

**AGENDA**  
**NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY**  
**REGULAR MEETING SEPTEMBER 28, 2010**  
**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. Every Monday Matters Proclamation.
  - b. Soroptimist International of Gustine-Newman Proclamation.
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 September 14, 2010 Regular Meeting.
  - d. Authorizing The City Manager And Chief Of Police To Enter Into An Agreement With The County Of Stanislaus, California State University, Stanislaus And Cities Of Modesto, Ceres, And Oakdale Identifying Protocol To Support Multi-Jurisdictional SWAT Responses.
  - e. Revise First-Time Homebuyer Program (FTHB).
  - f. Adopt Resolution 2010- , Approving The Local Transportation Fund Supplemental Claim For Fiscal Year 2008/09 And Authorize The City Manager To Execute The Claim On Behalf Of The City Of Newman.
  - g. Adopt Resolution 2010- , Approving The Local Transportation Fund Non-Transit Claim No. 1 For Fiscal Year 2010/11 And Authorizing The City Manager To Execute The Claim On Behalf Of The City Of Newman.
9. Public Hearings
  - a. Conduct A Public Hearing Regarding The Supplemental Law Enforcement Services Fund (SLESF) And Authorize Expenditures For This Funding (AB 1913).
  - b. Conduct Public Hearing And Consider Approval Of The Consolidated Annual Performance And Evaluation Report (CAPER) For The Community Development Block Grant (CDBG) Program Relating To Its Fiscal Year 2009-2010 Past Activity.



## **10. Regular Business**

- a. First Reading And Introduction Of Ordinance No. 2010- , An Ordinance Amending Title 4 Building Regulations Of The Newman City Code Incorporating The California Code Of Regulations Title 24, 2010 Edition Of The California Building Standards Code.
- b. Adopt Resolution No. 2010- , Authorizing The City Manager To Execute An Agreement With The Housing Authority County Of Stanislaus For Loan Servicing.
- c. Adopt Resolution No. 2010- Approving The Application For Grant Funds For The Sustainable Communities Planning Grant And Incentives Program Under The Safe Drinking Water, Water Quality And Supply, Flood Control, River And Coastal Protection Bond Act Of 2006 (Proposition 84).
- d. Approval Of Addendum To HOME Regulatory Agreement With 751 Driskell Ave., LP.
- e. Update On Marapole Lane Park Development Options.
- f. Adopt Resolution No. 2010- , A Resolution Of Intent To Amend The Contract Between CalPERS And The City Of Newman.
- g. Introduction And First Reading Of Ordinance No. 2010- , An Ordinance Authorizing An Amendment To The Contract Between The City Of Newman And Board Of Administration Of The California Public Employees' Retirement System.

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

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

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

## **14. Adjournment.**



## Calendar of Events

September 23 – League Central Valley Division Quarterly Meeting – Merced 6:00 P.M.

September 28 – City Council - 7:00 P.M.

October 8 – O.H.S. Homecoming.

October 8 – O.H.S. Homecoming Parade - 1:30 P.M.

October 11 – NCLUSD Board Meeting - 6:00 P.M.

October 11 – 16 – Fall Clean-Up Week.

October 12 – City Council - 7:00 P.M.

October 14 – Recreation Commission – 7:00 P.M.

October 15 – City Furlough Day – City Offices Closed.

October 19 – Two-On-Two Meeting With The School Board - 4:00 P.M.

October 21 – Planning Commission – 7:00 P.M.

October 26 – City Council - 7:00 P.M.

November 8 – NCLUSD Board Meeting - 6:00 P.M.

November 9 – City Council - 7:00 P.M.

November 11 – Recreation Commission – 7:00 P.M.

November 11 – Veteran’s Day – City Offices Closed.

November 12 – City Furlough Day – City Offices Closed.

November 16 – Two-On-Two Meeting With The School Board - 4:00 P.M.

November 18 – Planning Commission – 7:00 P.M.

November 23 – City Council – Canceled.

November 24 – City Furlough Day – City Offices Closed.

November 25-26 – Thanksgiving Holiday- City Offices Closed.

December 9 – Recreation Commission – 7:00 P.M.

December 13 – NCLUSD Board Meeting - 6:00 P.M.

December 14 – City Council - 7:00 P.M.

December 16 – Planning Commission – 7:00 P.M.

December 21 – Two-On-Two Meeting With The School Board - 4:00 P.M.

December 24 – Christmas Holiday- City Offices Closed.

December 27-30 – City Furlough Days – City Offices Closed.

December 28 – City Council – Canceled.

December 31 – New Year’s Day Holiday – City Offices Closed.



# Proclamation of the City of Newman

## A PROCLAMATION BY THE NEWMAN CITY COUNCIL ENCOURAGING PARTICIPATION IN EVERY MONDAY MATTERS

*Whereas, Every Monday Matters is a movement to communicate that each individual on the planet, from children to adults, can change the world for the better; and*

*Whereas, the change or action can be a result of something big or something small; and*

*Whereas, getting involved in your community can show your appreciation and make a difference; and*

*Whereas, the premise is that one person, one action, one Monday at a time can make a difference in our world; and*

*Whereas, ordinary individuals, either acting alone or together, can change the world; and*

*Whereas, a group of individuals in Newman would like to bring this philosophy to the City and prove that even simple small acts can make a change in our world; and*

*Whereas, if every citizen of Newman did one small thing every Monday, it would equal 558,428 acts in a year;*

*NOW, THEREFORE, I Ed Katen, Mayor, on behalf of the great City of Newman, do hereby encourage the citizens of Newman to get involved in their community, find ways of giving back, try to make a difference in the world and to make EVERY MONDAY MATTER.*

*Dated this Day September 28, 2010*

\_\_\_\_\_  
Mayor





# Proclamation of the City of Newman

*Whereas, Soroptimist is an international volunteer organization of business and professional women working on projects that improve the lives of women and girls in local communities and throughout the world; and*

*Whereas, Soroptimist is a global voice for women through awareness, advocacy and action; and*

*Whereas, Soroptimist is committed to international goodwill and understanding; and*

*Whereas, Soroptimist International of Gustine-Newman was established on October 1, 1960; and*

*Whereas, Soroptimist International of Gustine-Newman is celebrating fifty years of service this year; and*

*Whereas, Gustine-Newman Soroptimist has given student scholarships to women and girls in both Newman and Gustine for the last fifty years; and*

*Whereas, since its inception Soroptimist International of Gustine-Newman has supported countless community projects and their numerous activities have proved to be a direct benefit to the communities of Newman and Gustine;*

*Now, Therefore, I Ed Katen, Mayor, on behalf of the great City of Newman, formally proclaim, October, as Soroptimist International month in the City of Newman and commend the Soroptimist International of Gustine-Newman for 50 years of service to the local community.*

*Dated this Day September 28, 2010*

\_\_\_\_\_  
Mayor





REPORT.: Sep 23 10 Thursday  
 RUN....: Sep 23 10 Time: 14:46  
 Run By.: EMILY M. FARIA

CITY OF NEWMAN  
 Cash Disbursement Detail Report  
 Check Listing for 09-10 Bank Account.: 1000

PAGE: 001  
 ID #: PY-DP  
 CTL.: NEW

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	-----Payment Information-----	
							Invoice #	Description
038110	09/24/10	ABB00	ABBOTT & KINDERMANN, LLP	3412.11	.00	3412.11	8/20/10	ACCT# 2006-060M/GENERAL A
				3225.50	.00	3225.50	08/20/10	ACCT# 2010-046M/SCM HEART
			Check Total.....:	6637.61	.00	6637.61		
038111	09/24/10	AEC00	AECOM USA, INC	32199.28	.00	32199.28	7085912	DOWNTOWN PLAZA CONSTRUCT
				429.30	.00	429.30	7085915A	HURD BARRINGTON SCHOOL WA
				86.40	.00	86.40	7085915B	RESEARCH BID FOR PER CAPI
				3245.40	.00	3245.40	7085915C	UNDERGROUND UTILITIES/COM
				704.70	.00	704.70	7085915D	REVIEW RULE 20A EASEMENT
				145.80	.00	145.80	7085915E	REVIEW WWTP LEGALS AND EX
			Check Total.....:	36810.88	.00	36810.88		
038112	09/24/10	ALC01	ROBERT ALCANTAR	595.65	.00	595.65	SEPT 2010	DUI CHECK POINT/FALL FEST
038113	09/24/10	ALL12	ALL STAR CHEMICAL CORP	248.78	.00	248.78	18718	TRUCK WASH CONCENTRATE/FI
038114	09/24/10	ARR04	ARROWHEAD MOUNTAIN SPRING	181.18	.00	181.18	H55544	BOTTLED WATER/AUGUST 2010
038115	09/24/10	ATT07	AT&T MOBILITY	405.74	.00	405.74	X09102010	WIRELESS ACCESS 8/3/10 TO
				1075.72	.00	1075.72	X09132010	MONTHLY CELL PHONE CHARGE
			Check Total.....:	1481.46	.00	1481.46		
038116	09/24/10	ATT08	AT&T	65.03	.00	65.03	9/1/10	MONTHLY PHONE SERVICE/634
038117	09/24/10	ATT11	AT&T	743.82	.00	743.82	1628689	MONTHLY TELEPHONE SERVICE
038118	09/24/10	BAS03	BASIC CHEMICAL SOL./INC.	798.66	.00	798.66	SI5777868	300 GALLONS SODIUM HYPOCH
038119	09/24/10	BEL04	JAMES J. BELL	562.00	.00	562.00	09/15/10	EVIDENCE CLERK/CONTRACT S
038120	09/24/10	BLU07	BLUE SHIELD OF CALIFORNIA	11736.00	.00	11736.00	OCT 2010	HEALTH INSURANCE PREMIUM/
038121	09/24/10	BOR08	BORGE'S GLASS & MIRROR	795.00	.00	795.00	4364	RECEPTION WINDOW INSTALLE
038122	09/24/10	BUS05	BUSINESS CARD	100.69	.00	100.69	09/04/10	OFFICE SPECIALTY KEYS/CHA
				739.03	.00	739.03	09/11/10	LODGING/SYMPATHY ARRANGEM
			Check Total.....:	839.72	.00	839.72		
038123	09/24/10	CAL91	CALPERS	771.13	.00	771.13	08/05/10	OUTSTANDING NOTICE OF ADJ
038124	09/24/10	CAM03	VICTOR CAMPOS	433.20	.00	433.20	09/21/10	FALL FESTIVAL SECURITY SE
038125	09/24/10	CBM00	C B MERCHANT SERVICES, INC	110.77	.00	110.77	716000134	REIMBURSE BAD DEBT



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Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	-----Payment Information-----	
							Invoice #	Description
038126	09/24/10	CEN11	CENTRAL SANITARY SUPPLY	799.40	.00	799.40	952290	GLOVES/TOILET PAPER/DEO B
				94.20	.00	94.20	954566	HIGH DENSITY CANLINERS
			Check Total.....:	893.60	.00	893.60		
038127	09/24/10	CEN29	CEN*CAL AUTO BODY WORKS	250.00	.00	250.00	89	QUARTER PANEL & COMPONENT
038128	09/24/10	CITB0	CIT TECHNOLOGY FIN SERV,	162.87	.00	162.87	17607100	MS GSA OFFICE PRO PLUS/SE
038129	09/24/10	CLE04	CLENDENIN BIRD & CO LLP	8680.00	.00	8680.00	23939	FIRST PROGRESS BILL/09-10
				8680.00	.00	8680.00	23945	SECOND PROGRESS PAYMENT/F
			Check Total.....:	17360.00	.00	17360.00		
038130	09/24/10	COE02	MARY COELHO	200.00	.00	200.00	09/18/10	REFUND MEMORIAL BLDG DEPO
038131	09/24/10	CRE04	CRESCENT SUPPLY CO. #1	647.47	.00	647.47	27346	SECOND CHANCE VEST/MARRIO
038132	09/24/10	CRO16	CROP PRODUCTION SERVICES	422.38	.00	422.38	207984	15 GALS AMINE/2.5 GALS AQ
				311.87	.00	311.87	207985	5 GALS AQUAMASTER/WWTP
			Check Total.....:	734.25	.00	734.25		
038133	09/24/10	CSJ01	CSJVRMA	34650.00	.00	34650.00	20100472	WORKERS COMP/LIABILITY IN
038134	09/24/10	ECO01	ECONOMIC TIRE SHOP	21.00	.00	21.00	21658	1 NEW TUBE/KUBOTA
				780.30	.00	780.30	21854	6 NEW TIRES CHEVY FLATBED
				32.00	.00	32.00	21875	1 USED TIRE/FORD TRUCK
				22.82	.00	22.82	21885	FLAT TIRE REPAIRED/PD
				16.09	.00	16.09	21914	TIRE REPAIR
			Check Total.....:	872.21	.00	872.21		
038135	09/24/10	EMP02	EMPLOYMENT DEV DEPT/SUI	3792.75	.00	3792.75	09/09/10	ADDTL DISABILITY FOR 2008
038136	09/24/10	GOL10	GOLDEN STATE IRRIGATION	17.61	.00	17.61	193936IN	ADJ ARC NOZZLE RAINBIRD
				85.42	.00	85.42	194288IN	HIP BOOTS
			Check Total.....:	103.03	.00	103.03		
038137	09/24/10	GRO01	GROVER LANDSCAPE, INC.	25492.78	.00	25492.78	203301IN	RETENTION DUE ON HOWARD H
038138	09/24/10	HAR9A	HARD DRIVE GRAPHICS	631.61	.00	631.61	4327	70 COTTON T-SHIRTS
038139	09/24/10	HOL9E	MICHAEL HOLLAND (NT)	439.00	.00	439.00	B00922	REIMBURSEMENT FOR LIFE IN
038140	09/24/10	IKO03	IKON OFFICE SOLUTIONS	735.11	.00	735.11	83127332	COPIER LEASE/ADDTL COPIES



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PAGE: 003  
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Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	-----Payment Information----- Invoice #	Description
038140	09/24/10	IKO03	IKON OFFICE SOLUTIONS	321.87	.00	321.87	83254535	COPIER LEASE 9/10/10 TO 1
			Check Total.....:	1056.98	.00	1056.98		
038141	09/24/10	IMW00	IMW INDUSTRIES, INC	1709.40	.00	1709.40	U10213	ADDITIONAL WORK DONE @ CN
038142	09/24/10	IND00	IDEXX LABORATORIES, INC.	303.64	.00	303.64	246207397	SUPPLIES FOR WATER TESTIN
038143	09/24/10	INS00	IN-SYNCH SYSTEMS	1105.43	.00	1105.43	1331	MOBILE RECORDS MANAGEMENT
038144	09/24/10	JOE02	JOE'S LANDSCAPING & CONCR	427.99	.00	427.99	3066	CLEAN-UP AT 2034 SHENANDO
				9400.00	.00	9400.00	3169	LIGHTING & LANDSCAPE DIST
			Check Total.....:	9827.99	.00	9827.99		
038145	09/24/10	MCD01	MCDONOUGH, HOLLAND, ALLEN	1582.36	.00	1582.36	225582	PROFESSIONAL SERVICES/NEW
038146	09/24/10	MIDA3	MID VALLEY IT, INC	1534.34	.00	1534.34	2010208	MONTHLY CONTRACT IT SERVI
038147	09/24/10	NIC00	NICHOLS CONSULTING	4500.00	.00	4500.00	985058401	PREP OF SB90 STATE MANDAT
038148	09/24/10	OPE01	OPERATING ENGINEERS/	2681.00	.00	2681.00	OCT 2010	HEALTH INSURANCE PREMIUM/
038149	09/24/10	PAC08	PACIFIC WATER RESOURCES	1025.79	.00	1025.79	10180	FLOAT SWITCHES/MECHANICAL
038150	09/24/10	PAT09	CITY OF PATTERSON	660.00	.00	660.00	3163	VIDEO REIMBURSEMENT/SEPT
038151	09/24/10	PER19	PERMA-GREEN HYDROSEEDING	14075.98	.00	14075.98	3445	RETENTION BILLING/HOWARD
				150.00	.00	150.00	3446	RETENTION BILL/CHANGE ORD
			Check Total.....:	14225.98	.00	14225.98		
038152	09/24/10	PGE00	P G & E	64725.97	.00	64725.97	091010	GAS AND ELECTRIC USAGE 3/
				169.72	.00	169.72	09/08/10	NATURAL GAS FROM 8/6/10 T
			Check Total.....:	64895.69	.00	64895.69		
038153	09/24/10	PRE02	PRECISION INSPECTION, INC	95.00	.00	95.00	6165	HOURLY BUILDING INSPECTS/
038154	09/24/10	SAF00	SAFE-T-LITE	9.65	.00	9.65	272312	2 PAIR SAFETY GLASSES
038155	09/24/10	SEL01	SELF HELP ENTERPRISES	780.00	.00	780.00	NEWADM810	LOAN SERVICING/JULY 2010
				780.00	.00	780.00	NEWADM910	LOAN SERVICING/AUGUST 201
			Check Total.....:	1560.00	.00	1560.00		
038156	09/24/10	SHE07	SHELL FLEET PLUS	5771.39	.00	5771.39	09/05/10	GAS AND DIESEL PURCHASES/



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038157	09/24/10	STA07	STATE OF CALIFORNIA	469.00	.00	469.00	149266	FINGERPRINT APPS/FBI CHEC
038158	09/24/10	STA13	STANISLAUS COUNTY	7.99	.00	7.99	36647	CNG FUEL PURCHASED AT MOR
				728.53	.00	728.53	36682	FUEL TANK INSP/FILTER CHA
			Check Total.....:	736.52	.00	736.52		
038159	09/24/10	STIA0	STILES PAINT	996.19	.00	996.19	16543	50 GALLONS WHITE TRAFFIC
038160	09/24/10	STR05	LAUREN STROUD	75.00	.00	75.00	09/11/10	REFUND MEMORIAL BLDG DEPO
038161	09/24/10	SUN9B	TRAVIS BORRELLI	155.83	.00	155.83	11708	PORTABLE RESTROOM RENTAL
038162	09/24/10	TEL99	TEL STAR INSTRUMENTS, INC	37651.95	.00	37651.95	64016	PO #11-18
038163	09/24/10	URB00	URBAN FUTURES, INC	44702.49	.00	44702.49	0710-019	RDA PLAN AMENDMENT APRIL/
038164	09/24/10	WES00	MATTOS NEWSPAPERS, INC.	855.14	.00	855.14	08/31/10	LEGAL ADS/FALL FESTIVAL A
038165	09/24/10	WES21	WESTSIDE ANIMAL CLINIC	341.25	.00	341.25	27916	EUTHANASIA OF 5 CATS
				204.75	.00	204.75	27917	EUTHANASIA OF 3 DOGS
				110.00	.00	110.00	27926	NATE NEUTER/JAUREGUI RUFF
				173.00	.00	173.00	27927	NATE NEUTER/JAUREGUI CHA-
				68.25	.00	68.25	27970	1 DOG EUTHANASIA
				156.60	.00	156.60	27971	HEALTH EXAMINATION/FELINE
				171.20	.00	171.20	28053	EXAM/PARVO TEST/ADVANTIX/
				82.65	.00	82.65	28113	EUTHANASIA/COMMUNAL CREMA
				26.64	.00	26.64	28117	COMMUNAL CREMATION
				271.95	.00	271.95	28119	EUTHANASIA/COMMUNAL CREMA
				99.40	.00	99.40	28164	HEALTH EXAM/DISTEMPER-PAR
				546.00	.00	546.00	28248	8 EUTHANASIAS
				682.50	.00	682.50	28249	10 EUTHANASIAS/FELINE
			Check Total.....:	2934.19	.00	2934.19		
038166	09/24/10	WES9H	WEST SIDE PUBLIC SCALE	32.00	.00	32.00	AUG 2010	WEIGHT TAGS FOR WWTP
038167	09/24/10	YAN00	YANCEY LUMBER COMPANY	1298.51	.00	1298.51	9/1/10	LUMBER/CONCRETE/TILE/SAND
			Cash Account Total.....:	351491.92	.00	351491.92		
			Total Disbursements.....:	351491.92	.00	351491.92		
			Cash Account Total.....:	.00	.00	.00		



**MINUTES**  
**NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY**  
**REGULAR MEETING AUGUST 24, 2010**  
**CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET**

1. Call To Order - Mayor Katen 7:00 P.M.
2. Pledge Of Allegiance.
3. Invocation - Mayor Katen.
4. Roll Call **PRESENT:** Davis, Candea, Martina And Mayor Katen.  
**ABSENT:** None.
5. Declaration Of Conflicts Of Interest - None.
6. Ceremonial Matters - None.
7. Items from the Public - Non-Agenda Items - None.
8. Consent Calendar
  - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
  - b. Approval Of Warrants.
  - c. Approval Of Minutes Of The August 10, 2010 Regular Meeting.
  - d. Adopt Resolution No. 2010-64, Approving The City Of Newman's Conflict Of Interest Code As Written And Without Amendments.
  - e. Adopt Resolution No. 2010-65, A Resolution Authorizing Ed Katen As Mayor, And Michael Holland As City Clerk To Record A Notice Of Completion For The Howard B. Hill Jr. Park Project.

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

**9. Public Hearings**

- a. General Plan Amendment No. 09-01, Approve And Adopt Amended Housing Element For The Newman 2030 General Plan.

Mayor Katen Opened The Public Hearing At 7:03P.M.

There Being No Public Comment, Katen Closed The Public Hearing At 7:04 P.M.

**ACTION:** On A Motion By Davis Seconded By Candea And Unanimously Carried, General Plan Amendment No. 09-01, Approving And Adopting The Amended Housing Element For The Newman 2030 General Plan, Was Adopted.



## 10. Regular Business

- a. Award Bid For The Per Capita Park Improvement Project.

**ACTION:** On A Motion By Martina Seconded By Candea And Unanimously Carried, Resolution No. 2010-66, Awarding The Per Capita Project To Haskell And Haskell Engineering And Construction Services, Inc. For A Not To Exceed Amount Of \$185,000.00 And Authorizing The City Manager To Execute The Project Contract, Was Adopted.

