a lawful use of land which no longer conforms to the provisions of this title.

“Nursery school” means a school, family day care facility or the use of a site or a portion of a site for an organized program devoted to the education or day care of five or more pre-elementary school-age children, including those residents on the site.

“Nursing home” means a structure operated as a boardinghouse in which nursing, dietary and other personal services are rendered to convalescents, not including persons suffering from contagious diseases, and in which surgery is not performed and primary treatment, such as customarily is given in hospitals and sanitariums, is not provided. A convalescent home shall be deemed a nursing home.

spools of wire, pipe, conduit, transformers, cross-arms, utility poles or any other material, tool or supply necessary for the normal maintenance of the utility facilities.

“Railroad right-of-way” means a strip of land of a maximum width of 100 feet only for the accommodation of main lines or branch line railroad tracks, switching equipment and signals, but not including lands on which stations, offices, storage buildings, spur tracks, sidings, section gang and other employee housing, yards or other uses are located.

“Reconstruction” means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object, or a part thereof, as it appeared at a specific period of time.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Recyclable material” means reusable material including, but not limited to, metals, glass, plastic and paper which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. “Recyclable material” does not include refuse or hazardous materials, but may include used motor oil.

“Recycling facility” means a center for the collection and/or processing of recyclable materials.

“Rehabilitation” means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

“Residence” means a structure containing a dwelling unit designed for occupancy or occupied by one family or more.

“Residential care facility” means a structure or dwelling unit used for residential purposes as defined in State law that is licensed by the State of California for six or fewer residents and is exempt from local regulation under the licensing provisions of State law.

“Rest homes or homes for the aged” means an establishment or homes intended primarily for the care and nursing of invalids and aged persons, excluding cases of communicable diseases and surgical or obstetrical operations. Any premises licensed under Section 1253 or other applicable section of the Health and Safety Code of the State of California. The term shall not include nursing home.

“Restaurant” means an establishment which serves food or beverages primarily to persons seated within the building. This includes cafes and tearooms and outdoor cafes.

“Restoration” means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

“Reverse vending machine” means an automated mechanical device that accepts at least one or more types of empty beverage containers including aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip. A “reverse vending machine” may sort and process containers mechanically; provided, that the entire process is enclosed within the machine.

1. A single-feed reverse vending machine is designed to accept individual containers one at a time.
2. A bulk reverse vending machine is designed to accept more than one container at a time and to compute the refund or credit due on the basis of weight.

“Reversed corner lot” means a corner lot, the street side of which is substantially a continuation of the front lot line of the lot upon which it rears.

“Room, habitable” means a room meeting the requirements of the Uniform Building Code and Uniform Housing Code for its intended use (e.g., sleeping, living, cooking, or dining), excluding such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors,

necessary for the direction or safety of the public; and signs, notices or symbols as to the time and place of civic meetings.

4. Freestanding or Ground Sign. Any sign supported by structures or supports, placed or anchored in the ground and that is independent from any building or other structure.
5. Grand Opening Sign. A sign used by newly established businesses to inform the public of their location and services.
6. Ground Sign. A ground sign is a freestanding sign six feet or less in height.
7. Incidental Sign. A small sign pertaining to goods, products, services or facilities that are available on the premises where the sign occurs and intended primarily for the convenience of the public.
8. Nameplate Sign. A sign attached to a building that designates the names and/or address of a business, and/or the words "entrance" or "exit."
9. Marquee. A permanent roofed structure attached to and supported by a building and projecting over public property.
10. Monument Sign. A specific type of ground sign supported from grade to the bottom of the sign with the appearance of having a solid base. These signs are generally located at the primary entry points to a project, and identify the name of a center or group of buildings rather than that of an individual tenant.
11. Off-Site Advertising on Billboard. Any sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or offered at the property on which the sign is located.
12. Open House Sign. A temporary sign that identifies a building for sale or lease which is open and available for inspection, and sets forth no other advertisement.
13. Portable Sign. Any sign not permanently attached to the ground or other permanent structure, or uses that depend on frequently changing events.
14. Projecting Sign. Any sign permanently attached to a building and projecting at not more than four feet over a sidewalk or other pedestrianway. A projecting sign shall be a single perpendicular plane located not less than eight feet or more than 12 feet above a sidewalk or pedestrian walkway. Projecting signs shall be made of wood or wood-like material and shall not be directly illuminated. Each sign area is limited to six square feet per face.
15. Reader Board. A sign constructed so that individual letters or other advertising material can easily be changed, used only by businesses, activities or uses that depend on frequently changing events.
16. Special Events Sign. A temporary sign advertising or pertaining to any civic, patriotic, or special event of a general public interest taking place within the County.
17. Subdivision Directional Sign. A sign providing direction to a land development project within the City.
18. Temporary Sign. Nonilluminated signs which are designed to be displayed for a short period of time; are not permanently affixed to a building or property; and/or are constructed of lightweight materials such as paper, cloth, cardboard, wallboard, etc.
19. Window Sign. Any sign that is painted, applied or attached to a window or located in such a manner that it can be seen from the exterior of the structure.