- b. Consider Approval Of The Consolidated Annual Performance And Evaluation Report (CAPER) Relating To Its Fiscal Year 2009-2010 Past Activity And Open Public Comment Period.

**ACTION:** On Motion By Candea Seconded By Martina And Unanimously Carried, The Council Authorized The Release Of The 2009-2010 Draft Consolidated Annual Performance Evaluation Report (CAPER) For The Community Development Block Grant (CDBG) Program And Opened The Public Comment Period And Set A Public Hearing On September 14, 2010 At 7:00 P.M. To Consider Adoption Of The CDBG Fiscal Year 2009-2010 CAPER.

- c. Report On 2010 Newman Fall Festival.

**ACTION:** On Motion By Candea Seconded By Martina And Unanimously Carried Council Approved Requests As Submitted By The Festival Committee.

- d. Approve Aerator Purchase From Saputo Cheese USA, Inc. For The City Of Newman Waste Water Treatment Plant Aeration Basin No. 2.

**ACTION:** On A Motion By Candea Seconded By Martina The City Council Approved The Purchase Of Four 50hp Aqua-Jet Floating Surface Aerators For Aeration Basin No. 2 From Saputo Cheese USA, Inc. And Delayed The WWTP Road Maintenance Project To Fiscal Year 2011/2012.

- e. Adopt Resolution No. 2010-67, A Resolution Authorizing The Finance Director To Purchase Springbrook Accounting Software From Springbrook Software, Inc.

**ACTION:** On A Motion By Martina Seconded By Davis And Unanimously Carried, Resolution No. 2010-67, A Resolution Authorizing The Finance Director To Purchase Springbrook Accounting Software From Springbrook Software, Inc., Was Adopted Along With A Budget Adjustment Of \$45,000.00 .

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

Supervisor DeMartini Mentioned That The West Side Healthcare Task Force's Healthy Choices Summit Was Well Attended And That The Taskforce Is Working With Local School Districts To Create A New Calendar. DeMartini Reminded Everyone That The Orestimba Creek Flood Control Project Meeting Would Be Held On The Following Morning. He Also Reminded The Mayor About Their Upcoming Monthly Meeting.



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

City Manager Holland Reminded Everyone That Veterans Administration Would Be Hosting A Service Appreciation For Veterans And Their Families On The Upcoming Saturday. Holland Regrettably Informed The Council That Planning Commissioner Don Alves Had Resigned. He Stated That Staff Would Be Presenting Another Marapole Park Site Report To Them At Their September 14, 2010 Meeting. Holland Noted That The City Offices Will Be Closed On Monday, September 6, 2010 For Labor Day. Holland Remarked That Funding Is Available For The City's First-Time Home Buyer Program. He Informed The Council That The City Had Scheduled Candidates Night At 6:00 p.m. On October 5, 2010 And Announced That Randy Richardson Will Become The City's Permanent Police Chief Effective Sept. 1, 2010. Holland Noted That The Aug 14, 2010 Movie Night Was A Successful Event With An Estimated 250-300 People In Attendance.

Chief Richardson Reported That The New 2009 Dodge Charger Will Be Placed Into Service Within The Next Week And That Staffing Levels Had Been Increased Due To Recent Events.

Public Works Director Reynolds Informed The Council That His Department Was Finishing The Local Street Striping Project And Continuing With Fall Festival Preparations. Reynolds Noted That He Would Prepare A Plaza Project Presentation For The September 14, 2010 City Council Meeting. Reynolds Explained That The City Was In The Process Of Purchasing A New \$168,000 CNG Lift Truck For Approximately \$4,000.00 Thanks To The Availability Of Additional Grant Funds. He Mentioned That There Had Been Some Graffiti Issues Along Upper Road Recently. Reynolds Reviewed Pictures Of The Completed Hill Park Site. He Explained That He Had Participated In A Productive Meeting With A Representative From Congressman Cardoza's Office And That It May Lead To Some Applications For Earmark Monies That Would Be Designated For Newman.

Finance Director Humphries Warned That The State Controller May Begin Issuing IOU's And Current Gas Tax Payments Have Been Reduced.

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

Council Member Martina Mentioned That The Recent Movie Night Was A Success And That Sherman Park Proved To Be A Wonderful Venue For The Event.

Mayor Katen Noted That A Representative From Congressman Cardoza's Office Had Recently Visited Newman And Reminded Everyone That Congressman Cardoza Would Be In Newman On The Following Day For The Orestimba Creek Flood Control Project Meeting. Katen Commented That This Year Would Mark The 40<sup>th</sup> Anniversary Of The Fall Festival And That The Committee Had Worked Hard On This Year's Event.

## **14. Adjournment.**

**ACTION:** On Motion By Davis Seconded By Martina And Unanimously Carried, The Meeting Was Adjourned At 7:50 P.M.



MINUTES  
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY  
REGULAR MEETING SEPTEMBER 14, 2010  
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

Due To A Lack Of A Quorum, This Meeting Was Continued To Next Regularly Scheduled City Council/Redevelopment Agency Meeting Of September 28, 2010.



**MOU REGARDING COUNTY WIDE S.W.A.T. RESPONSE PROTOCOL**

**RECOMMENDATION:**

Authorizing the City Manager and Chief of Police to enter into an agreement with the County of Stanislaus, California State University, Stanislaus and Cities of Modesto, Ceres, Oakdale, and Newman identifying protocol to support multi-jurisdictional SWAT responses.

**BACKGROUND:**

Stanislaus County law enforcement agencies have a long standing history of providing distinguished service to local communities served both individually and collectively. Our agencies have excelled at sharing resources, developing multi-agency task forces, inter-agency training and inter-operable communications.

In 2005 and then revised in 2006, the California Commission on Peace Officer Standards and Training (POST) developed Special Weapons and Tactics (SWAT) Operational Guidelines and Standardized Training Recommendations. Consideration of the California Attorney General's Blue Ribbon SWAT Report 2002 was considered at each step in the process and used as a guiding document in developing the POST SWAT Operational Guidelines and Standardized Training Recommendations.

The operational guidelines reference Multi-Jurisdictional SWAT Operations and recommends that the SWAT team, including relevant specialized units and supporting resources, develop protocols, agreements, or working relationships to support multi-jurisdictional or regional responses.

The intent of the agreement between the countywide agencies and their law enforcement components is to identify protocol to support multi-jurisdictional SWAT responses pursuant to the recommendations of the POST SWAT Operational Guidelines and Standardized Training Recommendations. The agreement does not create a Countywide SWAT Team or governing body to oversee regional SWAT Operations.

**ANALYSIS:**

City of Newman policy requires City Council to approve all agreements. The agreement is recommended by the California Commission on Peace Officer Standards and Training within the POST SWAT Operational Guidelines and Standardized Training Recommendations. The City Attorney has reviewed and approved the agreement.

**FISCAL IMPACT:**

No fiscal impact

**CONCLUSION**

Staff recommends that the City Council Authorizes the City Manager and Chief of Police to enter into an agreement with the County of Stanislaus, California State University, Stanislaus and Cities of Modesto, Ceres, Oakdale, and Newman identifying protocol to support multi-jurisdictional SWAT responses.

**ATTACHMENTS:**

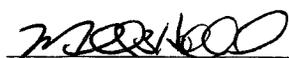
1. Attachment "A" is a copy of the Memorandum of Understanding between the Law Enforcement Agencies of Stanislaus County.

Respectfully submitted,



Randy Richardson, Chief of Police

**REVIEW/CONCUR**



Michael Holland  
City Manager



**Memorandum of Understanding  
Between  
The Law Enforcement Agencies  
Of  
Stanislaus County**

**Whereas**, Stanislaus County law enforcement agencies have a long standing history of providing distinguished service to local communities served both individually and collectively. Our agencies have excelled at sharing resources, developing multi-agency task forces, inter-agency training and inter-operable communications; and

**Whereas**, in 2005 and then revised in 2006, the California Commission on Peace Officer Standards and Training (POST) developed Special Weapons and Tactics (SWAT) Operational Guidelines and Standardized Training Recommendations; and

**Whereas**, consideration of the California Attorney General's Blue Ribbon SWAT Report 2002 was considered at each step in the process and used as a guiding document in developing the POST SWAT Operational Guidelines and Standardized Training recommendations; and

**Whereas**, the operational guidelines reference Multi-Jurisdictional SWAT Operations and recommends that the SWAT team, including relevant specialized units and supporting resources, should develop protocols, agreements, or working relationships to support multi-jurisdictional or regional responses; and

**Whereas**, the Legislature has provided for mutual aid during any state of war emergency or state of emergency pursuant to Government Code sections 8615-8616 and during periods other than state of war emergency or state of emergency has provided political subdivisions authority to exercise mutual aid powers in accordance with the Master Mutual Aid Agreement, local ordinances, resolutions, agreements, and plans therefore; and

**Whereas**, the intent of this Memorandum of Understanding is to identify protocol to support multi-jurisdictional SWAT responses pursuant to the recommendations of the POST SWAT Operational Guidelines and Standardized Training Recommendations; and

**Whereas**, this Memorandum of Understanding does not create a Countywide SWAT Team or governing body to oversee regional SWAT Operations.

**Now therefore**, the parties hereto agree to the following:

- I. This Memorandum of Understanding (M.O.U.) shall remain in effect for a period of two (2) years, commencing on \_\_\_\_\_, 2010.



During the term of this M.O.U., any member agency may terminate its participation in the M.O.U. upon thirty (30) days written notice to the other member agencies.

- II. Member agencies will provide Critical Response Team (CRT) coverage including Special Weapons and Tactics (SWAT) and Crisis Negotiation Team (CNT) coverage upon written request of the Chief of Police/Sheriff or their designee when the requesting member agency does not have a CRT or its CRT is not operational for a limited period of time not to exceed two weeks (14 days).
- III. Member agencies will provide CRT including SWAT and CNT assistance upon verbal request of the Watch Commander of a requesting member agency when a critical incident requires additional resources beyond the operational capabilities of the requesting agency. The requested CRT resources may be utilized to supplement existing resources or to relieve existing resources which have been deployed over an extended period of time. At the time of a verbal request for CRT assistance, the requesting agency will provide verbal notice of the type of situation requiring CRT assistance, the type of assistance required, i.e. supplemental or relief, a description of the operational resources already deployed and the status of the ongoing operation(s).
- IV. Whenever CRT assistance is provided to another member agency, the requesting agency will retain Incident Command consistent with implementation of an Incident Command System (ICS). The assisting agency will provide a command representative to act as liaison with the requesting agency's Incident Commander.
- V. If tactical intervention has been approved by the Incident Commander, the assisting agency's CRT Commander will have the authority and responsibility for implementing the tactical plans and for the actual tactics employed consistent with the type of assistance required, i.e. supplemental or relief.
- VI. Members of a CRT which is providing assistance to another member agency under this M.O.U. shall operate in accordance with the policies, procedures and command of the assisting CRT's parent agency at all times.
- VII. Each member agency hereby agrees to defend, indemnify and hold harmless the other member agencies, their agents, officers, and employees from and against all claims, damages, losses, judgment, liabilities, expenses, and other costs including litigation costs and attorney's fees from every cause, including but not limited to injury to person or property or wrongful death arising directly or indirectly out of any act or omission of its CRT, or its agents, officers, and employees or volunteers resulting or alleged to have resulted, directly or indirectly, wholly or partially, from acts or omissions by its CRT, or any



member thereof while providing assistance to any other member agency under this M.O.U.

VIII. Each member agency further agrees to waive subrogation rights for any Workers' Compensation related injuries to its officers and/or employees which may arise during any operation in which its CRT provides assistance to another member agency under this M.O.U.

The undersigned represent that each has authority to execute this agreement on behalf of his/her respective agency, and to bind said agency to the terms of this M.O.U.

For City of Ceres:

For City of Modesto:



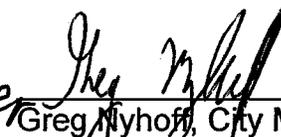
Art de Werk, Chief of Police



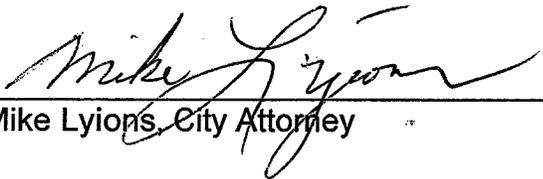
Mike Harden, Chief of Police



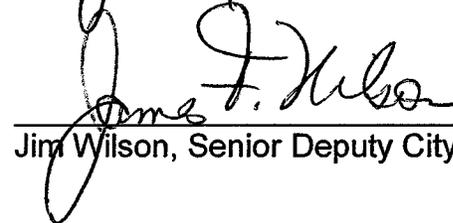
Brad Kilger, City Manager



Greg Nyhoff, City Manager



Mike Lyons, City Attorney



Jim Wilson, Senior Deputy City Attorney

For City of Newman:

For City of Oakdale:

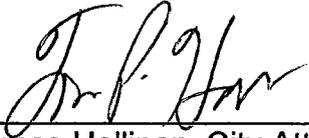
Randy Richardson, Chief of Police

Marty West, Chief of Police

Michael E. Holland, City Manager

Tom Hallinan, City Attorney

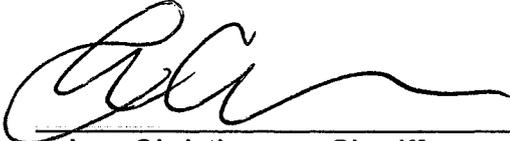




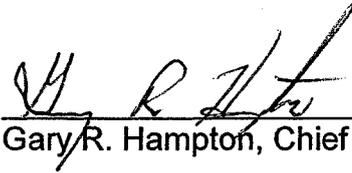
Thomas Hallinan, City Attorney

For County of Stanislaus:

For City of Turlock:



Adam Christianson, Sheriff



Gary R. Hampton, Chief of Police

Roy Wasden, City Manager



Phaedra Norton, City Attorney

For California State University, Stanislaus:



Steve Jauregui, Chief of Police



Russ Giambelluca, Vice President Business & Finance



Dr. Hamid Shirvani, President

9/2/2010



Honorable Mayor and Members  
of the Newman City Council

**REVISE FIRST-TIME HOMEBUYER PROGRAM (FTHB)**

**RECOMMENDATION:**

It is recommended that the City Council approve the revised First-Time Homebuyer Program and authorize staff to administer said program.

**BACKGROUND:**

In 2004, through the attainment of a CDBG grant, the City of Newman established a Homebuyer Assistance and Housing Rehabilitation Program; both of which were administered through Self-Help Enterprises. The grant expired in 2006 and both programs have ceased operation.

Since 2005, the City has been a member of the Stanislaus County HOME Consortia. The Home Investment in Affordable Housing Program (HOME) provides funds to states and local governments for acquisition, rehabilitation, new construction of affordable housing and tenant-based rental assistance.

On January 26, 2010 the City Council approved the revised First-Time Homebuyer Program and authorized staff to administer said program.

**ANALYSIS:**

Since the re-introduction of the First-Time Homebuyer Program, City staff has received inquiries and partial applications from the public. However, given one reason or another, a loan has yet to be funded. Upon review of the existing program and consulting other agencies, staff has found that our program may be too stringent and thus prohibitive to potential first-time homebuyers. In an effort to be more attainable for income-eligible applicants (as required by HOME) staff proposes the following revisions to the City's First-Time Homebuyer Program:

- Applicant must have a minimum down payment of ~~3%~~ 1% of the sales price or ~~\$3,000.00~~ \$1,500.00, whichever is greater.
- ~~In order to be placed on the waiting list and eligible for funding,~~ The applicant must first complete a "Homebuyer Education" Course through a HUD or City approved housing agency *prior to close of escrow.*

All other requirements would remain in full force and effect.

**FISCAL IMPACT:**

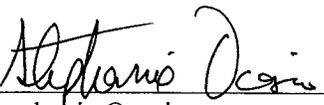
None

**CONCLUSION:**

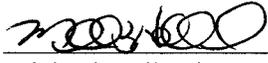
As proposed, the revised FTHB program will provide a down-payment for eligible applicants to purchase a home in the City limits. With Council approval of the above-mentioned revisions, staff is optimistic that the First-Time Homebuyer Program will be more attainable to a larger population, provide much needed housing opportunities to income-eligible residents and allow staff to administer more First-Time Homebuyer loans.

Staff recommends that the City Council approve the revisions to the First-Time Homebuyer Program and authorize staff to administer said program.

Respectfully submitted,

  
Stephanie Ocasio  
Assistant Planner

**REVIEWED/CONCUR**

  
Michael Holland  
City Manager



Honorable Mayor and Members  
of the Newman City Council

**AUTHORIZATION OF CITY MANAGER TO SUBMIT LOCAL  
TRANSPORTATION FUND SUPPLEMENTAL CLAIM**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt resolution 2010- , approving the Local Transportation Fund Supplemental Claim for fiscal year 2008/09 and Authorize the City Manager to execute the claim on behalf of the City of Newman.

**BACKGROUND:**

Each fiscal year, in accordance with the Transportation Development Act, the Stanislaus Council of Governments, acting as administrator, allocates an amount to each City and County for qualified transportation projects. Cities must submit claims based on calculated eligible amounts and budgeted projects. On August 23<sup>rd</sup> we received a notice from the Stanislaus Council of Governments notifying us that we have \$433 of unclaimed non-motorized funds and \$20,785 of unclaimed street funds. To claim those funds we need to submit this Supplemental Claim. Once the Newman City Council approves the claim it will be submitted to the StanCOG Policy Board for approval.

**ANALYSIS:**

The item before the Council is a request for approval to submit the Local Transportation Development Act (TDA) Supplemental Claim to StanCOG. This process will obtain the City's unclaimed allocation of Local Transportation Funding. The claim for \$21,218 is to provide for bicycle lane maintenance, and minor repairs on streets in need at various locations through town.

**FISCAL IMPACT:**

There is no cost in submitting the claim. The claim will provide the City with a total of \$21,218 to offset costs.

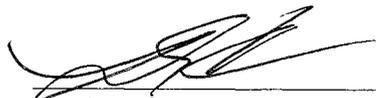
**CONCLUSION:**

This staff report is submitted for City Council consideration and possible action.

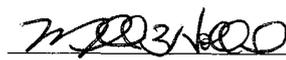
**ATTACHMENTS:**

1. Resolution 2010- ,
2. StanCOG LTF Supplemental Claim forms

Respectfully submitted,

  
\_\_\_\_\_  
Lewis Humphries  
Finance Director

**REVIEWED/CONCUR:**

  
\_\_\_\_\_  
Michael E. Holland  
City Manager



**RESOLUTION NO. 2010-**

**A RESOLUTION APPROVING THE LOCAL TRANSPORTATION FUND NON-TRANSIT SUPPLEMENTAL CLAIM FOR FISCAL YEAR 2008/09 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME ON BEHALF OF THE CITY OF NEWMAN**

WHEREAS, the Stanislaus Council of Governments has presented to the City Council of the City of Newman the supplemental claim for funds to be paid from the Local Transportation Fund for the fiscal year 2008-09; and

WHEREAS, the City Council of the City of Newman approves said amount and agrees that a claim in said sum should be submitted to the Stanislaus Council of Governments; and

WHEREAS, the City Council recognizes that these funds are currently unclaimed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that the 2008/09 Transportation Supplemental Claim to the Stanislaus Council of Governments in the amount of \$21,218 is hereby approved, and authorizes the City Manager to execute the transportation claim on behalf of the City of Newman.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 28th day of September, 2010 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



**TRANSPORTATION DEVELOPMENT ACT  
LOCAL TRANSPORTATION FUND  
NON-TRANSIT CLAIM  
FISCAL YEAR 2008/09 SUPPLEMENTAL CLAIM**

TO: Stanislaus Council of Governments  
1111 I Street, Suite 308  
Modesto, CA 95354

FROM: Applicant: City of Newman  
Address: 1162 Main Street / P.O. Box 787  
City Newman, California Zip: 95360  
Contact Person: Michael E. Holland Phone: (209) 862-3725  
E-mail Address: mholland@cityofnewman.com Fax: (209) 862-3199

The City of Newman hereby requests, in accordance with the Transportation Development Act and applicable rules and regulations, that its **supplemental** non-transit claim be approved in the amount of \$21,218 for fiscal year 2008/09, to be drawn from the Local Transportation Fund.

When approved, please transmit this claim to the County Auditor for payment. Approval of the claim and payment by the County Auditor to this applicant is subject to such monies being on hand and available for distribution, and to the provisions that such monies will be used only in accordance with the terms contained in the approving resolution to the Stanislaus Council of Governments.

The claimant certifies that this Local Transportation Fund claim and the financial information contained therein is reasonable and accurate to the best of my knowledge and conforms with the requirements of the Transportation Development Act and applicable rules and regulations.

Submitted by: \_\_\_\_\_

Title: City Manager

Date: 9/14/2010

**StanCOG Board of Directors:**

Date of approval: \_\_\_\_\_

Resolution #: \_\_\_\_\_

\_\_\_\_\_  
StanCOG Approving Authority



**LOCAL TRANSPORTATION FUND  
NON-TRANSIT CLAIM  
FY 2008/09 SUPPLEMENTAL CLAIM**

**TABLE 1**

1.	Planning, Local --PUC 99262/99402	\$	-
2.	Roads and Streets --PUC 99400 (a)	\$	20,785
3.	Nonmotorized - 2% LTF funds --PUC 99233.2/99234	\$	433
4.	Nonmotorized - Other LTF funds * --PUC 99233.2/99234	\$	-
<b>5.</b>	<b>TOTAL CLAIM</b>	<b>\$</b>	<b>21,218</b>

<i>This table is to be filled out by StanCOG staff</i>	
<b>City of Newman</b>	
<b>Total Non-Transit LTF available to be claimed:</b>	
FY 2008/09 Nonmotorized supplemental apportionment	\$ 433
Total 2% Nonmotorized available to be claimed at this time	\$ 433
FY 2008/09 Roads & Streets supplemental apportionment	\$ 20,785
Total Roads & Streets available to be claimed at this time	\$ 20,785
<b>Total available to be claimed at this time</b>	<b>\$ 21,218</b>

\* Roads and Streets funds may be claimed for nonmotorized purposes, if desired.