"Signs" means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity, or communicate information of any kind to the public.

"Site" means a lot, or group of contiguous lots not divided by a street, other right-of-way, or City limit, that is proposed for development in accord with the provisions of this chapter, and is in a single ownership or under unified control.

"Site area" means the total horizontal area included within the property lines of a site.

"Specific plan" means a plan for a defined area that is consistent with the General Plan and with the provisions of the California Government Code authorizing specific plans.

“Use, conditional” means a use which is listed as a conditional use in any given district in this title.

Conditional uses may be required to meet certain requirements as a condition precedent to the granting of a use permit which will allow the establishing of a conditional use in any given district.

“Use, permitted” means a use which is listed as a permitted use in any given district in this title.

Permitted uses need not meet special requirements as a condition precedent to be allowed to establish in a given district.

“Used” means arranged, designed, constructed, altered, rented, leased, sold, occupied, and intended to be occupied.

“Visible” means capable of being seen (whether or not legible) by a person of normal height and visual acuity walking or driving on a public road.

“Visitor-serving use” means a use that is oriented toward serving the traveling public including, but not limited to, hotels, motels, gas stations, and restaurants.

“Wetland” means an area that is inundated or saturated by water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

“Window, required” means an exterior opening in a habitable room meeting the area requirements of the Uniform Building Code and Uniform Housing Code.

“Yard” means an open space other than a court on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward.

#### Yard Types.

1. Corner Side Yard. A side yard on the street side of a corner lot.
2. Yard, Front. A yard extending across the front of the lot between the side lot lines and measured from the front line of the lot to the nearest line of the building; provided, however, that if any Official Plan line has been established for the street upon which the lot faces, the front yard measurement shall be taken from such Official Plan line to the nearest line of the building.
3. Yard, Rear. A yard extending across the full width of the lot and measured between the rear line of the lot and the nearest line of the main building.
4. Yard, Side. A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.

“Zoning Ordinance” means the Zoning Ordinance of the City of Newman, as amended. (Ord. 2000-1 §§ 1, 2, 3, 5-23-2000; Ord. 97-17, 10-28-1997)

## Section 2.

Title 5 of the Newman City Code shall be amended to add the following section:

### 5.23.150 *Storage Containers*

*It is the intent of this section to limit, except as provided herein, the placement and use of any storage container as an accessory building, storage building or living unit on residentially zoned and other zoned land where residential uses are established. This limitation is to protect the public health and safety and the aesthetic quality of the City of Newman.*

- A. *No person shall maintain, keep, allow, use, permit, place or cause the placement of a storage container to be utilized as an accessory building, storage building or living unit on residentially zoned land and/or land used for residential purposes.*
- B. *The City, through the issuance of a temporary storage container permit, may approve the temporary maintenance or keeping of a temporary storage container for a period not to exceed sixty (60) days, subject to the existence of an active building permit for a residential remodel or addition of 100 square feet or more or submitted evidence identifying extenuating circumstances that exist that necessitate the use of a storage container for a temporary use.*
  1. *Temporary Storage Container permits will be granted for a period of 60 (sixty) days. At the expiration of the sixty-day period, applicants may seek one thirty-day extension of*

*adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.*

Section 3.

All other sections and provisions of Title 5 shall remain in full force and effect.

Section 4.

That a duly noticed public hearing was held by the City Council.

Section 5.

This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published and circulated in the City of Newman and thenceforth and thereafter the same shall be in full force and effect.

Introduced at a regular meeting of the City Council of the City of Newman held on the 14<sup>th</sup> day of July, 2009 by Council Member \_\_\_\_\_, and adopted at a regular meeting of said City Council held on the 28<sup>th</sup> day of July, 2009 by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

\_\_\_\_\_  
Mayor of the City of Newman

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

Please be aware that the issuance of a temporary storage container permit carries the following conditions:

- a. An insurance certificate (explicitly covering said container) providing liability insurance in the amount of \$100,000 provided by the company supplying the Storage Container or the property owner.
- b. Temporary storage containers shall not be used as living space.
- c. The storage container shall be kept in good condition and free of graffiti.
- d. Electrical power shall not be provided to the storage container.
- e. No more than one container may be located on a lot at any time, and the container shall be no larger than 8 feet in height and 8 feet wide by 20 feet long.
- f. In no instance shall the container encroach into or be located within the public right-of-way.
- g. The placement of the container shall be behind an enclosure and located within the side or rear yard of the property.
  - i. Such storage container shall be situated no closer than five feet to any building or property line unless otherwise approved by the City Fire Chief.
- h. In the case where placement of a storage container in a side or rear yard is not feasible, said container may be placed in the front yard or driveway of a residentially zoned lot with City approval.
  - i. Such storage container shall be situated no closer than five feet to any property line unless otherwise approved by the City Fire Chief.
- i. In the case of a corner lot abutting upon two streets, no storage container shall be erected or altered so as to project beyond the front yard required on any adjacent lot, nor shall it be located closer to either street line than is permitted for the main building on the lot.
- j. The maximum time period for the storage container to be on site is 30 days from the date of the temporary storage container permit issuance. The Community Development Department may grant up to two 30-day extensions (for a total of 90 days) if it is determined that construction activities are diligently being carried out towards a timely completion.
- k. Temporary storage containers may only be placed on property once during a calendar year and shall not be replaced for twelve months from the date of removal.

**I hereby understand and agree to the above conditions set forth by the NMC §5.23.150**

**INITIALS:** \_\_\_\_\_

**The foregoing information is true and correct to the best of my knowledge and belief. The applicant and property owner hereby acknowledge the requirements as set forth in the Newman Municipal Code and agree to comply with all County and State Laws. (BOTH MUST SIGN)**

\_\_\_\_\_  
**APPLICANT SIGNATURE**

\_\_\_\_\_  
**PROPERTY OWNER SIGNATURE  
(If Different Than Applicant)**

**For Office Use Only:**

Is application complete?

Yes  No

Proof of insurance?

Yes  No

Applicant/Property Owner Signature(s)?

Yes  No

Permit Issuance Date: \_\_\_\_\_

Permit Expiration Date: \_\_\_\_\_

Extension Date: \_\_\_\_\_

Extension Expiration Date: \_\_\_\_\_

Honorable Mayor and Members  
of the Newman City Council

**AMENDING TITLE 11, CHAPTER 11.01 – PUBLIC WAYS AND PROPERTY  
OF THE NEWMAN CITY CODE**

**RECOMMENDATION:**

It is recommended that the Newman City Council introduce an Ordinance Amending Title 11 Public Ways And Property, Chapter 11.01 of the Newman City Code to allow for the City Council of the City of Newman, adding sections regarding maintenance and repair for Trees, Landscaping and Sidewalk areas.

**BACKGROUND:**

The City currently does not have an ordinance in place requiring property owners to maintain and repair the trees, landscape areas and sidewalks adjacent to their property.

**ANALYSIS:**

Property owners are responsible to keep and maintain trees, shrubs, hedges or other landscaping along streets or within the right-of-way adjacent to their property in a non-dangerous condition to not interfere with the public convenience or safety in the use of the streets and sidewalk areas.

In addition, property owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including landscape planting strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right of way, to repair and maintain such sidewalk areas and pay the costs and expenses thereof.

The California Streets and Highways Code Chapter 22, Maintenance of Sidewalks beginning with Section 5600, states that the owners of lots or portions of lots fronting on any portion of the public street shall maintain any sidewalk in a condition which will not interfere with the public convenience in the use of the sidewalk. The term sidewalk includes the parking strip, curbs and other improvements to protect the sidewalk. The Streets and Highways Code sets forth procedures that the City must follow in order to require property owners to comply with their responsibility. Furthermore, the Americans with Disabilities Act (ADA) provides comprehensive civil rights protections to individuals with disabilities. Sidewalks and pedestrian pathways must be accessible for individuals with disabilities.

**FISCAL IMPACT:**

There are no financial impacts for the City with the approval of this Ordinance.

**CONCLUSION:**

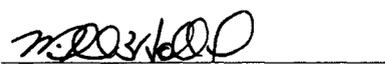
In summary, staff believes the draft ordinance will establish reasonable liability to the property owners for the maintenance and repair associated with their property. It is recommended that the City Council introduce the amended Ordinance establishing property owners as liable and responsible for the costs associated with the maintenance and repair of Trees, Landscaping and Sidewalk areas along streets or within the right-of-way adjacent to their property.

Respectfully submitted:



Garner R. Reynolds  
Public Works Director

Reviewed/Concur



Michael E. Holland  
City Manager

ORDINANCE NO. 2009-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN AMENDING  
TITLE 11 PUBLIC WAYS AND PROPERTY – OF THE NEWMAN CITY CODE**

The City Council of the City of Newman does ordain as follows:

Section 1

That Title 11 Public Ways And Property, Chapter 11.01 Public Ways Regulations, be amended to add the following sections:

**11.01.040 Trees – Property Owner Maintenance Responsibility And Duty To Public.**

A. The owner of a lot fronting on or adjacent to any portion of a street shall maintain any trees, shrubs, hedges or other landscaping along said street or within the street right-of-way adjacent to his or her property in such non-dangerous condition that the trees, shrubs, hedges or other landscaping will not interfere with the public convenience or safety in the use of the streets and sidewalks. Said owners shall maintain such street trees so that there is a minimum eight-foot vertical clearance from the top of the curb, to any part of a street tree.