**LOCAL TRANSPORTATION FUND  
NONMOTORIZED PROJECTS  
FY 2008/09 SUPPLEMENTAL CLAIM**

**TABLE 2  
BREAKDOWN BY PROJECT**

BRIEFLY DESCRIBE PROJECTS AND EXPENDITURES							
ID	PROJECT TITLE	MODE			FOR BIKE PROJECTS ONLY		2008/09 ESTIMATED SUPPLEMENTAL EXPENDITURES
		B I K E	P E D	P L A N	PROJECT IN StanCOG's BIKE PLAN	PROJECT IN CITY/COUNTY BIKE PLAN	
	BikeLane Maintenance	X					\$433.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
<b>TOTAL LTF APPROPRIATED TO PROJECTS</b>							<b>\$433.00</b>

**TABLE 3  
BREAKDOWN BY CATEGORY  
RECORD LTF FUNDS ONLY**

	2008/09 SUPPLEMENTAL CLAIM
Bicycle facilities	\$433.00
Pedestrian facilities	\$0.00
Preparation of Bicycle Plan	\$0.00
<b>TOTAL AMOUNT OF BIKE/PED EXPENDITURES</b>	<b>\$433.00</b>

When combined with your previously approved FY 2008/09 LTF claim, does this claim meet the minimum 50% bicycle expenditure StanCOG performance standard? Yes

**NOTE: StanCOG 50% bicycle expenditure requirement: The 5 year bicycle expenditures must be 50% or greater.**

- |  |       |
|--|-------|
| 1. FY 2008/09 Supplemental Nonmotorized 2% funds applied towards FY 2008/09 projects (must match Page 2, Line 3) | \$433 |
| 2. FY 2008/09 Supplemental Nonmotorized 2% funds to be held in reserve at StanCOG                                | \$0   |

**SEE PAGE 3b FOR NONMOTORIZED REGULATIONS/POLICIES AND NOTES**



## NONMOTORIZED PROJECTS

FY 2008/09

(Continued)

### NONMOTORIZED REGULATION/POLICY REMINDERS:

- A. State law allows a jurisdiction to use LTF to update a Bicycle Action Plan once every five years (PUC 99234(h)).
- B. State law allows a jurisdiction to use up to 20% of the amount available each year to restripe Class II bicycle lanes (PUC 99234(h)).
- C. State law allows a jurisdiction to use up to 5% of the amount available each year to supplement moneys from other sources to fund bicycle safety education programs, but the funds shall not be used to fully fund the salary of any one person (PUC 99233.3).
- D. All funds must be spent within five years of receipt. Over the five-year period shown in Table 3, at least 50% of funds must be spent for bicycle purposes. StanCOG will not allocate funds to any jurisdiction which is in violation of these policies.

### NOTES:

- \* If the project is in StanCOG's Bicycle Action Plan, please indicate its Priority Group from that Plan (example: Yes - Priority #4).

By StanCOG policy, all bike projects must appear in either StanCOG's Bicycle Action Plan, or in a City or County bicycle plan, to be eligible for LTF funding.

- \*\* Beginning with FY 2003/04, nonmotorized funds will only be allocated by StanCOG for specific projects. If no project is identified, funds will be held in reserve at StanCOG for eventual use by that jurisdiction.



**LOCAL TRANSPORTATION FUND  
ROAD AND STREET PROJECTS  
FY 2008/09 SUPPLEMENTAL CLAIM**

**TABLE 4**

<b>Briefly describe all proposed projects and indicate proposed project expenditures for right of way acquisition and the construction of road and street projects.</b>					
<b>Project Title &amp; Brief Description</b>	<b>Will this Project add new travel lanes? Yes or No</b>	<b>Will this Project use Federal Funds? Yes or No</b>	<b>Is this Project consistent with the RTP Yes or No</b>	<b>Total Project Cost</b>	<b>LTF Funds Utilized</b>
Minor repairs on streets in need at various locations through town	No	No	Yes	\$22,863	\$20,785
<b>TOTAL</b>				<b>\$22,863</b>	<b>\$20,785</b>

- 1. FY 2008/09 Supplemental Roads and Streets funds applied towards FY 2008/09 projects (must match Page 2, Line 2) \$0
  
- 2. FY 2008/09 Supplemental Roads and Streets funds to be held in reserve at StanCOG \$20,785



Honorable Mayor and Members  
of the Newman City Council

**AUTHORIZATION OF CITY MANAGER TO SUBMIT LOCAL TRANSPORTATION  
FUND CLAIM NO. 1 FOR FISCAL YEAR 2010/11**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt resolution 2010- , approving the Local Transportation Fund Non-Transit Claim No. 1 for fiscal year 2010/11 and authorizing the City Manager to execute the claim on behalf of the City of Newman.

**BACKGROUND:**

Each fiscal year, in accordance with the Transportation Development Act, the Stanislaus Council of Governments, acting as administrator, allocates an amount to each City and County for qualified transportation projects. Cities must submit claims based on calculated eligible amounts and budgeted projects. To claim those funds we need to submit this 2010/11 Claim #1. Once the Newman City Council approves the claim it will be submitted to the StanCOG Policy Board for approval.

**ANALYSIS:**

The item before the Council is a request for approval to submit the Local Transportation Development Act (TDA) Claim #1 to StanCOG. This process will obtain the City's allocation of Local Transportation Funding. The claim for \$30,808 is to provide for bicycle and pedestrian facilities, and minor sidewalk repair in need at various locations through town.

**FISCAL IMPACT:**

There is no cost in submitting the claim. The claim will provide the City with a total of \$30,808 to offset costs.

**CONCLUSION:**

This staff report is submitted for City Council consideration and possible action.

**ATTACHMENTS:**

1. Resolution 2010- ,
2. StanCOG LTF 2010/11 Claim No. 1 forms

Respectfully submitted,



Lewis Humphries  
Finance Director

**REVIEWED/CONCUR:**



Michael E. Holland  
City Manager



**RESOLUTION NO. 2010-**

**A RESOLUTION APPROVING THE LOCAL TRANSPORTATION FUND NON-TRANSIT CLAIM #1 FOR FY 2010/11 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME ON BEHALF OF THE CITY OF NEWMAN**

WHEREAS, the Stanislaus Council of Governments has presented to the City Council of the City of Newman the claim form for funds to be paid from the Local Transportation Fund for the fiscal year 2010-11; and

WHEREAS, the City Council of the City of Newman approves said amount and agrees that a claim in said sum should be submitted to the Stanislaus Council of Governments; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that the 2010/11 Transportation Claim #1 to the Stanislaus Council of Governments in the amount of \$30,808 is hereby approved, and authorizes the City Manager to execute the transportation claim on behalf of the City of Newman.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 28th day of September, 2010 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



**TRANSPORTATION DEVELOPMENT ACT  
LOCAL TRANSPORTATION FUND  
NON-TRANSIT CLAIM FOR FISCAL YEAR 2010/11**

TO: Stanislaus Council of Governments  
1111 I Street, Suite 308  
Modesto, CA 95354

FROM: Applicant: City of Newman  
Address: 1162 Main Street / P.O. Box 787  
City Newman Zip: 95360  
Contact Person: Lewis Humphries Phone: (209) 862-3725  
E-mail Address: lhumphries@cityofnewman.com Fax: (209) 862-3199

The City of Newman hereby requests, in accordance with the Transportation Development Act and applicable rules and regulations, that its annual non-transit claim be approved in the amount of \$30,808 for fiscal year 2010/11, to be drawn from the Local Transportation Fund.

When approved, please transmit this claim to the County Auditor for payment. Approval of the claim and payment by the County Auditor to this applicant is subject to such monies being on hand and available for distribution, and to the provisions that such monies will be used only in accordance with the terms contained in the approving resolution to the Stanislaus Council of Governments.

The claimant certifies that this Local Transportation Fund claim and the financial information contained therein is reasonable and accurate to the best of my knowledge and conforms with the requirements of the Transportation Development Act and applicable rules and regulations.

Submitted by: Lewis Humphries  
Title: Finance Director  
Date: \_\_\_\_\_

**StanCOG Board of Directors:**

Date of approval: \_\_\_\_\_  
Resolution #: \_\_\_\_\_

\_\_\_\_\_  
StanCOG Approving Authority



**LOCAL TRANSPORTATION FUND  
NON-TRANSIT CLAIM  
FY 2010/11**

**TABLE 1**

1.	Planning, Local --PUC 99262/99402	\$	-
2.	Streets and Roads --PUC 99400 (a)	\$	20,085
3.	Nonmotorized - 2% LTF funds --PUC 99233.2/99234	\$	10,723
4.	Nonmotorized - Other LTF funds * --PUC 99233.2/99234	\$	-
<b>5.</b>	<b>TOTAL CLAIM</b>	<b>\$</b>	<b>30,808</b>

<i>This table is to be filled out by StanCOG staff</i>			
<b>City of Newman</b>			
<b>Total Non-Transit LTF available to be claimed:</b>			
FY 2010/11 Nonmotorized apportionment	\$		5,094
FY 2009/10 Nonmotorized apportionment	\$		5,215
FY 2009/10 Nonmotorized supplemental	\$		414
Total 2% Nonmotorized available to be claimed at this time	\$		10,723
FY 2009/10 Streets and Roads	\$		20,085
Total Streets and Roads available to be claimed at this time	\$		20,085
<b>Total available to be claimed at this time</b>	<b>\$</b>		<b>30,808</b>

\* Streets and Road funds may be claimed for nonmotorized purposes, if desired.



**NONMOTORIZED PROJECTS  
FY 2010/11**

(Use additional forms if necessary)

**TABLE 2  
BREAKDOWN BY PROJECT**

BRIEFLY DESCRIBE PROJECTS AND EXPENDITURES INCLUDED IN THE 3 YEAR PERIOD BELOW										
ID	PROJECT TITLE	MODE			FOR BIKE PROJECTS ONLY		2008/09 ACTUAL EXPENDITURES	2009/10 ESTIMATED EXPENDITURES	2010/11 CLAIM	ACTUAL / ESTIMATED EXPENDITURES FOR 3 YEAR PERIOD
		B I K E	P E D	P L A N	PROJECT IN StanCOG's BIKE PLAN *	PROJECT IN CITY/CO BIKE PLAN *				
	Sidewalk Repair		X				\$3,288.00	\$0.00	\$6,423.00	\$9,711.00
	Bike Lane Maintenance	X					\$3,433.00	\$0.00	\$4,300.00	\$7,733.00
							\$0.00	\$0.00	\$0.00	\$0.00
							\$0.00	\$0.00	\$0.00	\$0.00
							\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL FUNDS APPROPRIATED TO PROJECTS</b>							<b>\$6,721.00</b>	<b>\$0.00</b>	<b>\$10,723.00</b>	<b>\$17,444.00</b>

**TABLE 3  
BREAKDOWN BY CATEGORY**

RECORD LTF FUNDS ONLY							
	% of Total Expenditures	2006/07 Actual	2007/08 Actual	2008/09 Actual	2009/10 Estimate	2010/11 Claim	5 Year Total
Bicycle facilities	59.02%	\$5,073.00	\$3,000.00	\$3,433.00	\$0.00	\$6,423.00	\$17,929.00
Pedestrian facilities	40.98%	\$2,739.00	\$2,120.00	\$3,288.00	\$0.00	\$4,300.00	\$12,447.00
Preparation of Bicycle Plan	0.00%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL AMOUNT OF BIKE/PED EXPENDITURES</b>		<b>\$7,812.00</b>	<b>\$5,120.00</b>	<b>\$6,721.00</b>	<b>\$0.00</b>	<b>\$10,723.00</b>	<b>\$30,376.00</b>

<p><b>DOES THIS CLAIM MEET THE MINIMUM 50% BICYCLE EXPENDITURE STANCOG PERFORMANCE STANDARD?</b></p> <p>StanCOG 50% bicycle expenditure requirement: The 5 year bicycle expenditures must be 50% or greater.</p>	<b>YES</b>
--	------------

**TABLE 4  
FUNDS HELD IN RESERVE AT JURISDICTION**

RECORD LTF FUNDS ONLY				
	2006/07	2007/08	2008/09	2009/10
Fiscal year beginning fund balance	\$0.00	\$0.00	\$0.00	\$0.00
Plus fiscal year 2% nonmotorized claim	\$7,812.00	\$5,120.00	\$6,721.00	\$0.00
Plus interest	\$0.00	\$0.00	\$0.00	\$0.00
Minus nonmotorized expenditures	(\$7,812.00)	(\$5,120.00)	(\$6,721.00)	\$0.00
<b>Fiscal year ending fund balance</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

1. Prior year(s) LTF carryover held by jurisdiction applied towards FY 2010/11 Nonmotorized claim (TABLE 4)	\$0
2. Interest earned on previously paid LTF funds held by jurisdiction (required by State law) (TABLE 4)	\$0
3. New FY 2010/11 Nonmotorized 2% funds applied towards FY 2010/11 projects (must match Page 2, Line 3)	\$10,723
4. New FY 2010/11 non-2% LTF funds applied towards Nonmotorized claim (must match Page 2, Line 4)	\$0
5. New FY 2010/11 Nonmotorized 2% funds to be held at StanCOG	\$0
6. Total of lines #1 through #5 above	\$10,723

**SEE PAGE 3b FOR NONMOTORIZED REGULATIONS/POLICIES AND NOTES**



**NONMOTORIZED PROJECTS**  
FY 2010/11  
(Continued)

**NONMOTORIZED REGULATION/POLICY REMINDERS:**

- A. State law allows a jurisdiction to use LTF to update a Bicycle Action Plan once every five years (PUC 99234(h)).
- B. State law allows a jurisdiction to use up to 20% of the amount available each year to restripe Class II bicycle lanes (PUC 99234(h)).
- C. State law allows a jurisdiction to use up to 5% of the amount available each year to supplement moneys from other sources to fund bicycle safety education programs, but the funds shall not be used to fully fund the salary of any one person (PUC 99233.3).
- D. All funds must be spent within five years of receipt. Over the five-year period shown in Table 3, at least 50% of funds must be spent for bicycle purposes. StanCOG will not allocate funds to any jurisdiction which is in violation of these policies.

**NOTES:**

- \* If the project is in StanCOG's Bicycle Action Plan, please indicate its Priority Group from that Plan (example: Yes - Priority #4).  
By StanCOG policy, all bike projects must appear in either StanCOG's Bicycle Action Plan, or in a City or County bicycle plan, to be eligible for LTF funding.
- \*\* Beginning with FY 2003/04, nonmotorized funds will only be allocated by StanCOG for specific projects. If no project is identified, funds will be held in reserve at StanCOG for eventual use by that jurisdiction.



**ANNUAL PROJECT AND FINANCIAL PLAN  
STREET AND ROAD PROJECTS FOR FY 2010/11**

(Use additional forms as necessary)

**TABLE 5**

<b>Briefly describe all proposed projects and indicate proposed project expenditures for right of way acquisition and the construction of street and road projects.</b>					
<b>Project Title &amp; Brief Description</b>	<b>Will this Project add new travel lanes? Yes or No</b>	<b>Will this Project use Federal Funds? Yes or No</b>	<b>Is this Project consistent with the RTP Yes or No</b>	<b>Total Project Cost</b>	<b>LTF Funds Utilized</b>
Minor repairs on streets in need at various locations through town.	No	NO	Yes	\$ 22,389	\$ 20,085
<b>TOTAL</b>				<b>22,389.00</b>	<b>20,085.00</b>

- |  |           |
|--|-----------|
| 1. LTF carryover applied towards FY 2010/11 Streets and Roads            | -         |
| 2. Interest earned on LTF carryover (required by State law)              | -         |
| 3. FY 2010/11 apportionment applied towards FY 2010/11 Streets and Roads | 20,085.00 |
| 4. Total of 1, 2 and 3 above (must match total LTF in Table 4 above)     | 20,085.00 |



Honorable Mayor and Members  
of the Newman City Council

Agenda Item: **9.a.**  
City Council Meeting  
of September 28, 2010

**REPORT ON SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND**

**RECOMMENDATION:**

Hold a Public Hearing on accepting State of California Supplemental Law Enforcement Services Fund and authorize expenditures for this funding.

**BACKGROUND:**

The City is scheduled to receive \$100,000 in funding from the State of California as part of AB1913 Funding also referred to as Supplemental Law Enforcement Services Fund (SLESF). We have received this funding for the last seven years. The requirements of this program mandate the funds be spent on "front line needs of municipal police service", that a public hearing be held, and the funding is to supplement and not supplant items in the budget. The final requirement is the funds have to be expended by June 30, 2011, with any remaining funds returned to the State of California.

**ANALYSIS:**

During the building of FY10/11 budget these funds were anticipated revenue and were included in the general fund for of \$10,000 in overtime costs and \$90,000 towards the on going costs of emergency dispatch services from SR911. These additional funds supplement existing items in our budget but as indicated above these additional funds were already included in the FY 10/11 City Budget adapted by this Council.

**FISCAL IMPACT:**

There is no fiscal impact as this program does not require matching funds and all funds were already provided in the approved budget for FY 10/11.

**CONCLUSION:**

Staff recommends the City Council hold a Public Hearing for accepting and appropriating the Supplemental Law Enforcement Services Fund.

**ATTACHMENTS:**

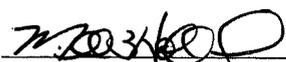
Attachment "A" is the Budget Narrative for these funds.

Respectfully submitted,



Randy Richardson, Chief of Police

**REVIEW/CONCUR**



Michael Holland  
City Manager



ATTACHMENT "A"

The Chief of Police and his staff have determined the front line needs of our municipal police service. The following identifies those needs:

1.     **\$10,000           Overtime Funds**  
Covers additional funding for overtime to cover the cost of increased coverage of officers in the field to offset for additional patrols such as bicycle patrol, training, special events, and other community needs. These funds are essential to maintain minimum staffing levels on patrol.
  
2.     **\$90,000Emergency Dispatch**  
These funds will assist in the on-going funding for contractual emergency dispatch services that is provided by Stanislaus Regional 911. The cost of these essential services continues to escalate based on improved technology and salaries provided to SR911 staff.

The Department will stay within the parameters of the listed items above but funds may be spend as needed in each of these areas.



Honorable Mayor and Members  
of the Newman City Council

Agenda Item: **9.b.**  
City Council Meeting  
of September 28, 2010

**HOLD PUBLIC HEARING AND CONSIDER APPROVAL OF THE  
CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)  
RELATING TO ITS FY 2009-2010 PAST ACTIVITY**

**RECOMMENDATION:**

1. Conduct the Required Public Hearing
2. Approval of the Consolidated Annual Performance Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) Program.

**BACKGROUND:**

The CAPER was presented to the Council on August 25, 2010; following its presentation, staff released the draft CAPER for a required 14-day public review. That period ended on September 14, 2010 and no comments have been received. The final requirement is to conduct a public hearing to further solicit comments relative to the implementation performance of our jurisdiction's Consolidated Plan and Annual Action Plans. Following adoption, the CAPER will be submitted by Stanislaus County to the Department of Housing and Urban Development (HUD).

**ANALYSIS:**

Whenever a jurisdiction participates in the Community Development Block Grant (CDBG) Entitlement program, a Consolidated Annual Performance Evaluation Report (CAPER) must be prepared. The CAPER assesses the progress of the Consortium and its members in its implementation of projects and programs listed and described in the Consolidated Plan. An excerpted copy of the CAPER is attached.

**FISCAL IMPACT:**

Positive, the City of Newman was allocated \$252,742.00 in fiscal year 2009-2010.

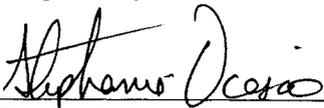
**CONCLUSION:**

Staff recommends that the Council conduct the required public hearing and adopt the Consolidated Annual Performance and Evaluation Report (CAPER) relating to its FY 2009-2010 past activity; \$2.6 million Community Development Block Grant and \$109,687.00 Emergency Shelter Grant.