B. For purposes of this part, maintenance of trees, shrubs, hedges and other landscaping includes but is not limited to: deep root altering, root pruning, installing root barriers, clearance and structural trimming, fertilizing, pest control, and removal of branches, leaves and other debris.

C. Property owners required by this section to maintain trees, shrubs, hedges and other landscaping shall owe a duty to members of the public using public streets and sidewalks to maintain such trees, shrubs, hedges or other landscaping in compliance with provisions under this title and city-adopted pruning guidelines, in a safe and non-dangerous condition for users of the public street and sidewalks.

D. If any fronting or adjacent property owners fails to maintain any adjacent trees, shrubs, hedges or other landscaping in a non-dangerous condition as required by this section, and any person suffers damage or injury to person or property, the fronting or adjacent property owner shall be liable for all damages or injuries by the failure of the owner to maintain these areas.

**11.01.050 Maintenance And Repair Of Sidewalks And Street Landscape Planters.**

A. The owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including landscape planting strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses thereof.

B. For the purpose of this chapter, maintenance and repair of sidewalk area shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal of impervious paving materials from street tree planting strips, or other right-of-way landscape planters, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line, including planting strips and curbs, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area.

C. Anything in this chapter to the contrary notwithstanding, with respect to maintenance and repair of sidewalk areas and the making, confirming and collecting of assessment for the costs and expenses of said maintenance and repair, the City may proceed under the provisions of Chapter 22 of Division 7, Part 3 of the Streets and Highways Code of the state as the same now in effect or may hereinafter be amended. Should the City choose to proceed under Chapter 22, of Division 7, Part 3 of the Streets and Highways Code, notwithstanding the provisions of Section 5614 of the State Streets and Highways Code, the Director of Public Works may, in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repairs of sidewalk area must commence by a period not to exceed seventy-four days from the time the notice referred to in Section 5614 is given. Costs recoverable by the City may include a charge for the City of Newman's costs of inspection and administration whenever the City awards a contract for such maintenance and repair and including the costs of collection of assessments for the costs of maintenance and repair or the handling of any lien placed on the property due to the failure of the property owner to promptly pay such assessments.

D. All existing public street landscape planters shall be retained and preserved for the purpose of providing live landscaping along the frontages of City streets. To this end, covering, paving, sealing, or filling of public landscape planter areas with impervious materials shall be prohibited. Failure to comply with this section shall be deemed a violation of this chapter.

When, during the course of a development project, it is necessary to remove or reconstruct public street improvements (i.e., curb, gutter, sidewalk), such improvements shall be reconstructed to preserve or reestablish any previously existing landscape planter. Existing street trees and other landscaping shall be preserved to the extent possible, or new landscaping installed to the satisfaction of the Director of Public Works.

Subsequent to adoption of this chapter, any unauthorized work conducted within the public right-of-way landscape areas shall be brought to conformance with the intent and provisions of this chapter, and other applicable provisions of the City of Newman Municipal Code pertaining to encroachments on City property and destruction of public landscaping. Such unauthorized work shall constitute a violation of this chapter and is punishable as an infraction. The City shall further require removal of any impervious material installed, and restitution of any previously existing landscaping.

#### **11.01.060 Liability For Injuries To Public.**

The property owners of lots or portions fronting on or adjacent to any portion of a street or any portion of a sidewalk area between the property line of the lots and the street line and any persons in possession of such lots by virtue of any permit or right, shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk areas in a non-dangerous condition, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury.

#### Section 2

All other provisions of Title 11 shall remain in full force and effect.

#### Section 3

That a duly noticed public hearing was held by the City Council on August 11, 2009.

#### Section 4

This Ordinance shall take effect 30 days after its adoption and prior to the expiration of 15 days from the passage thereof shall be published at least once in the West Side Index, a newspaper of general

circulation in the City of Newman and thenceforth and thereafter the same shall be in full force and effect.

Introduced and adopted at a regular meeting of the City Council of the City of Newman held on the 28<sup>th</sup> day of July, 2009 by Council Member \_\_\_\_\_, and adopted at a regular meeting of said City Council held on the 11<sup>th</sup> day of August 2009 by the following vote:

AYES:  
NOES:  
ABSENT:

APPROVED:

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

Deputy City Clerk