**ATTACHMENTS:**

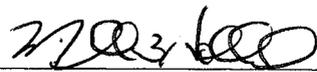
1. Exhibit A – Excerpted Draft 2009-2010 CAPER

Respectfully submitted,



Stephanie Ocasio  
Assistant Planner

**REVIEWED/CONCUR**



Michael Holland  
City Manager



# COMMUNITY DEVELOPMENT BLOCK GRANT CONSORTIUM

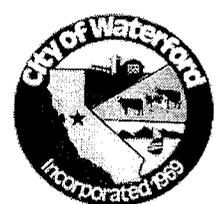
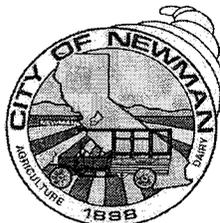


## Consolidated Annual Performance Evaluation Report CAPER

*Fiscal Year 2009-2010*

Prepared by  
the Stanislaus County Planning and Community  
Development Department

1010 10<sup>th</sup> Street,  
Suite 3400  
Modesto CA, 95354  
209.525.6330



## TABLE OF CONTENTS

<b>GENERAL</b>	
<b>EXECUTIVE SUMMARY</b> .....	4
<b>PERFORMANCE &amp; EXPERIENCE</b>	
<b>CONSOLIDATED PLAN PROGRESS SUMMARY</b> .....	5
<b>AFFIRMATIVELY FURTHERING FAIR HOUSING</b> .....	6
<b>LEVERAGING RESOURCES</b> .....	9
<b>MANAGING THE PROCESS</b> .....	12
<b>CITIZEN PARTICIPATION</b> (Summary of Citizen Comments) .....	14
<b>INSTITUTIONAL STRUCTURE</b> .....	16
<b>MONITORING</b> .....	17
<b>SELF EVALUATION</b> .....	19
<b>FIVE YEAR CONSOLIDATED PLAN OBJECTIVES ASSESSED</b> .....	21
Stanislaus County .....	21
City of Ceres .....	25
City of Newman .....	25
City of Oakdale .....	25
City of Patterson .....	26
City of Waterford .....	26
<b>LEAD BASED PAINT</b> .....	26
<b>HOUSING</b>	
<b>HOUSING ACTIONS</b> .....	27
<b>PROGRESS OF SPECIFIC HOUSING OBJECTIVES</b> .....	28
<b>AVAILABLE RESOURCES/USE OF FUNDS</b> .....	28
<b>EFFORTS TO ADDRESS "WORST-CASE" HOUSING NEEDS</b> .....	30
<b>PUBLIC HOUSING STRATEGY</b> .....	30
<b>BARRIERS TO AFFORDABLE HOUSING</b> .....	31
<b>HOME (ADDI)</b> .....	32
<b>HOMELESS</b>	
<b>HOMELESS NEEDS</b> .....	32
<b>SPECIFIC HOMELESS PREVENTION ELEMENTS</b> .....	34
<b>EMERGENCY SHELTER GRANTS (ESG)</b> .....	34
<b>HOMELESS DISCHARGE COORDINATION</b> .....	41
<b>COMMUNITY DEVELOPMENT</b>	
<b>COMMUNITY DEVELOPMENT SUMMARY</b> .....	45
<b>CHANGES IN PROJECT OBJECTIVES</b> .....	46
<b>SUMMARY OF CDBG PROGRAM ACCOMPLISHMENTS</b> .....	46
Stanislaus County .....	47
City of Ceres .....	49
City of Newman .....	50
City of Oakdale .....	53
City of Patterson .....	54
City of Waterford .....	55
Public Service Grantees .....	56
<b>OTHER COMMUNITY DEVELOPMENT INFORMATION</b> .....	61
<b>ANTI-POVERTY STRATEGY</b> .....	63
<b>OTHER NARRATIVE</b>	
<b>COORDINATION EFFORTS</b> .....	63
<b>APPENDIX A</b> .....	65
A. Table 3B: Annual Housing Completion Goals .....	66
B. Stanislaus County Consortium Summary of Specific Annual Objectives .....	67
C. Summary of Specific Annual Objectives for CDBG Public Service Grantees .....	72
D. Summary of Specific Annual Objectives for ESG Grantees .....	78



# Third Program Year CAPER 2009-2010 Consolidated Annual Performance Evaluation Report

## GENERAL

### Executive Summary

Stanislaus County annually receives Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD). In 2002, Stanislaus County formed the Stanislaus County Community Development Block Grant Program Consortium, which now includes Stanislaus County unincorporated communities and the Cities of Ceres, Newman, Oakdale, Patterson, and Waterford, hereafter called "the Consortium". HUD requires Stanislaus County to prepare and submit either a three or five-year Consolidated Plan and Annual Action Plans as applications for these funds. The County is also required to annually prepare the Consolidated Annual Performance and Evaluation Report (CAPER) to report the progress made in accomplishing goals set forth in the Consolidated Plan and Annual Action Plan for the Community Development Block Grant (CDBG) Program, and the Emergency Shelter Grant (ESG) Program. This report is for the Fiscal Year beginning July 1, 2009, and ending June 30, 2010.

Stanislaus County is also a partner in the City of Turlock/Stanislaus County HOME Consortium, which includes the Cities of Oakdale, Patterson, Ceres, Newman, and Waterford. As the lead agency, the City of Turlock administers the HOME program for the County and reports the partnering jurisdictions' activities in the HOME Consortium's CAPER.

The major highlight for this fiscal year was the Consortium's focus on the effective administration and implementation of newly funded HUD programs: Neighborhood Stabilization Program (NSP), Homeless Prevention and Rapid Re-housing (HPRP), and Community Development Block Grant - Recovery (CDBG-R). Along with the newly funded HUD programs, the Community Development Division continued the administration and implementation of its traditional HUD programs: Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and HOME Investments Partnership Program (HOME).

CDBG funding is mandated to primarily serve the low-income community as determined through the utilization of the Area Median Income (AMI) limits as designated by Housing and Urban Development (HUD) for Stanislaus County. The AMI's are broken down into the following categories:

FY 2010 Income Limit Area	Median Income	FY 2010 Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Stanislaus County	\$59,500	Very Low (50%)	\$20,850	\$23,800	\$26,800	\$29,750	\$32,150	\$34,550	\$36,900	\$39,300
		Extremely Low (30%)	\$12,500	\$14,300	\$16,100	\$17,850	\$19,300	\$20,750	\$22,150	\$23,600
		Low (80%)	\$33,350	\$38,100	\$42,850	\$47,600	\$51,450	\$55,250	\$59,050	\$62,850

All of the above named funding sources were tailored towards helping effect change within our local troubled housing market through acquisition, rehabilitation, down payment, energy efficiency, homeless prevention, and rapid re-housing opportunities for the low and moderate income community. These programs have also had an impact on the local workforce and economy as they have created job opportunities for those in the construction, solar, real estate, and social service industries.

**PERFORMANCE & EXPERIENCE**

**Consolidated Plan Progress Summary**

- 1. Assessment of the one-year goals and objectives:**
  - a. Describe the accomplishments in attaining the goals and objectives for the reporting period.**
  - b. Provide a breakdown of the CPD formula grant funds spent on grant activities for each goal and objective.**
- 2. Describe the manner in which the recipient would change its program as a result of its experiences.**

A summary of the accomplishments per jurisdiction for the Consortium is contained in the Community Development Summary section of this CAPER. This section includes a breakdown of grant funds spent on grant activities.

As a result of its experiences over the last six fiscal years staff has moved towards an infrastructure timeline that provides guidance to our Consortium partners. This timeline helps outline a process that will ensure timely use of funds and increase project efficiency. Without this in place infrastructure projects may not be prioritized to meet the timeliness deadline every fiscal year.

Staffing constraints continue to be a challenge, especially with the current State financial crisis. To compensate for this need staff has reduced monitoring requirements for certain public service (non-profit) providers that have traditionally been funded and continue to score as "high-performers" during the grant monitoring process. These providers are now monitored on a bi-annual monitoring basis as opposed to quarterly monitoring.

Experiences with new HUD funded programs such as Neighborhood Stabilization Program (NSP), Homeless Prevention and Rapid Re-housing (HPRP) and Community Development Block Grant - Recovery (CDBG-R) have brought new and exciting

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## Citizen Participation

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1. Provide a summary of citizen comments.
2. In addition, the performance report provided to citizens must identify the Federal funds made available for furthering the objectives of the Consolidated Plan. For each formula grant program, the grantee shall identify the total amount of funds available (including estimated program income), the total amount of funds committed during the reporting period, the total amount expended during the reporting period, and the geographic distribution and location of expenditures. Jurisdictions are encouraged to include maps in describing the geographic distribution and location of investment (including areas of minority concentration). The geographic distribution and expenditure requirement may also be satisfied by specifying the census tracts where expenditures were concentrated.

In order to elicit public participation in the preparation of the Draft CAPER, public notices were published defining the process and how persons, agencies and interested groups could participate. The County posted announcements regarding the CDBG program on the Planning and Community Development internet homepage, which facilitated the receipt of citizen input online. A series of public meetings were held in August 2010 to discuss the Draft CAPER. These include:

<u>JURISDICTION</u>	<u>DATE</u>	<u>LOCATION</u>	<u>ADDRESS</u>
Stanislaus	8/10/10	<u>10:00 am &amp; 6:00pm</u>	County Admin. Building Tenth Street Place Basement Training Room 1010 10 <sup>th</sup> St., Modesto
Ceres	8/19/10	<u>4:00pm</u>	Ceres Community Ctr Chambers 2701 4 <sup>th</sup> St., Ceres
Newman	8/5/10	<u>5:00pm</u>	Newman Council Chambers 1200 Main St., Newman
Oakdale	8/18/10	<u>4:30pm</u>	Community Dev. Dep. Conference Room 120 S. Sierra Ave., Oakdale
Patterson	8/11/10	<u>6:00pm</u>	City Hall 1 Plaza, Patterson
Waterford	8/18/10	<u>6:00pm</u>	Beard Community Center 540 C St., Waterford

### MUNICIPAL ADVISORY COUNCILS

Denair	8/3/10	<u>7:00pm</u>	Denair Senior Center 3756 Alameda, Denair
Hickman	8/5/10	<u>7:00pm</u>	Hickman Charter School Office Hickman
Salida	8/24/10	<u>7:00pm</u>	Salida Library Community Room 4835 Sisk Rd., Salida
Empire	8/9/10	<u>7:00pm</u>	Empire Community Center 18 S. Abbie, Empire
South Modesto	8/12/10	<u>6:00pm</u>	Stanislaus County Ag Center 3800 Cornucopia Way., Modesto
Keyes	8/19/10	<u>7:00pm</u>	Keyes Sub-station 5463 7 <sup>th</sup> St., Keyes

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## CITY OF CERES OBJECTIVES

**INFRASTRUCTURE:** To retrofit communities and neighborhoods with public infrastructure.

***Analysis and Actions***

During this fiscal year the City of Ceres began construction of the 5<sup>th</sup> and 9<sup>th</sup> Street Infrastructure projects. These projects are located within Low/Moderate income Areas and consisted of curb, gutter, sidewalk, ADA accessible ramp improvements, and street reconstruction.

**AFFORDABLE HOUSING:** To increase and maintain the supply of affordable housing.

***Analysis and Actions***

DPA Program: The program provides first time homebuyers 20% of the purchase price of a home. In Fiscal Year 2009-2010, the City of Ceres provided DPA to nine (9) first time home buyers, utilizing HOME funds.

## CITY OF NEWMAN OBJECTIVES

**INFRASTRUCTURE:** To retrofit communities and neighborhoods with public infrastructure.

***Analysis and Actions***

In Fiscal Year 2009-2010, the City completed the Fresno/T Street Infrastructure project which consisted of installation of curb, gutter, and sidewalk in the residential area of Fresno Street bounded by R Street to the east and T Street to the west.

The City of Newman also began construction of Phase I of the PQRST, Fresno, Merced, & West Avenue Infrastructure Project. Improvements consisted of the installation curb, gutter, sidewalks, and reconstruction of:

- Fresno Street, from T to West Ave
- Merced Street, from T to West Ave
- West Avenue, from Fresno to Merced Streets

## CITY OF OAKDALE OBJECTIVES

**INFRASTRUCTURE:** To retrofit communities and neighborhoods with public infrastructure.

***Analysis and Actions***

The City of Oakdale completed the construction of the Oak Avenue Infrastructure Project. The project consisted of water and sewer main replacement, installation of sidewalks, curb, gutter, storm drain, ADA ramps, and street overlay.

**AFFORDABLE HOUSING:** To increase and maintain the supply of affordable housing.

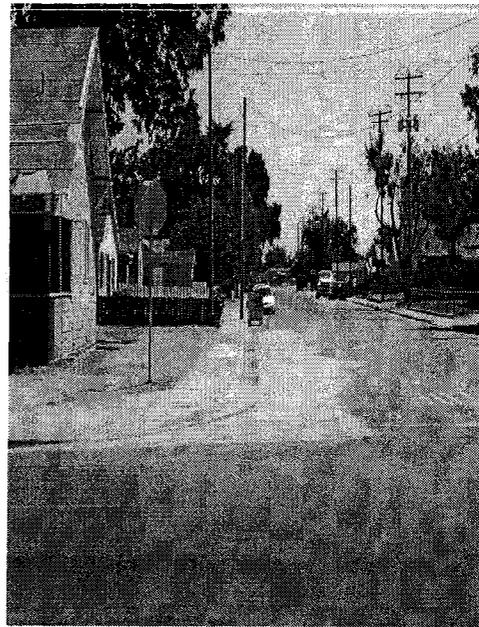
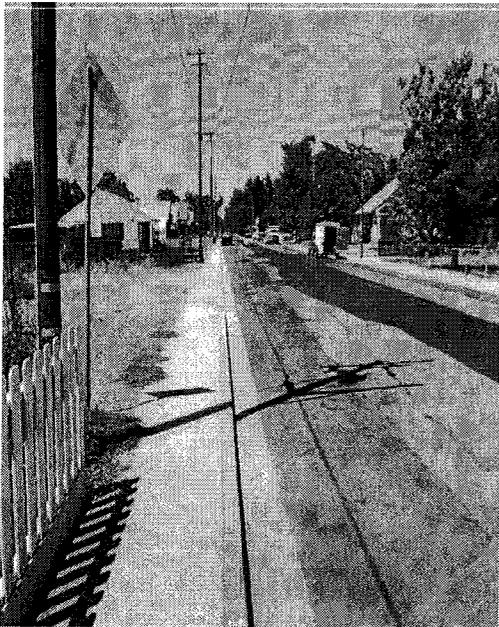
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**9<sup>th</sup> Street Infrastructure Project**

**Project # CE-08-02**

Construction of the 9<sup>th</sup> Street Project was conducted during Fiscal Year 2009-2010. Improvements consisted of installation of curb, gutter, sidewalks, ADA accessible ramps, and matching pavement from Roeding Road to the north to El Camino Avenue to the south. The project is approximately 90% complete. Project construction is scheduled to conclude by the end of August 2010. No Fiscal Year 2009-2010 funds were budgeted for this project. Funds utilized consisted of previous fiscal year funds.



*Photos reflect gutter, sidewalks, ADA ramps, and matching pavement improvements*

**CITY OF NEWMAN**

**Project Administration**

**Project # NE-09-01**

***\$25,274.00 Funds Budgeted***

***\$25,015.03 Funds Expended***

This expenditure includes costs associated with general management, oversight, and coordination of the CDBG program. City staff track the time spent for project administration and submits to County CDBG staff for verification and processing. Remaining funds will be rolled over into Newman's Fiscal Year 2010-2011 infrastructure project(s).

**PQRST, Fresno, Merced, West Ave Project**

**Project # NE-09-02**

***\$117,468.00 Funds Budgeted***

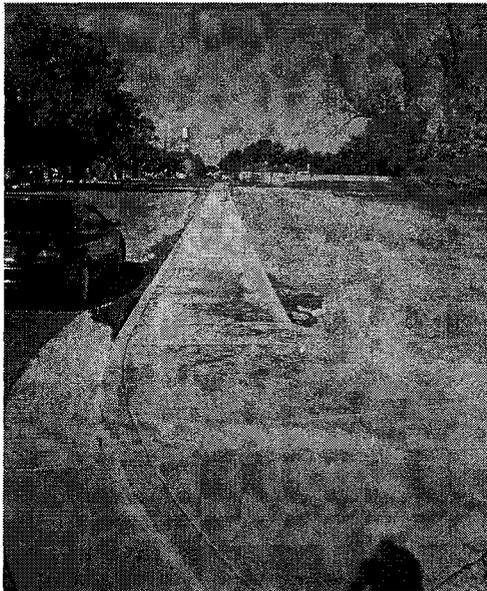
***\$ 8,329.89 Funds Expended***

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The City of Newman completed the construction of Phase I of this project. Phase I consisted of the installation curb, gutter, and sidewalks on:

- Fresno Street, from T to West Ave
- Merced Street, from T to West Ave
- West Avenue, from Fresno to Merced Streets

A total of \$48,329.89 was expended, of which \$8,329.89 are Fiscal Year 2009-2010 funds. The remaining Fiscal Year 2009-2010 funds will be utilized in the coming fiscal year.



*Photos reflect the installation curb, gutter, and sidewalk improvements*

**PQRST... Street Reconstruction**

**Project # NE-09-02**

**\$100,000.00 Funds Budgeted**

**\$ 47,701.04 Funds Expended**

In concurrence with the construction of the PQRST, Fresno, Merced, and West Avenue Infrastructure Phase I project, street reconstruction was carried out in the project area of:

- Fresno Street, from T to West Ave
- Merced Street, from T to West Ave
- West Avenue, from Fresno to Merced Streets

A total of \$58,422.88 was expended, of which \$47,701.04 are Fiscal Year 2009-2010 funds. The remaining Fiscal Year 2009-2010 funds will be utilized in the coming FY.

**T3 Workforce Technology Development**

**Project # NE-09-04**

**\$10,000.00 Funds Budgeted**

**\$ 9,800.00 Funds Expended**

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This program provided job and career development opportunities to the underserved in the community. The Targeted Technology Training Program (T3) conducted training sessions 2-3 times weekly to low and moderate income residents of the City of Newman. A total of 167 individuals received T3 during this fiscal year as part of 35 classes offered in the community.

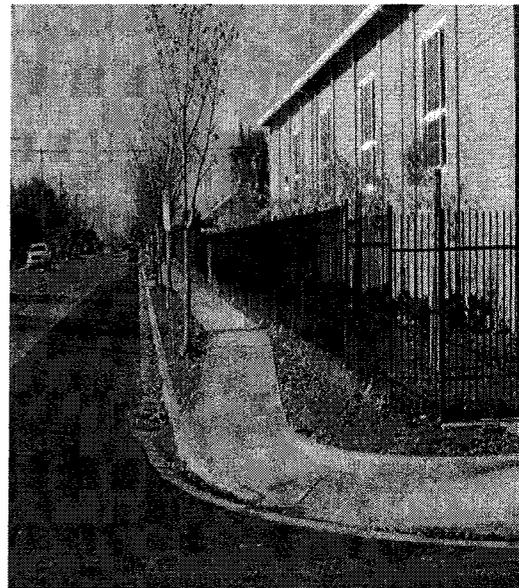
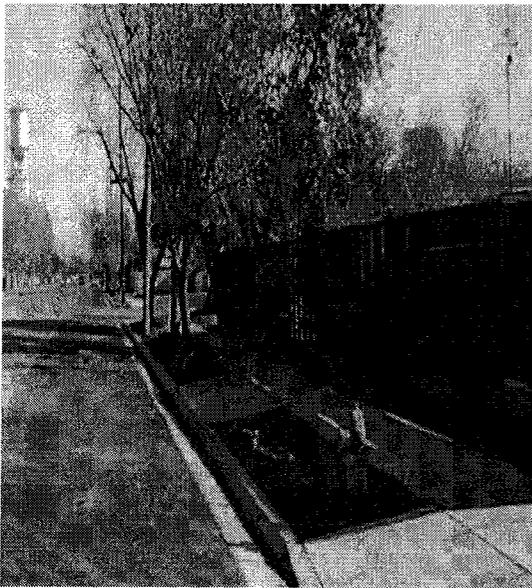
**Fresno/T Street Infrastructure Project**

**Project # NE-08-02**

**\$150,000.00 Funds Budgeted**

**\$4,325.73 Funds Expended**

The Fresno/T Street Infrastructure Project was completed in Fiscal Year 2009-2010. This project consisted of the installation of curb, gutter, and sidewalk in the residential area of Fresno Street bounded by R Street to the east and T Street to the west. Some Fiscal Year 2009-2010 funds were used for this project. Funds not utilized will be rolled over into a Fiscal Year 2010-2011 project consistent to this activity.



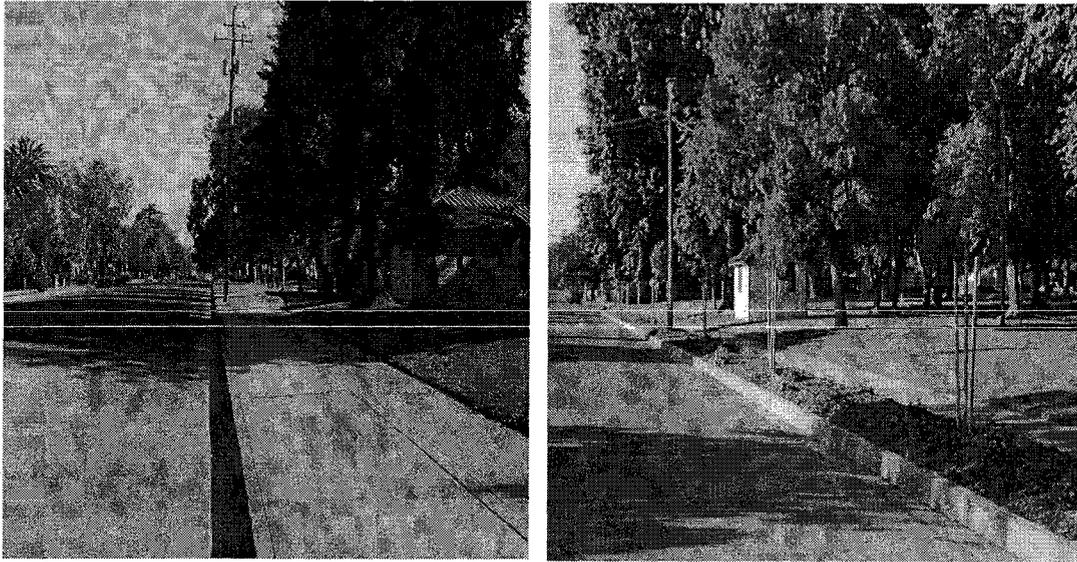
*Photos reflect the installation of curb, gutter, and sidewalk*

**Pioneer Park Project Phase II**

**Project # NE-05-01**

The Pioneer Park Project Phase II construction was completed in the month of August 2009. This project consisted of demolition/construction of the picnic shelter, concrete slab, new concrete way, and electrical improvements.

The City of Newman has reported that the improvements to Pioneer Park have had a significant positive impact on the aesthetics of the park and surrounding community. Also, the City has noticed an increase of use of the park by residents during weekdays and the weekends. No Fiscal Year 2009-2010 funds were budgeted for this project. Funds utilized consisted of previous fiscal years' funds.



*Photos consist of park improvements that include a new concrete slab, new concrete way, and electrical improvements*

**CITY OF OAKDALE**  
**Project Administration**

**Project # OA-09-01**

**\$20,986.00 Funds Budgeted**  
**\$20,986.00 Funds Expended**

This expenditure includes costs associated with general management, oversight, and coordination of the CDBG program. City staff track the time spent for project administration and submits to County CDBG staff for verification and processing.

**T3 Workforce Technology Development**

**\$ 5,000.00 Funds Budgeted**  
**\$ 5,000.00 Funds Expended**

**Project # OA-09-02**

This program provided job and career development opportunities to the underserved in the community. The Targeted Technology Training Program (T3) conducted training sessions 2-3 times weekly to low and moderate income residents of the City of Oakdale. A total of 142 individuals from the Oakdale community received T3 training from 19 classes during this fiscal year.

**Oak Avenue Infrastructure Project**  
**\$184,088.00 Funds Budgeted**  
**\$184,088.00 Funds Expended**

**Project # OA-08-02**

The City of Oakdale completed the construction phase of the Oak Avenue Infrastructure Project. This project consisted of water and sewer main replacement, installation of sidewalks, curb, gutter, storm drain, ADA ramps, and street overlay.

**Summary of Specific Annual Objectives**

Specific Obj. #	Outcome/Objective Specific Objectives	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed
<b>SL-1 Availability/Accessibility of Suitable Living Environment</b>							
SL-1.1 City of Newman Fresno/T Street Infrastructure Project	Address the need for infrastructure improvements to the low-income residential area of Fresno Street bounded by Fresno Street, from R to T Streets and on T Street from Yolo Street to Inyo Avenue. Improvements include the installation of curb, gutter, and sidewalks.  Project Status: Complete	CDBG \$0.00	Number for low-income residents with access to improved infrastructure facilities.	2007			
				2008			
				2009	238	238	100%
				2010			
				2011			
				<b>GOAL</b>			
SL-1.1 City of Newman PQRST, Fresno, Merced, Patchett, West Avenue Infrastructure Project	Address the need for infrastructure improvements to low-income residential area consisting of the following streets: P, Q, R, S, T, Fresno, Merced, Patchett, and West Avenue. Improvements will consist of installation of curb, gutter, and sidewalks.  Project Status: Underway	CDBG \$117,468	Number residents, in 284 households, benefiting from infrastructure improvements in the eligible residential area.	2007			
				2008			
				2009	994	994	100%
				2010			
				2011			
				<b>GOAL</b>			
SL-1.1 City of Newman Street Reconstruction Project (concurrency w/ above project)	Street repair and overlay (due to infrastructure repairs) on P and Q Streets, from Yolo to Inyo Streets.  Project Status: Underway	CDBG \$100,000	Number residents, in 284 households, benefiting from infrastructure improvements in the eligible residential area.	2007			
				2008			
				2009	994	994	100%
				2010			
				2011			
				<b>GOAL</b>			
SL-1.1 City of Newman T3 Workforce Technology Development	Address the need for workforce technology development training programs that will enhance participants' computer skills and, in turn, allow them to re-enter the workforce.  Project Status: Complete	CDBG \$10,000	Number of program participants with enhanced computer skills therefore enabled to enter the workforce.	2007			
				2008			
				2009	300	167	56%
				2010			
				2011			
				<b>GOAL</b>			



**ADOPTION ORDINANCES REGARDING THE CALIFORNIA CODE OF REGULATIONS  
TITLE 24, 2010 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE.**

**RECOMMENDATION:**

It is recommended that the City Council adopt the ordinances amending Title 4 Building Regulations of the Newman Municipal Code, and adopting by reference, The California Code of Regulations Title 24, 2010 Edition of the California Building Standards Code with amendments.

**BACKGROUND:**

The model codes are updated every three years. This allows for the codes to improve and adjust to the newest materials, methods of construction and technological advances in the industry.

**ANALYSIS:**

The new 2010 California Building Standards Code contains twelve parts that incorporate public health, life safety, and general welfare standards used in the design and construction of buildings in California. These parts incorporate the latest national standards in the International Building, Residential and Fire Codes, California Green Building Code, California Energy Code, National Electrical Code, and the Uniform Mechanical and Plumbing Codes.

This code cycle introduces a new California Residential Code based on the International Residential Code, it's a stand alone document designed to help consolidate the building provisions in residential construction. Features include mandatory fire sprinklers in all new dwellings and townhouses, and mandatory carbon monoxide detectors.

This code cycle also introduces the new California Green Building Code "CALGreen", this is the nation's first mandatory green building code. Features include regulations for energy efficiency, water efficiency and conservation, material conservation and resource efficiency, environmental quality, and more.

We are also introducing a Placard ordinance to help identify and enforce dangerous buildings after a disaster. Placards have been widely used in past earthquakes to demote the condition of buildings and structures. Adopting the placards by ordinance makes them official and enforceable. In past events, where jurisdictions have not adopted the placard ordinance, there have been a number of reports of the unauthorized change of placards, usually from UNSAFE to one of the other categories. Adopting the ordinance allows the jurisdiction to enforce the posting with local police if necessary.

Health and Safety Code Section 18941.5 mandates that the Building Standards contained in the 2010 California Building Standards Code shall be effective 180 days after publication by the California Building Standards Commission. If these codes are not adopted by ordinance they become effective by default without any amendments. The proposed effective date for the City of Newman will be January 1, 2011. As part of the adoption process this department has made every effort to notify all affected parties of the proposed changes.

**FISCAL IMPACT:**

None

**CONCLUSION:**

Staff recommends council approves proposed ordinance amending Newman Municipal Code, Title 4.

**ATTACHMENTS:**

1. Ordinance No. 2010- ,
2. Attachment "A" the amended version of Newman Municipal Code Title 4, Building Regulations.

Respectfully Submitted,

  
Mike Brinkman  
Chief Building Official

**REVIEWED/CONCUR:**

  
Michael Holland  
City Manager



ORDINANCE NO. 2010-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN AMENDING TITLE 4 BUILDING REGULATIONS - OF THE NEWMAN CITY CODE**

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

Section 1.

That Title 4 of the Newman City Code be amended as stated in Attachment "A", attached hereto and made a part hereof by this reference.

Section 2.

All other sections and provisions of Titles 4 shall remain in full force and effect.

Section 3.

That a duly noticed public hearing was held by the City Council on October 12, 2010.

Section 4.

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 at least once in the West Side Index, a newspaper of general circulation, 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 28<sup>th</sup> day of September, 2010 by Council Member \_\_\_\_\_, and adopted at a regular meeting of said City Council held on the 12<sup>th</sup> day of October, 2010 by the following vote:

AYES:  
NOES:  
ABSENT:

APPROVED:

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

ATTEST:

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



**Title 4  
BUILDING REGULATIONS**

**Chapters:**

- 4.01 Building Code**
- 4.02 Plumbing Code**
- 4.03 Electrical Code**
- 4.04 Numbering Buildings**
- 4.05 Moving Buildings**
- 4.06 Television Antennas**
- 4.07 Swimming Pool, Spa, and Hot Tub Code**
- 4.08 Housing Code**
- 4.09 Mechanical Code**
- 4.10 Abatement of Dangerous Buildings**
- 4.11 Floodplain Management**
- 4.12 Administrative Code**
- 4.13 The Historic Building Preservation of the City of Newman**
- 4.14 Solar Energy Code**
- 4.15 Historical Building Code**
- 4.16 Existing Building Code**
- 4.17 Energy Code**
- 4.18 Elevator Safety Construction Code**
- 4.19 Reference Standard Code**
- 4.20 Residential Code**
- 4.21 Green Code**
- 4.22 Safety Assessment Placards**

**Chapter 4.01  
BUILDING CODE**

**Sections:**

- 4.01.010 Purposes.**
- 4.01.020 Adoption.**
- 4.01.030 Definitions.**
- 4.01.040 Violations and penalties.**
- 4.01.050 Appendix Amendments.**
- 4.01.060 Validity.**
- 4.01.070 Board of Appeals**

**4.01.010 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-10 § 1, 10-22-2002; Ord. 99-11 § 1, 3-23-1999; Ord. 92-9, 7-28-1992)

**4.01.020 Adoption.**

Those certain documents in book form entitled "California Building Code – 2007 2010 Edition of Title 24 Part 2 Volume 1 and 2," and including the Appendices Chapter H – Signs, Chapter I – Patio Covers, and Chapter J – Grading, based on the 2009 International Building Code, as approved and copyrighted by the International Code Council (ICC), 4051 West Flossmoor Road, Country Club Hills, IL 60478, one copy of which document is now on file in the Building Department of the City of Newman, except as to portions thereof which are herewith specifically amended, deleted and added to, are hereby adopted by reference together as "California Building Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-10 § 2, 10-22-2002; Ord. 99-11 § 2, 3-23-1999)

**4.01.030 Definitions.**

- A. The name "Newman" and/or "California" shall be inserted in the appropriate places provided therefor in each and every section of this Code wherever the City or the State is left blank.
- B. The term "Building Official" shall include the term "~~Building Inspector.~~" "Chief Building Official", means the Authority Having Jurisdiction / Director of the Building Department within the Community Development and Services Agency, and his or her deputies or designees.  
(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-10 § 3, 10-22-2002; Ord. 99-11 § 3, 3-23-1999; Ord. 92-9, 7-28-1992)

**4.01.040 Violations and penalties.**

Section 205 of the 1997 Uniform Administration Code as set forth in said Code is omitted, but in lieu thereof, a new Section 205 is added to read as follows:

Section 205.

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City of Newman, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.

Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500 or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-10 § 4, 10-22-2002; Ord. 99-11 § 4, 3-23-1999)

**4.01.050 Appendix Amendments.**

**A.** Chapter J of the California Building Code Appendix is amended by adding Section J112 thereto, to read:

Section J112 Storm Water Drainage Requirement.

In all cases where proposed construction is for commercial, industrial, or public or quasi-public buildings or structures, for two-family, three-family, four-family, or multi-family dwellings, or for other uses which similarly involve structural ground coverage likely to affect storm drainage in the areas in which they are located, including but not limited to, trailer parks and parking lots, drainage facilities for the property shall be constructed in a manner approved by the Department of Public Works, which may include discharge into a publicly maintained storm drain system or ponding basin. Submission of the drainage plans for approval shall be the responsibility of the owner or the developer of the property on which the construction is proposed, and the application for a building permit shall be accompanied by a drainage plan suitable for review by the Department of Public Works.

**B. Section 501.2 of the 2010 California Building Code is hereby amended by adding the following subsection:**

**501.2.1 Address Illumination. Addressing shall be illuminated at night in all new buildings. Address signs shall be internally or externally illuminated. When the luminance or the face of a sign is from an external source, it shall have an intensity of not less than 5.0 foot-candles. Internally illuminated signs shall provide equivalent luminance.**

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-10 § 5, 10-22-2002; Ord. 99-11 § 5, 3-23-1999)

**4.01.060 Validity.**

The City Council of the City of Newman hereby declares that should any section, paragraph,

sentence or word of this chapter or of the Codes hereby adopted be declared for any reason to be invalid or unconstitutional, it is the intent of the City Council of the City of Newman that it would have passed all other portions of the ordinance codified in this chapter independently of the elimination herefrom of any such portion as may be declared invalid or unconstitutional. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-10 § 6, 10-22-2002; Ord. 99-11 § 6, 3-23-1999; Ord. 92-9, 7-28-1992)

**4.01.070**            **Board of Appeals.**

Section 204 of the 1997 Uniform Administrative Code is hereby added to read as follows:

Section 204 Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

**Chapter 4.02  
PLUMBING CODE**

**Sections:**

- 4.02.010 Adoption.**
- 4.02.020 Purposes.**
- 4.02.030 Penalties.**
- 4.02.040 Board of Appeals.**
- 4.02.050 Validity.**

**4.02.010 Adoption.**

That certain document in book form entitled "California Plumbing Code, 2007 2010 Edition of Title 24 Part 5," including the Appendices thereof, based on the 2009 Uniform Plumbing Code as approved and copyrighted by the International Association of Plumbing and Mechanical Officials (IAPMO) and California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833, prescribing regulations governing the installation, construction, maintenance, alteration, repair and inspection of plumbing, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "The California Plumbing Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-11 § 1, 10-22-2002; Ord. 2002-5 § 1, 10-22-2002)

**4.02.020 Purposes.**

The purposes of this chapter are: providing for the protection of the public health and safety; requiring a permit and inspection for the installation or alteration of plumbing and drainage systems; defining certain terms; establishing minimum regulations for the installation, alteration or repair of plumbing and drainage systems and the inspection thereof; providing penalties for its violations; and repealing conflicting ordinances. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-11 § 2, 10-22-2002; Ord. 2002-5 § 2, 10-22-2002; Ord. 90-16, 10-16-1990)

**4.02.030 Penalties.**

Section 102.3 of the California Plumbing Code is hereby amended to read as follows:

Section 102.3 Violation and Penalties.

Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not to exceed one hundred eighty (180) days, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this ordinance or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this ordinance shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-11 § 3, 10-22-2002; Ord. 2002-5 § 3, 10-22-2002)

**4.02.040 Board of Appeals.**

Section ~~408-8~~ 102.4 of the California Plumbing Code is hereby added to read as follows:

Section ~~408-8~~ 102.4 Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-11 § 4, 10-22-2002; Ord. 2002-5 § 4, 10-22-2002)

**4.02.050 Validity.**

The City Council of the City of Newman hereby declares that should any section, subsection, sentence, clause or phrase of this chapter or the Code hereby adopted is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City of Newman hereby declares that it would have passed the ordinance codified in this chapter, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-11 § 5, 10-22-2002; Ord. 2002-5 § 5, 10-22-2002)

**Chapter 4.03**  
**ELECTRICAL CODE**

**Sections:**

- 4.03.010 Adoption.**
- 4.03.020 Penalties.**
- 4.03.030 Violations.**

**4.03.010 Adoption.**

That certain document in book form entitled "California Electrical Code – ~~2007~~ 2010 Edition of Title 24 Part 3," based on the 2008 National Electrical Code, published by the National Fire Protection Association, 1 Batterymarch Park (P.O. Box 9146), Quincy, MA 02269, and the California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833, and approved by the United States of America Standards Institute, one copy of which document is on file in the Building Department of the City of Newman, is hereby adopted by reference, and enacted by the City Council of the City of Newman as the "California Electrical Code of the City of Newman," in its present form, except as hereinafter amended, deleted and added to, and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-12 § 1, 10-22-2002; Ord. 2002-9 § 1, 10-22-2002)

**4.03.020 Penalties.**

Annex ~~G~~ H Section 80.23(B) of the California Electrical Code is hereby amended to read as follows:

Annex-~~G~~ H Section 80.23(B). Penalties.

Any person, firm or corporation, who shall violate any of the provisions of this ordinance or the Code hereby adopted, or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed therein, shall for each and every separate violation and noncompliance, respectively, be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$500.00 or by jail imprisonment for a period not exceeding 180 days, or by both such fine and imprisonment. The imposition of one penalty for any violation of this ordinance or the Code hereby adopted shall not excuse the violation, or permit it to continue; and any such persons shall be required to correct or remedy such violation or defect within a reasonable time; and when not otherwise specified, each ten days that prohibitive conditions are maintained shall constitute a separate offense. The application of the above penalties shall not be held to prevent the enforced removal of prohibitive conditions.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-12 § 2, 10-22-2002; Ord. 2002-9 § 2, 10-22-2002; Ord. 91-9, 7-16-1991)

**4.03.030 Violations.**

Annex ~~G~~ H Section 80.23(A) of the California Electrical Code is hereby amended to read as follows:

Annex **G** H Section 80.23(A). Violations.

Every person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a separate offense for each ten days thereof during which such violation continues and shall be punishable therefor as herein provided.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-12 § 3, 10-22-2002; Ord. 2002-9 § 3, 10-22-2002; Ord. 91-9, 7-16-1991)

**Chapter 4.04**  
**NUMBERING BUILDINGS**

**Sections:**

**4.04.010 System established.**

**4.04.020 North, south designations.**

**4.04.030 Director to supervise.**

**4.04.010 System established.**

The following system of numbering the houses in the City is hereby established as follows:

- A. South of Fresno Street. All blocks fronting on the streets lying south of Fresno Street, and extending in a southerly direction, shall commence with number one on each street on the southerly line of Fresno Street, and thence continue southerly with 100 numbers to each block to the southern City limits; provided, that the odd numbers be placed on the houses fronting on the westerly line of said streets, and the even numbers be placed on the houses fronting on the easterly line of said streets.
- B. North of Fresno Street. All blocks fronting on the streets lying north of Fresno Street and extending in a northerly direction shall commence with number one on each street on the northerly line of Fresno Street, and thence continue northerly with 100 numbers to each block to the northern City limits; provided, that odd numbers be placed on the houses fronting on the westerly side on said streets, and the even numbers be placed on the houses fronting on the easterly side on said streets.
- C. East of O Street. All blocks fronting on the streets lying east of O Street and extending in an easterly direction shall commence with number one on each street on the easterly line of O Street, and thence continue easterly with 100 numbers to each block to the eastern City limits; provided, that the odd numbers shall be placed on the houses fronting on the northerly side of said streets and the even numbers be placed on the houses fronting on the southerly side of said streets.
- D. West of O Street. All blocks fronting on the streets lying west of O Street, and extending in a westerly direction, shall commence with number one on each street on the westerly line of O Street, and thence continue westerly with 100 numbers to each block to the western City limits; provided, that the odd numbers shall be placed on the houses fronting on the northerly side of said streets, and the even numbers be placed on the houses fronting on the southerly side of said streets. (Ord. 2007-10 § 1, 11-27-2007)

**4.04.020 North, south designations.**

All numbers lying north of Fresno Street shall be designated as No. \_\_\_\_ North, and all numbers lying south of Fresno Street shall be designated as No. \_\_\_\_ South. All numbers lying east of O Street shall be designated as No. \_\_\_\_ East, and all numbers lying west of O Street shall be designated as No. \_\_\_\_ West. (Ord. 2007-10 § 1, 11-27-2007; Ord. 79, 10-22-1918)

**4.04.030 Director to supervise.**

The work of numbering the houses as above provided shall be under the supervision of the Director of Public Works. (Ord. 2007-10 § 1, 11-27-2007; Ord. 77-2, 2-8-1977; Ord. 79, 10-22-1918)

**Chapter 4.05  
MOVING BUILDINGS**

**Sections:**

- 4.05.010 House mover's and relocation permits.**
- 4.05.021 Relocation permits – Application for permit.**
- 4.05.022 Relocation permits – Investigation of applicant.**
- 4.05.023 Relocation permits – Issuance of permit denied.**
- 4.05.024 Relocation permits – Issuance of permit.**
- 4.05.025 Relocation permits – Bond required.**
- 4.05.026 Relocation permits – Conditions of bond.**
- 4.05.027 Relocation permits – Default in performance of conditions.**
- 4.05.028 Relocation permits – Bond period and termination of bond.**
- 4.05.031 House mover's permit – Permit prerequisites.**
- 4.05.032 House mover's permit – Contents of application.**
- 4.05.033 House mover's permit – Action upon application.**
- 4.05.034 House mover's permit – Deposits.**
- 4.05.041 Procedure for house movers – Conditions of permit.**
- 4.05.042 Procedure for house movers – Inspection of structures.**
- 4.05.043 Procedure for house movers – Police escort.**
- 4.05.044 Procedure for house movers – Methods of moving.**
- 4.05.045 Procedure for house movers – Damage to streets.**
- 4.05.046 Procedure for house movers – Deposit deductions.**
- 4.05.047 Procedure for house movers – Red light required.**
- 4.05.050 Insurance.**
- 4.05.060 Appeals.**

**4.05.010 House mover's and relocation permits.**

- A. Defined.
  - 1. No person shall move any building or structure or any portion thereof over, upon, along or across any public street, alley or sidewalk without a written permit therefor from the office of the City Clerk. Such permit may be referred to as a "house mover's permit."
  - 2. No person shall relocate any building or structure or any portion thereof upon any premises in the City without a permit therefor. Such permit may be referred to as a "relocation permit."
- B. Permits Required. No house mover's permit shall be issued until the City Clerk has first issued to the owner of the premises to which the building is to be moved, a relocation permit. No relocation permit shall be required if the building or structure is to be moved to a place located outside the limits of the City or if the building or structure is to be used by a governmental agency for a governmental purpose. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.021 Relocation permits – Application for permit.**

- A. Every application to the City Clerk for a relocation permit shall be in writing upon a form furnished by the City Clerk and shall set forth such information as may be reasonably required in order to carry out the purposes of this chapter. The application shall have attached thereto:
  - 1. Photograph of the building of not less than eight inches by 10 inches in dimension of all sides of such building or structure, showing the general

- architectural design and appearance thereof.
  2. Plot plan showing proposed location of building.
  3. Plan of reconstruction.
  4. Written report of a licensed pest control operator showing whether there is infestation, infection or damage to the building, or any hazardous or dangerous conditions to the structure related to wood-destroying organisms.
- B. Such application shall be filed with the City Clerk accompanied by an application fee of \$100.00. The application fee shall be in addition to the regular building permit fee required in the City Building Code. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.022 Relocation permits – Investigation of applicant.**

- A. Upon the filing of the application, the City Clerk shall refer the matter to the Planning Commission of the City for its review, and no such permit shall be issued until the same has been approved by said body. The Planning Commission shall set a hearing thereon. Written notice of the time and place of such hearing shall be mailed to the known owners of property within a radius of 300 feet of the property to which said building is to be moved, and notice thereof shall also be posted on said proposed location. Such notice mailed and posted shall set forth the character of the building to be moved, and the place from which and the place to which it is to be moved, in addition to the time and place of hearing upon the application. Such mailing and posting of notices shall be completed at least 10 days before the date of said hearing.
- B. Any person aggrieved by the decision of the Planning Commission upon any application for a permit as herein provided may, within 15 days from the date said action is taken by the Planning Commission, appeal to the City Council. Said appeal shall be in writing and filed with the City Clerk. Upon the filing of any such appeal the same shall be set for hearing before the City Council and notice of the time and place of such hearing and the purpose thereof shall be given by the mailing of notices to the owners of all property within a radius of 300 feet of the property to which any building or structure is to be moved, and to the applicant. Such mailing of notices shall be completed at least 10 days before the date on said hearing. After such hearing by the City Council, the City Council may grant or deny the application or may modify in any particular, the action taken by the Planning Commission. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.023 Relocation permits – Issuance of permit denied.**

No permit shall be issued to relocate any building or structure which in the opinion of the Planning Commission is so constructed or in such condition as to be dangerous; or which is infested with pests or unsanitary; or which, if it be a dwelling or habitation, is unfit for human habitation; or which is so dilapidated, defective, unsanitary or in such a condition of deterioration or disrepair that its relocation at the proposed site would be materially detrimental to the property or improvements in the district within a radius of 300 feet from the proposed site; or if the proposed use is prohibited by the zoning laws of the City; or if the structure is of a type prohibited, at the proposed location, by any fire district ordinance, or by any other law or ordinance; provided, however, that if the condition of the building or structure in the judgment of the Planning Commission admits of practicable and effective repair, the permit may be issued subject to appropriate conditions as hereinafter provided. If the unlawful, dangerous or defective condition of the building or structure proposed to be relocated is such that remedy or correction cannot practicably and effectively be made, the permit shall be denied. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.024 Relocation permits – Issuance of permit.**

If the granting of a permit is not prohibited by NCC 4.05.023, the Planning Commission may,

after the necessary investigation and hearing, authorize the City Clerk to issue a "relocation permit" and in authorizing such permit, may impose such terms and conditions as he may deem reasonable and proper, including but not limited to, the requirement of changes, alterations, additions or repairs to be made to or upon the building or structure to the end that the relocation thereof will not be materially detrimental to public welfare or to the property and improvements or either, in the district within a radius of 300 feet of the proposed site to which it is to be moved. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.025 Relocation permits – Bond required.**

- A. No relocation permit shall be issued by the City Clerk unless the applicant therefor shall first post with the City Clerk a bond executed by the owner of the premises, where the building or structure is to be located, as principal, and a surety company, authorized to do business in this State, as surety. The bond, which shall be in form joint and several, shall name the City as obligee and shall be in an amount equal to the cost plus 50 percent of the work required to be done in order to comply with all of the conditions of such relocation permit, as such cost is estimated by the Director of Public Works. In lieu of a surety bond the applicant may post a bond executed by said owner, as principal, and which is secured by a deposit in cash in the amount named above and conditioned as required in the case of a surety bond; such a bond as so secured is hereafter called a "cash bond" for the purposes of this chapter.
- B. Any bond executed pursuant to any provision of this chapter shall contain a provision indemnifying and saving harmless the City and each officer or employee thereof from any loss or liability arising out of or resulting from any of the acts done pursuant to the provisions of any such bond or permit. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.026 Relocation permits – Conditions of bond.**

Every bond posted pursuant to this chapter shall be conditioned as follows:

- A. That each and all of the terms and conditions of the "relocation permit" shall be complied with to the satisfaction of the Director of Public Works.
- B. That all of the work required to be done pursuant to the conditions of the relocation permit shall be fully performed and completed within the time limit specified in the relocation permit; or, if no time limit is specified, within 90 days after the date of the issuance of the house mover's permit elsewhere in this chapter provided for. The time limit herein specified, or the time limit specified in any permit, may be extended for good and sufficient causes by the Director of Public Works. No such extension of time shall be valid unless written and no such extension shall release any surety upon any bond. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.027 Relocation permits – Default in performance of conditions.**

- A. Whenever the Director of Public Works shall find that a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the principal and to the surety of the bond.
- B. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Director of Public Works to be reasonably necessary for the completion of such work.
- C. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed, or failing therein, must pay over to the Director of Public Works the estimated cost of doing the work as set forth in the notice, plus an additional sum equal to 10 percent of the said estimated cost. Upon the receipt of such moneys, the Director of Public Works shall proceed by such mode as he deems convenient to cause the required work to be performed and completed, but no liability

shall be insured therein other than for the expenditure of the said sum in hand therefor.

- D. If a cash bond has been posted, notice of default as provided above shall be given to the principal and if compliance is not had within the time specified, the Director of Public Works shall proceed without delay and without further notice or proceedings whatever to use the cash deposit, or any portion of such deposit, to cause the required work to be done by contractor or otherwise in the discretion of the Director of Public Works. The balance, if any, of such cash deposit shall, upon the completion of the work, be returned to the depositor, or to his successors or assigns, after deducting the cost of the work plus 10 percent thereof. If upon investigation or failure to secure offers or bids to do said work, it appears that the cash deposit is not adequate to complete the same, the Director of Public Works shall report the facts to the City Council for such action as it shall order after due investigation.
- E. When any default has occurred on the part of the principal under the preceding provisions, the surety shall have the option in lieu of completing the work required, to demolish the building or structure and to clear, clean and restore the site. If the surety defaults, the Director of Public Works shall report the facts to the City Council for its order, which order may include all actions herein placed in the power of the surety. The City Council may, at its discretion, bring suit against the surety and principal and such other defendants as it may be advised to obtain a judgment authorizing demolishing the building or structure or for such other remedies as the court shall decree. Costs of such proceeding shall be paid by the principal and surety and other defendants as the court may decree. Any building or structure maintained after default shall constitute a public nuisance and be subject to abatement as such.
- F. In the event of any default in the performance of any term or condition of the relocation permit, the surety, or any person employed or engaged on its behalf, shall have the right to go upon the premises to complete the required work or to remove or to demolish the building or structure.
- G. No person shall interfere with or obstruct the ingress or egress to or from any such premises by any authorized representative or agent of any surety engaging in the work of completing, demolishing or removing a building or structure for which a relocation permit has been issued after a default has occurred in the performance of the terms or conditions thereof. The provisions of this subsection as well as all subsections of this section shall also extend to representatives of the City. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.028 Relocation permits – Bond period and termination of bond.**

The term of each bond posted pursuant to this chapter shall begin upon the date of the posting thereof, and shall end upon completion to the satisfaction of the Director of Public Works of the performance of all of the terms and conditions of the relocation permit. Such completion shall be evidenced by a statement thereof signed by the Director of Public Works, a copy of which will be sent to any surety or principal upon request. When a cash bond has been posted, the cash shall be returned to the depositor or to his successors or assigns upon the termination of the bond, except any portion thereof that may have been used or deducted as elsewhere in this chapter provided. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.031 House mover's permit – Permit prerequisites.**

No house mover's permit shall be granted by the City Clerk except as follows:

- A. The applicant must first furnish evidence that the applicant has already been issued a relocation permit for the particular building or structure when such a permit is required by the provisions of this chapter.
- B. The applicant shall pay to the City Clerk an application fee of \$25.00 for each permit requested.

- C. A separate application upon a form furnished by the City Clerk must be filed, and a separate permit obtained for the moving of each separate building or structure or portion of a building or structure. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.032 House mover's permit – Contents of application.**

Each application for a house mover's permit must show:

- A. The kind of building or structure to be moved.
- B. The street location or other identifying description from which it is proposed to be moved if such location is within the City, and the street location or other identifying description to which it is proposed to be moved, and the route over, along, across and upon which such building or structure, section or portion thereof is to be moved.
- C. The number of sections in which the building or structure will be moved.
- D. The time when it is proposed to be moved and within which removal will be completed. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.033 House mover's permit – Action upon application.**

The Director of Public Works, immediately upon receipt of such application shall notify the Chief of Police that such application has been filed. The Director of Public Works shall investigate the route designated in the application to ascertain whether the moving of the building can be made without damage to the trees adjacent thereto. If the moving would damage such trees, he shall prescribe another route which will not cause such damage. If the moving of the building requires any tree trimming, such tree trimming shall be performed by a street trimmer designated by the Director of Public Works, and a charge of \$10.00 per hour shall be made for the services of such tree trimmer. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.034 House mover's permit – Deposits.**

- A. No permit shall be issued to any house mover pursuant to the terms of this chapter until the applicant therefor shall have deposited \$150.00 with the City Clerk.
- B. Any house mover may make and maintain with the City Clerk, a general deposit in the sum of \$500.00, which general deposit shall be used for the same purpose as the special deposit mentioned in this section, and while such general deposit is maintained such house mover shall not be required to make the special deposit in this section provided for, but shall be required to comply with all other provisions set forth in this chapter. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.041 Procedure for house movers – Conditions of permit.**

Where the building or structure is to be moved from one street location to another street location within the City, or from one street location within the City to a place located outside the City, the house mover shall comply with the following conditions with respect to such parcel:

- A. Immediately upon removal of said building, securely cap and seal all gas, water and oil pipes disconnected from the building.
- B. Securely seal all sewer and other sanitary facilities remaining on the land.
- C. Fill with dirt, sand or small rock all openings and excavations in the land, including cesspools and septic tanks, if any.
- D. Remove therefrom all refuse, debris, old foundations, walls, slabs, waste material and other impediments.
- E. Within 10 days after such removal, the house mover shall file a letter with the Director of Public Works certifying that all of the provisions of this section have been complied with. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.042 Procedure for house movers – Inspection of structures.**

Every building or structure or section or portion thereof moved over, upon, along or across any street shall be moved under the inspection and supervision of the Director of Public Works. The Director of Public Works shall appoint an inspector for the moving of any building or structure and of each section or portion thereof; provided, that in case two or more buildings or structures, or two or more sections or portions thereof are being moved at the same time along a route or routes so situated that one person can inspect the same, only one person shall be appointed therefor. Such inspection and supervision in each case shall be for such time as the Director of Public Works shall deem necessary for the performance of such service and a charge of \$15.00 for each two hours or fraction thereof shall be made for the time required for such inspection and supervision. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.043 Procedure for house movers – Police escort.**

The Director of Public Works shall notify the Chief of Police of the time of moving the building through the public streets. If the Chief of Police determines that the protection of the public requires a police escort, he shall provide such escort and a charge of \$7.50 per hour or fraction thereof shall be made therefor. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.044 Procedure for house movers – Methods of moving.**

- A. It shall be the duty of any house mover when required by the Director of Public Works to cause boards of sufficient strength to carry the load without breaking to be placed under all of the rolls or wheels to serve as a runway for such rolls or wheels during the moving of any building or structure, or section or portion thereof, along every street improved in any other manner than by portland cement, concrete, asphalt or brick, and at no time shall such rolls or wheels be permitted to revolve, except upon such board runway when the same is required by the Director of Public Works.
- B. The Director of Public Works may direct that steel or rubber tired dollies may be used when any building or structure is moved on any unimproved or oil, gravel street.
- C. In the event that the equipment of the house mover is not sufficient for the work required, or if the street or the use thereof or the property of any public utility will be at any time endangered or damaged by such moving or if such house mover or his servants or employees at any time violate any of the terms, conditions or restrictions of the permit required by NCC 4.05.041 either as to the size or dimensions of the building or structure being moved, or the route of such moving or otherwise, the Inspector shall report such fact to the Director of Public Works, and when properly authorized by the Director of Public Works, the Inspector shall be empowered to stop the progress of such moving. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.045 Procedure for house movers – Damage to streets.**

In case of damage to any street by reason of the moving of any building or structure or section or portion thereof, the Director of Public Works shall do such work as may be necessary to restore the street to as good a condition as the same was in prior to such damage, and shall charge the cost thereof to the house mover to whom the permit was issued for the moving of such building or structure or section or portion thereof. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.046 Procedure for house movers – Deposit deductions.**

- A. There shall be deducted from the deposits provided for in NCC 4.05.034 the sum of \$25.00 as a permit fee.
- B. In addition to the above deduction there shall also be deducted from each deposit the cost of the service of the Inspector provided for in NCC 4.05.042, the cost of the tree trimmer provided for in NCC 4.05.033, the cost of the police escort provided for in NCC 4.05.043, and the cost of repairs, if any, made by the Director of Public Works as

provided in NCC 4.05.045. The remainder of such deposit, if any, shall be refunded to the person making such deposit or to his assigns. In case the deposit made pursuant to NCC 4.05.034 shall not be sufficient to pay the cost of the service of the Inspector, the police escort, the tree trimmer and the cost of the repairs, if any, the person making such deposit shall, upon demand, pay to the Director of Public Works a sufficient sum to cover all such costs. Upon failure to pay such sum, it may be recovered by the City in any court of competent jurisdiction. No permit fee shall be required for the moving of temporary buildings or structures over public streets or alleys if such buildings or structures are to be used for a governmental purpose. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.047 Procedure for house movers – Red light required.**

No person moving any building or structure or section or portion thereof over, upon, along or across any street, alley or sidewalk shall fail, neglect or refuse to keep a red light burning at all times between sunset and sunrise at each corner of such building or structure or section or portion thereof, and at the end of any projection thereon while the same or any part thereof is located in or upon any street, alley or sidewalk. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.050 Insurance.**

No permit to move a building authorized by the Director of Public Works or other City officer shall be issued until the permittee has filed with the City Clerk a policy of public liability and property damage, or approved certificate thereof, issued by a responsible insurance company authorized to do business in the State of California. Said policy shall insure the permittee and shall inure to the benefit of any and all persons suffering loss or damage either to person or property by reason of wrongful or negligent acts in moving the building. Said policy shall also contain a clause or special endorsement indemnifying and saving harmless the City, its officers, agents and employees against any loss, damage, costs and expenses which may in anywise accrue against the City, its officers, agents or employees in consequence of the granting of the permit for moving any building. Such policy shall insure against loss from the liability imposed by law for injury to, or death of, any person in the amount or limit of \$500,000 on account of injury to, or death of, any one person, and, subject to the same limit as respects injury to, or death of, one person, of \$500,000 on account of any one accident resulting in injury to, or death of, more than one person, and of \$100,000 for damage to property of others resulting from any one accident. Such policy shall certify therein that it shall not be cancelled except upon 30 days' prior written notice thereof to the City Clerk. Said liability insurance shall be a continuing liability up to the full amount thereof notwithstanding any recovery thereon. (Ord. 2007-10 § 1, 11-27-2007)

**4.05.060 Appeals.**

Any person aggrieved by any decision of the Director of Public Works in carrying out the provisions of this chapter may, within 10 days after decision, appeal to the City Council by filing a written notice thereof with the City Clerk, and the City Council shall hold a hearing on the matter and its decision thereon shall be final and conclusive. (Ord. 2007-10 § 1, 11-27-2007; Ord. 77-2, 2-8-1977; Ord. 282, 4-8-1975)

**Chapter 4.06**  
**TELEVISION ANTENNAS**

**Sections:**

- 4.06.010 Definitions.**
- 4.06.020 Permit required – Fees.**
- 4.06.030 Technical requirements.**
- 4.06.040 Electrical Inspector – Rights, duties and powers.**
- 4.06.050 Existing antennas.**

**4.06.010 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

"Antenna" means the outdoor portion of the receiving equipment used for receiving or radiating television waves.

"Height" means the overall vertical length of the antenna system above the ground, or, if such system be located on a building, then above that part of the level of such building upon which the system rests.

"Mast" means that portion of the outside antenna system to which the antenna is attached, and the support or extension required to elevate the antenna to a height deemed necessary for adequate operation, excluding towers. (Ord. 2007-10 § 1, 11-27-2007)

**4.06.020 Permit required – Fees.**

- A. No person shall erect a television antenna mast or tower or add to or replace the guy lines and fastenings on an existing mast without obtaining a permit from the Electrical Inspector.
- B. Before a permit is issued, a permit fee of \$1.00 shall be paid to the Electrical Inspector.
- C. A reinspection fee of \$1.00 shall be made for each trip when extra inspections are necessary due to any of the following reasons:
  - 1. Wrong address on permit.
  - 2. Condemned work resulting from faulty construction.
  - 3. Repairs or corrections not made when inspection is called.
  - 4. Work not ready for inspection when called. (Ord. 2007-10 § 1, 11-27-2007)

**4.06.030 Technical requirements.**

It shall be unlawful for any person hereafter to install, repair or maintain, either as owner or as agent, servant or employee of the owner, or as an independent contractor for the owner, or otherwise, any outside television antenna, or to make any additions to, or substitutions for, said antenna, except in accordance with the following rules and regulations:

- A. **Materials, Height.** Every mast and antenna hereafter erected shall be of noncombustible and corrosive-resistant material, except that in the case of ground support, a wooden pole may be used when adequately treated with a wood preservative. No mast or antenna hereafter erected shall exceed the maximum height of 45 feet above a roof support and 65 feet above a ground support; provided, however, that in areas where reception is affected by obstruction or ground elevation special permission may be granted by the Electrical Inspector upon request to exceed the above specified height limitations.
- B. **Mounting.** Every mast and antenna installed on a roof shall be mounted on its own platform or plate covering one or more rafters of the roof. Whenever a plate is used, it shall be of wood at least two inches thick, six inches wide and 18 inches long, or of metal one-eighth inch thick, six inches wide and 12 inches long.

- C. Method of Erection. Masts shall be erected by means of the telescope method, and the base of the mast shall be at least one and three-fourths inches in diameter, and at least three-fourths inch in diameter at the top of the mast, except that no rotor shall be mounted on any mast, the top dimension of which is less than one inch in diameter. Masts shall be made of tubing material of a minimum thickness of 16 gauge. Each mast shall be securely fastened to the building structure by not less than three guy wires as equally separated as is practically possible and guyed every 10 feet in height. Guy wires shall be at least 20 gauge, six strand galvanized cable. The distance that the guy wire shall be fastened from the base of the television mast shall be the ratio of one-third of its height; e.g., a 45-foot mast shall be guyed at least 15 feet away from the mast.
- D. Wind Load Requirements. Notwithstanding any other provisions of this chapter, antennas shall be designed and installed to withstand a wind pressure of 25 pounds per square foot.
- E. Anchor Screws. Anchor screws or lead expansion shields must be used in masonry at anchor points of masts and guy wire supports.
- F. Eye Bolts. All eye bolts shall be galvanized and a minimum of one-quarter inch in diameter set one and one-half inches into wood.
- G. Public Ways. In no case shall an antenna be installed nearer to the street, sidewalk or any primary power line than the height of the antenna plus 10 feet unless approved by the Electrical Inspector, and no wires, cables or guy wires shall cross or extend over any part of any street or sidewalk.
- H. Safety Wire. Whenever it is necessary to install an antenna near primary power lines (2,200 volts or over), or where damage would be caused by its falling, a separate safety wire shall be attached to the top of the mast and secured to a separate eye bolt in a direction away from the hazard.
- I. Fire Protection. No antenna shall be installed in such a manner as to prevent access to any building for fire fighting or fire prevention purposes.
- J. Grounding. Each mast and tower shall be grounded at its lowest point with wires of at least No. 8 copper, or with other conductors of equivalent carrying capacity. Ground shall be a cold water pipe, if available, or if not, by an approved ground rod driven a minimum of six feet into the ground and fastened with an approved ground connector. Grounding means shall be by approved grounding fittings. (Ord. 2007-10 § 1, 11-27-2007; Ord. 216, 9-8-1959)

**4.06.040 Electrical Inspector – Rights, duties and powers.**

- A. The Electrical Inspector, or his authorized assistants, shall be authorized to inspect any television antenna hereafter erected to ascertain if the work has been done in a workmanlike manner and in compliance with this chapter.
- B. Nothing contained in this chapter shall be construed to prevent the City, through a duly authorized Inspector, from inspecting any antenna system in use in the City, heretofore or hereafter installed, in order to ascertain whether or not the same is reasonably safe to life or property. In case any condition is found which might result in danger to life or property, the Electrical Inspector is authorized to give written notice to the owner or operator of such antenna at his last known address, specifying the dangerous condition, indicating the corrective action that must be taken to make the same safe, and requiring the same to be corrected within five days after such notice, or, in the case of serious safety hazards, within such shorter time as the Electrical Inspector may specify, not less than 48 hours after such notice. If such conditions are not corrected within such time, the maintenance thereafter of any such defective installation by the owner or use thereof shall be unlawful. (Ord. 2007-10 § 1, 11-27-2007; Ord. 216, 9-8-1959)

**4.06.050 Existing antennas.**

Newman City Code

Every television antenna erected prior to the effective date of the ordinance codified in this chapter may be maintained and operated in its present location, unless said antenna is so constructed and maintained so as to be unsafe and dangerous as determined by the Electrical Inspector in accordance with the provisions of NCC 4.06.040. (Ord. 2007-10 § 1, 11-27-2007; Ord. 216, 9-8-1959)

**Chapter 4.07**  
**SWIMMING POOL, SPA, AND HOT TUB CODE**

**Sections:**

- 4.07.010 Purposes.**
- 4.07.020 Adoption.**
- 4.07.030 Administrative authority.**
- 4.07.040 Violation and penalties.**
- 4.07.050 Board of Appeals.**
- 4.07.060 Validity.**

**4.07.010 Purposes.**

The purposes of this chapter are to prescribe minimum standards for the design, construction or installation, repair or alterations of swimming pools, public or private, and equipment related thereto; to require a permit and inspection therefor; to provide for the administration and enforcement of the standards set forth herein; and to provide for the qualification and registration of persons engaged in the business of swimming pool installation or alterations of equipment related thereto. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-8 § 1, 10-22-2002; Ord. 92-10, 7-28-1992)

**4.07.020 Adoption.**

That certain document in book form entitled "Uniform Swimming Pool, Spa, and Hot Tub Code, 2006 ~~2009~~ Edition," as approved and copyrighted by the International Association of Plumbing and Mechanical Officials, 5001 East Philadelphia Street, Ontario, California 91761, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as the "Uniform Swimming Pool, Spa, and Hot Tub Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-8 § 2, 10-22-2002)

**4.07.030 Administrative authority.**

Section 102.1 of the Uniform Swimming Pool, Spa, and Hot Tub Code is hereby amended to read as follows:

Section 102.1.

Whenever the term "administrative authority" is used in this Code, it shall be deemed to mean the Building Official, or his authorized representative.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-8 § 3, 10-22-2002; Ord. 92-10, 7-28-1992)

**4.07.040 Violation and penalties.**

Section 102.3 of the Uniform Swimming Pool, Spa, and Hot Tub Code is omitted and in lieu thereof, a new section is added to read as follows:

Section 102.3.

Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500.00, or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.

The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which is authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the Building Official from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of the Code or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work may be recommenced, a new permit shall be first obtained, and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made, or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-8 § 4, 10-22-2002)

**4.07.050 Board of Appeals.**

The following section is hereby added to the Uniform Swimming Pool, Spa, and Hot Tub Code to read as follows:

In order to make a correct determination of any appeal arising from the actions of the Building Official, the City Council is hereby designated as a Board of Appeals.

Any person dissatisfied with any decision of the Building Official may appeal in writing to the City Council of the City of Newman, which statement shall specify the grounds of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and at such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official, with a duplicate copy to the appellant. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-8 § 5, 10-22-2002)

**4.07.060 Validity.**

Section 103.8 of the Uniform Swimming Pool, Spa, and Hot Tub Code is omitted, but in lieu thereof a new Section 103.8 is added to read as follows:

Section 103.8.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Newman hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid or unconstitutional.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-8 § 6, 10-22-2002)

**Chapter 4.08  
HOUSING CODE**

**Sections:**

- 4.08.010 Purposes.**
- 4.08.020 Adoption.**
- 4.08.030 Definitions.**
- 4.08.040 Interpretation and appeals.**
- 4.08.050 Violations and penalties.**
- 4.08.060 Validity.**

**4.08.010 Purposes.**

The purposes of this chapter are to provide minimum requirements for the protection of life, limb, health, property, safety and welfare of the general public in the incorporated area of the City of Newman by regulating the erection, construction, enlargement, alteration, repair, removal, conversion, use and maintenance of all buildings or portions thereof used, or designed, or intended to be used, for human habitation; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-14 § 1, 3-23-1999; Ord. 92-8, 7-28-1992)

**4.08.020 Adoption.**

That certain document in book form entitled "Uniform Housing Code, 1997 Edition" including the appendices thereof, as approved and copyrighted by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, one copy of which is now on file in the Building Department of the City of Newman, is adopted and enacted as the "Housing Code of the City of Newman" in its present form, except as to certain portions of said Uniform Housing Code, 1997 Edition, are hereafter specifically amended. (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-14 § 2, 3-23-1999)

**4.08.030 Definitions.**

Wherever the following words appear in the Uniform Housing Code, they shall be deemed to mean:

- A. "City" shall mean the incorporated area of the City of Newman.
- B. "State" shall mean the State of California. (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-14 § 3, 3-23-1999; Ord. 92-8, 7-28-1992)

**4.08.040 Interpretation and appeals.**

Section 203 of the Uniform Housing Code is hereby amended to read as follows:

Section 203

In order to provide for a final interpretation of the provisions of this ordinance and to hear appeals provided for hereunder, the City Council is hereby designated as a Board of Appeals. Any person dissatisfied with any decision of the Building Official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of

the council and shall notify the appellant by mail of the time and place of such hearing, and at such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the Building Official, with a duplicate copy to the appellant. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 99-14 § 4, 3-23-1999; Ord. 92-8, 7-28-1992)

**4.08.050 Violations and penalties.**

Section 204 of the Uniform Housing Code, 1997 Edition, as set forth in said Code, is omitted, but in lieu thereof, a new Section 204 is added to read as follows:

Section 204.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the City of Newman, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code. Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500.00, or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 99-14 § 5, 3-23-1999)

**4.08.060 Validity.**

The City Council of the City of Newman hereby declares that should any section, paragraph, sentence or word of this chapter or of the Codes hereby adopted be declared for any reason to be invalid or unconstitutional, it is the intent of the City Council of the City of Newman that it would have passed all other portions of the ordinance codified in this chapter independently of the elimination herefrom of any portion as may be declared invalid or unconstitutional. (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-14 § 6, 3-23-1999; Ord. 92-8, 7-28-1992)

**Chapter 4.09**  
**MECHANICAL CODE**

**Sections:**

- 4.09.010 Purposes.**
- 4.09.020 Adoption.**
- 4.09.030 Interpretation and appeals.**
- 4.09.040 Violations and penalties.**
- 4.09.050 Validity.**

**4.09.010 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-13 § 1, 10-22-2002; Ord. 2002-6 § 1, 10-22-2002; Ord. 92-11, 7-28-1992)

**4.09.020 Adoption.**

That certain document in book form entitled "California Mechanical Code – ~~2007~~ **2010** Edition of Title 24 Part 4," including the Appendix thereof, based on the 2009 Uniform Mechanical Code, as approved and copyrighted by the International Association of Plumbing and Mechanical Officials (IAPMO) and the California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "California Mechanical Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-13 § 2, 10-22-2002; Ord. 2002-6 § 2, 10-22-2002)

**4.09.030 Interpretation and appeals.**

Section 110.1 of the California Mechanical Code is hereby amended to read as follows:

Section 110.1.

In order to determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of this Code, the City Council shall appoint a Board of Appeals in accordance with administrative regulations of the Building Codes. Any person dissatisfied with any decision of the Building Official may appeal in writing to the Board of Appeals, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the Board shall set the same for hearing for a time not later than the next regular meeting and shall notify the appellant by mail of the time and place of such hearing, and at such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the Building Official, with a duplicate copy to the appellant. The decision of the Board of Appeals on such appeal may be appealed in writing to the City Council by any

person. Said appeal shall be set for hearing for a time not later than the next regular meeting of the Council. Notification of hearing and action shall be the same as indicated above for the Board of Appeals.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-13 § 3, 10-22-2002; Ord. 2002-6 § 3, 10-22-2002)

**4.09.040 Violations and penalties.**

Section 111 of the California Mechanical Code – ~~2007~~ 2010 Edition, as set forth in said Code, is omitted, but in lieu thereof, a new Section 111 is added to read as follows:

Section 111. Violations and Penalties.

It shall be unlawful for any person, firm or corporation, to erect, install, alter, repair, relocate, add to, replace, use, or maintain heating, ventilation, cooling or refrigeration equipment in the jurisdiction, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Code. Maintenance of equipment which was unlawful at the time it was installed, and which would be unlawful under this Code if installed after the effective date of this Code, shall constitute a continuing violation of this Code. Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof, during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500.00, or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-13 § 4, 10-22-2002; Ord. 2002-6 § 4, 10-22-2002)

**4.09.050 Validity.**

If any section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City of Newman hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid or unconstitutional. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-13 § 5, 10-22-2002; Ord. 2002-6 § 5, 10-22-2002; Ord. 92-11, 7-28-1992)

**Chapter 4.10  
ABATEMENT OF DANGEROUS BUILDINGS**

**Sections:**

- 4.10.010 Purpose.**
- 4.10.020 Adoption.**
- 4.10.030 Definitions.**
- 4.10.040 Interpretation and appeals.**
- 4.10.050 Violations and penalties.**
- 4.10.060 Validity.**

**4.10.010 Purpose.**

The purpose of this chapter is to provide a just, equitable, and practicable method whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished. (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-9 § 1, 3-23-1999; Ord. 92-12, 7-28-1992)

**4.10.020 Adoption.**

That certain document in book form entitled "Uniform Code for the Abatement of Dangerous Buildings – 1997 Edition" as approved and copyrighted by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, one copy of which document is now on file in the Building Department of the City of Newman is hereby adopted by reference and enacted by the City Council of the City of Newman as the "Dangerous Buildings Code of the City of Newman" in its present form, except as certain portions thereof are hereinafter specifically amended, deleted or added to, and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-9 § 2, 3-23-1999)

**4.10.030 Definitions.**

- A. The name "Newman" and/or "California" shall be inserted in the appropriate places provided therefor in each and every section of this Code wherein the City or the State is left blank.
- B. The term "Building Official" shall include the term "Building Inspector."
- C. "Fire Marshal" shall mean "Fire Chief." (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-9 § 3, 3-23-1999; Ord. 92-12, 7-28-1992)

**4.10.040 Interpretation and appeals.**

Section 205 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

Section 205.

In order to provide for final interpretation of the provisions of this Code and to hear appeals provided for hereunder, the City Council is hereby designated as a Board of Appeals. Any person dissatisfied with any decision of the Building Official may appeal in writing to the City Council of the City of Newman, which statement shall specify the grounds of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the

City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and the place of such hearing, and at such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the Building Official, with a duplicate copy to the appellant. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 99-9 § 4, 3-23-1999)

**4.10.050 Violations and penalties.**

Section 203 of the Uniform Code for the Abatement of Dangerous Buildings as set forth in said Code is omitted, but in lieu thereof, a new section is added to read as follows:

Section 203.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee, or occupant, to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain, any building, structure or premises or cause or permit the same to be done in the City of Newman contrary to or in violation of any of the provisions of this Code. Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500.00 or by imprisonment for not more than 180 days, or by both such fine and imprisonment.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 99-9 § 5, 3-23-1999)

**4.10.060 Validity.**

If any section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City of Newman hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases may be declared invalid or unconstitutional. (Ord. 2007-10 § 1, 11-27-2007; Ord. 99-9 § 6, 3-23-1999; Ord. 92-12, 7-28-1992)

**Chapter 4.11  
FLOODPLAIN MANAGEMENT**

**Sections:**

**Article I. Statutory Authorization, Findings of Fact, Purpose and Methods**

**4.11.010 Statutory authorization.**

**4.11.020 Findings of fact.**

**4.11.030 Statement of purpose.**

**4.11.040 Methods of reducing flood losses.**

**Article II. Definitions**

**4.11.050 Definitions.**

**Article III. General Provisions**

**4.11.060 Lands to which this chapter applies.**

**4.11.070 Basis for establishing the areas of special flood hazard.**

**4.11.080 Compliance.**

**4.11.090 Abrogation and greater restrictions.**

**4.11.100 Interpretation.**

**4.11.110 Warning and disclaimer of liability.**

**4.11.120 Severability.**

**Article IV. Administration**

**4.11.130 Establishment of development permit.**

**4.11.140 Designation of the Floodplain Administrator.**

**4.11.150 Duties and responsibilities of the Floodplain Administrator.**

**4.11.160 Appeals.**

**Article V. Provisions for Flood Hazard Reduction**

**4.11.170 Standards of construction.**

**4.11.180 Standards for utilities.**

**4.11.190 Standards for subdivisions.**

**4.11.200 Standards for manufactured homes.**

**4.11.210 Standards for recreational vehicles.**

**4.11.220 Floodways.**

**Article VI. Variance Procedure**

**4.11.230 Nature of variances.**

**4.11.240 Appeal Board.**

**4.11.250 Conditions for variances.**

**Article I. Statutory Authorization, Findings of Fact, Purpose and Methods**

**4.11.010 Statutory authorization.**

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Newman does hereby adopt the following floodplain management regulations. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 1.1, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.020 Findings of fact.**

- A. The flood hazard areas of the City of Newman are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief,

and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

- B. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 1.2, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.030 Statement of purpose.**

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 1.3, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.040 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Control filling, grading, dredging, and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 1.4, 9-12-2000; Ord. 95-1, 3-28-1995)

**Article II. Definitions**

**4.11.050 Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of

boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard." See "special flood hazard area."

"Base flood" means a flood which has a one percent chance of being equalled or exceeded in any given year (also called the "100-year flood"). "Base flood" is the term used throughout this chapter.

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

"Building." See "structure."

"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.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing 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 before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood," "flooding," or "flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
2. The condition resulting from flood-related erosion.

"Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood Hazard Boundary Map (FHBM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source. See "flooding."

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes Federal, State or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 for guidelines on dry and wet floodproofing.)

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

"Floodway fringe" is that area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

"Fraud and victimization" as related to Article VI, Variances, of this chapter means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Newman City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for 50 to 100 years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" is the local governing unit, i.e., county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship" as related to Article VI, Variance Procedure, of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "basement").

1. An unfinished or flood-resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
  - a. The wet floodproofing standard in NCC 4.11.170(C)(3);
  - b. The anchoring standards in NCC 4.11.170(A);
  - c. The construction materials and methods standards in NCC 4.11.170(B); and
  - d. The standards for utilities in NCC 4.11.180.
2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "basement"). This prohibition includes below-grade garages and storage areas.

"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 parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market value" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the Floodplain Administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported

by a written explanation of the differences.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

"New 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.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood." See "base flood."

"Public safety and nuisance" as related to Article VI, Variance Procedure, of this chapter means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"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.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Remedy a violation" means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Sheet flow area." See "area of shallow flooding."

"Special flood hazard area (SFHA)" means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1 - A30, AE, A99, AH.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of

piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 2.0, 9-12-2000; Ord. 95-1, 3-28-1995)

### **Article III. General Provisions**

#### **4.11.060 Lands to which this chapter applies.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 3.1, 9-12-2000; Ord. 95-1, 3-28-1995)

#### **4.11.070 Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) or the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated March 1, 1978, and accompanying Flood Insurance Rate Maps (FIRMs), and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and

may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City of Newman by the Floodplain Administrator. The study, FIRMs and FBFMs are on file at 1162 Main Street, City Hall. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 3.2, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.080 Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City of Newman from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 3.3, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.090 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 3.4, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.100 Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 3.5, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.110 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Newman, any officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 3.6, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.120 Severability.**

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 3.7, 9-12-2000; Ord. 95-1, 3-28-1995)

**Article IV. Administration**

**4.11.130 Establishment of development permit.**

A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in NCC 4.11.070. Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may

include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Site plan, including but not limited to:
  - 1. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one-foot contour elevations throughout the building site; and
  - 2. Proposed locations of water supply, sanitary sewer, and utilities; and
  - 3. If available, the base flood elevation from the Flood Insurance Study and/or Flood Insurance Rate Map; and
  - 4. If applicable, the location of the regulatory floodway; and
- B. Foundation design detail, including but not limited to:
  - 1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
  - 2. For a crawl-space foundation, location and total net area of foundation openings as required in NCC 4.11.170(C)(3) and FEMA Technical Bulletins TB 1-93 and TB 7-93; and
  - 3. For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to 95 percent using the Standard Proctor Test method); and
- C. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in NCC 4.11.170(C)(2) and FEMA Technical Bulletin TB 3-93; and
- D. All appropriate certifications listed in NCC 4.11.150(D); and
- E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 4.1, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.140 Designation of the Floodplain Administrator.**

The City Manager is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 4.2, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.150 Duties and responsibilities of the Floodplain Administrator.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- A. Permit Review. Review all development permits to determine that:
  - 1. Permit requirements of this chapter have been satisfied;
  - 2. All other required State and Federal permits have been obtained;
  - 3. The site is reasonably safe from flooding; and
  - 4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.
- B. Review, Use and Development of Other Base Flood Data.
  - 1. When base flood elevation data has not been provided in accordance with NCC 4.11.070, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal or

- State agency, or other source, in order to administer Article V of this chapter. Any such information shall be submitted to the City Council for adoption; or
2. If no base flood elevation data is available from a Federal or State agency or other source, then a base flood elevation shall be obtained using one of two methods from the FEMA publication "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995, in order to administer Article V of this chapter:
    - a. Simplified method:
      - i. One-hundred-year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge-drainage area method; and
      - ii. Base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or
    - b. Detailed method:
      - i. One-hundred-year or base flood discharge shall be obtained using the U.S. Army Corps of Engineers' HEC-HMS computer program; and
      - ii. Base flood elevation shall be obtained using the U.S. Army Corps of Engineers' HEC-RAS computer program.
- C. Notification of Other Agencies. In alteration or relocation of a watercourse:
  1. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
  2. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and
  3. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
- D. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:
  1. Certification required by NCC 4.11.170(C)(1) (lowest floor elevations) and 4.11.200;
  2. Certification required by NCC 4.11.170(C)(2) (elevation or floodproofing of nonresidential structures);
  3. Certification required by NCC 4.11.170(C)(3) (wet floodproofing standard);
  4. Certification of elevation required by NCC 4.11.190(B) (subdivision standards); and
  5. Certification required by NCC 4.11.220(A) (floodway encroachments).
- E. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article VI of this chapter.
- F. Remedial Action. Take action to remedy violations of this chapter as specified in NCC 4.11.080. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 4.3, 9-12-2000; Ord. 95-1, 3-28-1995)

#### **4.11.160 Appeals.**

The City Council of the City of Newman shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in

the enforcement or administration of this chapter. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 4.4, 9-12-2000; Ord. 95-1, 3-28-1995)

## Article V. Provisions for Flood Hazard Reduction

### 4.11.170 Standards of construction.

In all areas of special flood hazards the following standards are required:

- A. Anchoring.
  1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  2. All manufactured homes shall meet the anchoring standards of NCC 4.11.200.
- B. Construction Materials and Methods. All new construction and substantial improvement shall be constructed:
  1. With flood-resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;
  2. Using methods and practices that minimize flood damage;
  3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
  4. If within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- C. Elevation and Floodproofing. (See NCC 4.11.050 definitions for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement.")
  1. Residential construction, new or substantial improvement, shall have the lowest floor, including basement:
    - a. In an AO Zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified. (The State of California recommends that in AO Zones without velocity the lowest floor be elevated above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by at least two feet or elevated at least four feet above the highest adjacent grade if no depth number is specified.) Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator and is required within six months of project completion, submittal of technical data to FEMA for a letter of Map Revision.
    - b. In an A Zone, elevated to or above the base flood elevation; said base flood elevation shall be determined by one of the methods in NCC 4.11.150(B). (The State of California recommends the lowest floor be elevated at least two feet above the base flood elevation, as determined by the community.) Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator and is required

within six months of project completion, submittal of technical data to FEMA for a letter of Map Revision.

- c. In all other zones, elevated to or above the base flood elevation. (The State of California recommends the lowest floor be elevated at least two feet above the base flood elevation.)

~~Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator~~

2. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with subsection (C)(1) of this section or together with attendant utility and sanitary facilities:
  - a. Be floodproofed below the elevation recommended under subsection (C)(1) of this section so that the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - c. Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certification shall be provided to the Floodplain Administrator.
3. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB 7-93, and must exceed the following minimum criteria:
  - a. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood water; or
  - b. Be certified by a registered professional engineer or architect.
4. Manufactured homes shall also meet the standards in NCC 4.11.200. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 5.1, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.180 Standards for utilities.**

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
  1. Infiltration of flood waters into the systems; and
  2. Discharge from the systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 5.2, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.190 Standards for subdivisions.**

- A. All preliminary subdivision proposals shall identify the special flood hazard area and the

- elevation of the base flood.
- B. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
  - C. All subdivision proposals shall be consistent with the need to minimize flood damage.
  - D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
  - E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.
  - F. **All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation.**

**data.**

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 5.3, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.200 Standards for manufactured homes.**

- A. All manufactured homes that are placed or substantially improved, within Zones A1 – 30, AH, and AE on the community's Flood Insurance Rate Map, on sites located:
  - 1. Outside of a manufactured home park or subdivision,
  - 2. In a new manufactured home park or subdivision,
  - 3. In an expansion to an existing manufactured home park or subdivision, or
  - 4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood;shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation (the State of California recommends at least two feet above the base flood elevation) and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1 – 30, AH, AE, on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection (A) of this section will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
  - 1. Lowest floor of the manufactured home is at or above the base flood elevation (the State of California recommends at least two feet above the base flood elevation); or
  - 2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 5.4, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.210 Standards for recreational vehicles.**

- A. All recreational vehicles placed on sites within Zones A1 – 30, AH, and AE on the community's Flood Insurance Rate Map will either:
  - 1. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use – a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type

2. utilities and security devices, and has no permanently attached additions; or  
Meet the permit requirements of Article IV of this chapter and the elevation and anchoring requirements for manufactured homes in NCC 4.11.200(A). (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 5.5, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.220 Floodways.**

Located within areas of special flood hazard established in NCC 4.11.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge.
- B. If subsection (A) of this section is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Article V of this chapter. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 5.6, 9-12-2000; Ord. 95-1, 3-28-1995)

**Article VI. Variance Procedure**

**4.11.230 Nature of variances.**

- A. The variance criteria set forth in this article are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.
- B. It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 6.1, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.240 Appeal Board.**

- A. In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:
  1. Danger that materials may be swept onto other lands to the injury of others;
  2. Danger of life and property due to flooding or erosion damage;
  3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
  4. Importance of the services provided by the proposed facility to the community;
  5. Necessity to the facility of a waterfront location, where applicable;
  6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. Compatibility of the proposed use with existing and anticipated development;
  8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
  10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
  11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- B. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
  2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Stanislaus County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- C. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 6.2, 9-12-2000; Ord. 95-1, 3-28-1995)

**4.11.250 Conditions for variances.**

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Articles IV and V of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in NCC 4.11.050) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.
- E. Variances shall only be issued upon a:
1. Showing of good and sufficient cause;
  2. Determination that failure to grant the variance would result in exceptional "hardship" (as defined in NCC 4.11.050) to the applicant; and
  3. Determination that the granting of a variance will not result in increased flood

heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in NCC 4.11.050 – see "public safety and nuisance"), cause fraud or victimization (as defined in NCC 4.11.050) of the public, or conflict with existing local laws or ordinances.

- F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (A) through (E) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
- G. Upon consideration of the factors of NCC 4.11.240(A) and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2000-4 § 6.3, 9-12-2000; Ord. 95-1, 3-28-1995)

**Chapter 4.12**  
**ADMINISTRATIVE CODE**

**Sections:**

- 4.12.010 Purposes.**
- 4.12.020 Adoption.**
- 4.12.030 Definitions.**
- 4.12.040 Interpretation and appeals.**
- 4.12.050 Violations and penalties.**
- 4.12.060 Validity.**

**4.12.010 Purposes.**

The purposes of this chapter are to provide minimum requirements for the protection of life, limb, health, property, safety and welfare of the general public in the incorporated area of the City of Newman by regulating the erection, construction, enlargement, alteration, repair, removal, conversion, use and maintenance of all buildings or portions thereof used, or designed, or intended to be used, for human habitation; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-18 § 1, 10-22-2002; Ord. 2002-7 § 1, 10-22-2002; Ord. 99-12 § 1, 3-23-1999; Ord. 90-15, 10-16-1990)

**4.12.020 Adoption.**

That certain document in book form entitled "Uniform Administrative Code, 1997 Edition," including the Appendices thereof, as approved and copyrighted by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, one copy of which is now on file in the Building Department of the City of Newman, is adopted and enacted as the "Uniform Administrative Code of the City of Newman" in its present form, except as to certain portions of said Uniform Administrative Code, 1997 Edition, are hereby specifically amended. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-18 § 2, 10-22-2002; Ord. 2002-7 § 2, 10-22-2002; Ord. 99-12 § 2, 3-23-1999; Ord. 95-14, 12-19-1995)

**4.12.030 Definitions.**

Wherever the following words appear in the Uniform Administrative Code, they shall be deemed to mean:

- A. "City" shall mean the incorporated area of the City of Newman.
- B. "State" shall mean the State of California. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-18 § 3, 10-22-2002; Ord. 2002-7 § 3, 10-22-2002; Ord. 99-12 § 3, 3-23-1999; Ord. 90-15, 10-16-1990)

**4.12.040 Interpretation and appeals.**

In order to provide for a final interpretation of the provisions of this chapter and to hear appeals provided for hereunder, the City Council shall designate a Board of Appeals. Any person dissatisfied with any decision of the Administrative Official may appeal in writing to the Board of Appeals of the City of Newman, which statement shall specify the grounds of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Board and shall notify the appellant by mail of the time and place of such hearing, and at such hearing may take such evidence as it shall deem

proper, and shall render all decisions and findings in writing to the Administrative Official, with a duplicate copy to the appellant. The decision of the City Council on such appeal shall be final. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-18 § 4, 10-22-2002; Ord. 2002-7 § 4, 10-22-2002; Ord. 99-12 § 4, 3-23-1999; Ord. 90-15, 10-16-1990)

**4.12.050 Violations and penalties.**

- A. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the City of Newman, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.
- B. Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500.00, or by imprisonment for not more than 180 days, or by both such fine and imprisonment. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-18 § 5, 10-22-2002; Ord. 2002-7 § 5, 10-22-2002; Ord. 99-12 § 5, 3-23-1999; Ord. 95-14, 12-19-1995)

**4.12.060 Validity.**

The City Council of the City of Newman hereby declares that should any section, paragraph, sentence or word of this chapter or of the Codes hereby adopted be declared for any reason to be invalid or unconstitutional, it is the intent of the City Council of the City of Newman that it would have passed all other portions of the ordinance codified in this chapter independently of the elimination herefrom of any such portion as may be declared invalid or unconstitutional. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-18 § 6, 10-22-2002; Ord. 2002-7 § 6, 10-22-2002; Ord. 99-12 § 6, 3-23-1999; Ord. 90-15, 10-16-1990)

**Chapter 4.13**  
**THE HISTORIC BUILDING PRESERVATION OF THE CITY OF NEWMAN**

**Sections:**

- 4.13.010 Title.**
- 4.13.020 Findings and purposes.**
- 4.13.030 Area of application.**
- 4.13.040 Ordinary maintenance and repair.**
- 4.13.050 Definitions.**
- 4.13.060 Architectural Review Committee.**
- 4.13.070 Powers and duties of the Architectural Review Committee.**
- 4.13.080 Criteria for historic designation.**
- 4.13.090 Procedures for historic designation of homes not on the City of Newman local historic resources inventory.**
- 4.13.100 Zoning regulations.**
- 4.13.110 Scope of alterations.**
- 4.13.120 Alteration of a historic resource -Permit required.**
- 4.13.130 Duty to keep in good repair.**
- 4.13.140 Enforcement.**
- 4.13.150 Penalties.**
- 4.13.160 CEQA.**

**4.13.010 Title.**

This chapter shall be known as the Historic Building Preservation of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.020 Findings and purposes.**

**A. Findings.** It is hereby found that:

1. The City has many places, sites, buildings, and structures which possess special historic, architectural and cultural interest and value to the community and its citizens; and
2. There is great value in the protection and enhancement of such important places, sites, buildings, and structures which often necessitates appropriate and reasonable consideration upon their appearance and use; including their alteration and re-use, which preserves their unique character and economic value; and
3. The proper use of historic places, sites, buildings, and structures is essentially desirable to the community, but, because of their age, structural nature, or threats from modernization, require special considerations in regard to the applicability of present construction and zoning codes affecting any change in use or structural alteration which could have a negative effect on their unique and important character and economic value.

**B. Purposes.** The purpose of this chapter is to promote health, safety and general welfare of the citizens of the City through:

1. The protection, enhancement, and perpetuation of structures, sites and areas that are reminders of past eras, events and persons important to local, State or national history, or which provide significant examples of architectural styles of the past, or are elements in the history of architecture, or reflect the phases of the City's development, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations examples of

- the physical surroundings in which past generations lived.
2. The enhancement of tourism and the economy of the City by protecting and preserving places having special and unique character and interest.
3. Support of the efforts of property owners to preserve, protect, and/or renovate historic and architecturally significant buildings/structures through financial incentive programs such as the Mills Act and the City's Downtown Facade Improvement Program and Housing Rehabilitation Program.
4. Fostering public appreciation of, and civic pride in, the beauty of the City and the accomplishments of its past.
5. Allowing the use of the State Historic Building Code (SHBC) by declaring the importance of designated structures to Newman's history, architecture, and local culture. The SHBC provides an alternative to the California Building Code by recognizing the unique construction problems inherent in historical buildings while maintaining acceptable life safety standards.
6. Promoting the enhancement of property values, the stabilization and improvement of neighborhoods and areas of the City, and the increase of economic and financial benefits to the City and its inhabitants.
7. Contributing to the preservation and encouragement of a City of varied architectural styles, reflecting the distinct phases of its history – cultural, social, economic, political and architectural.
8. Promoting the public's awareness of the benefits of preservation including encouragement of public participation in identifying and preserving historical and architectural resources, thereby increasing community pride in the City's cultural heritage. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.030 Area of application.**

This chapter shall apply to all cultural and historical resources within the City as identified on the City of Newman's Inventory of Historic Resources. In addition, historic structures as defined herein shall include the exterior portions of any primary building and also related accessory structures of the same period construction but shall not apply to the interior of the designated structure. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.040 Ordinary maintenance and repair.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a historic resource that does not involve a change in design, material or appearance thereof. This chapter does not prevent the construction, reconstruction, restoration, demolition, or removal of any such feature when the Chief Building Official certifies to the Architectural Review Committee that such action is required for the public safety due to an unsafe condition which cannot be rectified through the uses of the State Historical Building Code, and following of the California Health and Safety Code as the same exists or may hereafter be amended. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.050 Definitions.**

"Alteration" means any change to or modification of a historic resource.

"Architectural" means anything pertaining to the science, art or profession of designing and constructing buildings.

"Architectural Review Committee" means the Committee established under this Code.

"Culture" or "cultural" means anything pertaining to the concept, skills, habits, arts, instruments, or institutions of a given people at a given point in time.

"District" or "historic district" or "historic preservation area" means a geographically definable area within the City of Newman possessing a significant concentration, linkage, or continuity of

historic resources and which has been so designated pursuant to this chapter.

"Historic resource" means a structure, natural feature, site or other artifact of architectural, artistic, cultural, engineering, aesthetic, archeological, historical, political, or social significance to the citizens of the City of Newman, the State, or the Nation and formally designated by the City of Newman in accordance with the provisions of this chapter. A "historic resource" also includes a resource listed in the State and/or National Register of Historic Resources.

"Local historic resources inventory" means the inventory of historic resources (including structures of architectural, cultural and historical significance) located within the City of Newman.

"Material change" means a change, as defined herein, in the design, material, or appearance of an exterior architectural feature in or on a historic resource.

"Natural feature" means any tree, plant life, geographical or geological site or feature.

"Owner" means any person, association, partnership, firm, corporation or public entity appearing as the holder of title on any property as shown on the records of the County Assessor or on the last assessment roll of the County of Stanislaus, as applicable.

"Preservation" means the identification, study, protection, restoration, rehabilitation, or acquisition of cultural resources.

"Residentially used property" shall mean any owner-occupied building or structure, and accessory structures, located within an R District and used for single-family residential purposes, when used within the context of this chapter.

"Site" means a place or plot of land where something was, is or will be.

"Structure" means a building or any other manmade object affixed on or under the ground. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

#### **4.13.060 Architectural Review Committee.**

- A. The City's Architectural Review Committee shall be the advisory agency for carrying out the duties and responsibilities identified under this chapter.
- B. As per this Code, the Architectural Review Committee shall consist of the following five members:
  - 1. One Planning Commissioner;
  - 2. One member of the Newman Historical Society;
  - 3. One City resident at-large;
  - 4. One member of the business community and/or Chamber of Commerce; and
  - 5. One professional in one or more of the following disciplines:
    - a. Architecture;
    - b. Architectural history;
    - c. Historical remodeling or reconstruction;
    - d. Historic archaeology;
    - e. Historical conservation; or
    - f. Related discipline to the extent such professionals are available in the community of Newman.
- C. At least one member of the Architectural Review Committee should be a licensed building contractor. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

#### **4.13.070 Powers and duties of the Architectural Review Committee.**

The Architectural Review Committee shall have the following powers and duties:

- A. Following formal notification to the property owner of record, the designation of historic resources within the City.
- B. Review design and/or building permit plans for construction, alteration, or demolition of designated historic resources.
- C. Consult with and consider the general ideas and recommendations of civic groups, public

- agencies, and citizens interested in historic preservation.
- D. View structures, sites and areas which it has reason to believe are worthy of preservation.
  - E. Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of property designated historic.
  - F. Consider methods other than those provided for in this chapter for encouraging and achieving historical or architectural preservation.
  - G. Conduct a review of the inventory of historic resources and update the inventory every two years or as deemed appropriate. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.080 Criteria for historic designation.**

A historic resource structure is normally considered a structure of over 50 years of age as determined by the records of the Stanislaus County Assessor's Office. In considering a proposal for designation as a historic resource the Architectural Review Committee shall apply a minimum of two of the following criteria:

- A. Its character, interest or value as a significant part of the heritage of the City, the State or the Nation.
- B. Its location as a site of a significant historic event.
- C. Its identification with a person or persons who significantly contribute to the culture and development of the City, the State or the Nation.
- D. Its exemplification of a particular architectural style or way of life.
- E. Its exemplification of the best remaining architectural type in the City.
- F. Its identification as the creation, design or work of a person or persons whose efforts have significantly influenced the heritage of the City, the State or the Nation.
- G. Its embodiment of elements demonstrating outstanding attention to artistic, architectural and/or engineering design, detail, materials, or craftsmanship.
- H. Its relationship to any other historic resource if its preservation is essential to the integrity of the other historic resource.
- I. Its unique location or singular physical characteristics representing an established and familiar visual feature of the City.
- J. Its potential of yielding significant information of archeological interests.
- K. Its integrity as a natural feature that strongly contributes to the well-being of the people of the City, the State, or the Nation.
- L. The Architectural Review Committee shall, in making its determination for historic resource designations, consider the above criteria and make the following findings:
  - 1. The property, place, site, building, structure, or use has special local historical, architectural, archeological, or cultural interest that embodies the character and history of the City;
  - 2. The unique character and history of the City are reflected in the cultural, historical, economic and architectural heritage embodied in said property, place, site, building, structure or use which should be preserved as living parts of the community;
  - 3. The property, place, site, building, structure or use is facing increasing pressures of modernization and may be threatened with demolition or decay;
  - 4. The request for designation represents an area of special natural beauty and aesthetic interest, and the preservation of which would enhance the economy of the City by promoting such areas as market draws or tourist attractions;
  - 5. The property is listed on the National Register of Historic Places or any State or County official register of historical or architecturally significant sites, places, or

landmarks or is to be listed on the City register of historically or architecturally significant sites, places, or landmarks;

6. The property owner of record has been formally notified by certified U.S. mail that their property was being considered for designation as a historic resource and was provided with an opportunity to address the Committee regarding the merits of designation and that the property owner's comments were considered in the determination. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.090 Procedures for historic designation of homes not on the City of Newman local historic resources inventory.**

- A. Commercially Used Property. Upon its own application, or upon an application filed with the Architectural Review Committee by the property owner, the Architectural Review Committee may designate a commercially used historic resource, subject to appeal to the Planning Commission and the City Council.
- B. Residentially Used Property. Upon an application filed with the Architectural Review Committee by the property owner, the Architectural Review Committee may designate a residentially used historic resource, subject to appeal to the Planning Commission and the City Council.
- C. Designation Procedure. The procedure for designation of historic resources is as follows:
  1. The application shall include the following data:
    - a. Assessor's parcel number of the site or legal description;
    - b. Description detailing the proposed resource's special aesthetics, cultural, architectural, artistic, or engineering interest or value of a historic nature;
    - c. Sketches, drawings, photographs, or other descriptive materials;
    - d. Statement of condition of structures;
    - e. Other material or information requested by the Architectural Review Committee.
  2. Prior to approval or approval with modification, the Architectural Review Committee shall find:
    - a. That the proposed structure, natural feature, site or district has significance as a historic resource; and
    - b. That the proposed designation may be made without imposing an undue hardship upon the owner(s) of the property(ies); and
    - c. That approval or approval with modification(s) of the application is consistent with the purpose and criteria of this chapter.
  3. The recommendation of the Architectural Review Committee, approved by at least three affirmative votes, shall be approved unless reversed by the Planning Commission or on appeal by City Council.
  4. Following approval of the designation, the Architectural Review Committee shall send to the owner(s) of the property(ies) so designated a letter outlining the basis for such designation, and the regulations resulting from such designation. Architectural Review Committee may also forward a copy of the letter to any other department or agency requesting it or that the Architectural Review Committee considers affected by the designation.
  5. Once designated, the property shall then be listed on the Inventory of Historic Resources. The inventory shall be reviewed by the Architectural Review Committee every two years.
  6. Within 90 days of designation of a building or structure as a historic resource in accordance with the provisions of this chapter, a document shall be recorded by the City in the office of the Stanislaus County Recorder. The document to be recorded shall contain the name of the owner or owners, a legal description of the

property, the date and substance of the designation, a statement explaining that the demolition, alteration, or relocation of the structure is restricted, and a reference to this section authorizing the recordation.

7. For 24 months from the effective date of the ordinance codified in this chapter, all appeal fees attributable to the implementation of these provisions shall be paid by the City and/or the Newman Redevelopment Agency. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

#### **4.13.100 Zoning regulations.**

The provisions of this chapter are intended to complement and support the provisions of NCC 5.03.030. Where a historic resource is located within an H District, and the provisions of this chapter are more restrictive than the provisions of the H District, the provisions of this chapter shall apply. Similarly, although a building or structure is located within an H District, unless the building or structure is designated as a historic resource, the provisions of this chapter shall not apply to any proposed construction and such work shall be governed exclusively by the provisions of the H District, any underlying zoning or other building code or similar provisions. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

#### **4.13.110 Scope of alterations.**

A. Any replacement of elements of any structure in a manner which may become inconsistent with proposed regulations preserving the original construction of such structure is hereby limited. Structural elements regulated herein are defined as any exterior visible portion of the structure, including:

1. Roof;
2. Eaves;
3. Fascia and siding;
4. Masonry walls and supports;
5. Porches, landings, outside stairs;
6. Columns of walls;
7. Windows and frames;
8. Auxiliary buildings;
9. Doors.

B. Except as otherwise provided in this chapter, no exterior alteration to any and/or all of the above listed structural elements shall be carried out unless the Chief Building Official and/or the Architectural Review Committee has determined that the alteration utilizes materials in a manner compatible with the existing or original construction and design of the structure. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

#### **4.13.120 Alteration of a historic resource -Permit required.**

Except as otherwise provided in this chapter:

- A. No person shall carry out or cause to be carried out on a historic resource any material change through alteration, construction, or relocation, unless the applicant has secured the required building permit.
- B. Any person who plans the demolition, construction, alteration, relocation or removal of a historic resource or part thereof shall first submit an application to the City. Copies of the plans for the proposed work shall accompany the application. As a minimum, the application and plans shall contain the following data:
  1. A clear statement of the proposed work;
  2. Plans describing the size, height and appearance of the proposed work and its relationship to adjacent structures;
  3. A site plan showing all existing buildings and structures and the proposed work;

4. Reasons for demolition if demolition is proposed;
  5. Other information deemed necessary by the City to properly evaluate the proposal.
- C. Except as otherwise provided in this chapter, no permit for the demolition, exterior construction, or alteration, relocation or removal of a historic resource or part thereof shall be issued until such application has been reviewed and approved by the Architectural Review Committee.
- D. In the case where a permit has been applied for and the property owner plans to alter (utilizing materials not compatible with existing or original materials), demolish, relocate or remove a historic resource the following shall apply:
1. The Architectural Review Committee shall consider, among other things, the purpose of this chapter and the historic architectural value and significance of the historic resource, as well as present and prospective effects or hardships (economic, financial, or otherwise) upon the owners and occupants of the affected properties. The Architectural Review Committee shall take into consideration architectural features of the building or structure in question, other buildings within any Historic District, and the position of such building or structure in relation to the street or public way and to other buildings and structures. The United States Secretary of the Interior's Guidelines for Rehabilitation shall provide base criteria for evaluating proposed alterations to a historic resource.
  2. The Committee may approve, approve with modifications, or disapprove the application.
  3. Prior to approval, or approval with modifications, the Architectural Review Committee shall find that:
    - a. The action proposed is consistent with the purposes of this chapter; and
    - b. The action proposed will not be detrimental to a structure or feature of significance as a historic resource; and
    - c. The applicant has demonstrated that the action is necessary to correct an unsafe or dangerous condition on the property; or
    - d. The applicant has demonstrated that denial of the application will result in immediate, undue, or substantial hardship (economic, financial, or otherwise); and
    - e. If the finding in subsection (D)(3)(a), and either finding (D)(3)(b), (c), or (d), of this section cannot be made, then the building permit shall be denied.
  4. A final determination, along with the written findings, shall be rendered by the Architectural Review Committee within 45 calendar days of receipt of the application, unless extended by mutual consent of the owner and the Architectural Review Committee.
  5. Action of the Architectural Review Committee shall be deemed final, unless appealed. No building permit shall be issued until the time period for appeal has expired. Such appeal by the applicant, owner, or any person or entity dissatisfied with the action of the Architectural Review Committee shall be filed with the City Clerk within 10 days of the date of approval, conditional approval, or disapproval by the Architectural Review Committee.

The appeal shall set forth specifically where the petitioner believes the Architectural Review Committee's findings to be in error, and shall be accompanied by such fees as established from time to time by resolution of the City Council (as per NCC 1.16.010). On appeal, the Planning Commission may grant or deny the appeal, conditionally grant the appeal, or refer the matter to the Architectural Review Committee for further

consideration.

6. The provisions of this section shall not apply to the following:
  - a. Where a historic resource has been damaged by fire, earthquake or other act of God to the extent that it cannot be repaired or restored with reasonable diligence, and where demolition of such structure, natural feature or site is being undertaken with prior approval of the City's Chief Building Official.
  - b. Where hazardous conditions exist as determined by the Chief Building Official and said hazardous conditions must be corrected immediately in the interest of the public health, safety and welfare. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.130 Duty to keep in good repair.**

The owner, occupant, or other person in actual charge of a historic resource, or part thereof, shall keep in good repair all of the exterior portions of such building(s), or structure(s), and all interior portions whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature. It shall be the duty of the Chief Building Official to enforce this section. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.140 Enforcement.**

In addition to the regulations of this chapter, other parts of this Municipal Code and other provisions of law which govern the approval or disapproval of applications for permits or licenses covered by this chapter, the Chief Building Official shall have the authority to implement enforcement of this chapter by any of the following means:

- A. Serve notice requiring the removal of any violation of this chapter upon the owner, agent, occupant or tenant of the historic resource.
- B. Call upon the City Attorney to initiate any necessary legal proceedings for enforcement of this chapter, and the City Attorney is hereby authorized to institute any legal actions toward that end.
- C. Call upon the Police Chief and/or other sworn police officer to assist in the enforcement of this chapter. In addition to any of the foregoing remedies, the City Attorney may maintain an action for injunctive relief to restrain or enjoin or to cause the correction or removal of any violation of this chapter. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.150 Penalties.**

Any person violating or failing to comply with the provisions of this chapter shall be guilty of a misdemeanor. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**4.13.160 CEQA.**

- A. Pursuant to the California Environmental Quality Act (CEQA), this chapter is exempt under the provision of Section 15061(B)(3), known as the "general or common sense" rule exemption. This section of the guidelines provides that where it can be seen with certainty that an action will not have a significant effect on the environment, it is exempt from CEQA.
- B. In addition, this chapter is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines, because it is a regulatory action taken by the City in the exercise of its authority pursuant to Government Code Section 65858, to assure completion of a contemplated change to City standards which the City is studying, revising and contemplating adopting within a reasonable period of time. (Ord. 2007-10 § 1, 11-27-2007; Ord. 96-8, 10-22-1996)

**Chapter 4.14**  
**SOLAR ENERGY CODE**

**Sections:**

- 4.14.010 Adoption.**
- 4.14.020 Purposes.**
- 4.14.030 Penalties.**
- 4.14.040 Board of Appeals.**

**4.14.010 Adoption.**

That certain document in book form entitled "Uniform Solar Energy Code, ~~2006~~ 2009 Edition," including the Appendices thereof, as approved and copyrighted by the International Association of Plumbing and Mechanical Officials, 5001 East Philadelphia Street, Ontario, California 91761, prescribing regulations governing the installation, construction, maintenance, alteration, repair and inspection of solar equipment, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "The Solar Energy Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-4 § 1, 10-22-2002)

**4.14.020 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-4 § 2, 10-22-2002)

**4.14.030 Penalties.**

Section 102.3 of the Uniform Solar Energy Code is hereby amended to read as follows:

Section 102.3 Violation and Penalties

Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not to exceed one hundred eighty (180) days, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the Administrative Authority from thereafter requiring the correction of errors in said plans

and specifications or from preventing construction operations being carried on thereunder when in violation of this ordinance or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this ordinance shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-4 § 3, 10-22-2002)

**4.14.040 Board of Appeals.**

Section 103.9 of the Uniform Solar Energy Code is hereby added to read as follows:

Section 103.9 Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-4 § 4, 10-22-2002)

**Chapter 4.15**  
**HISTORICAL BUILDING CODE**

**Sections:**

**4.15.010 Adoption.**

**4.15.020 Purposes.**

**4.15.030 Penalties.**

**4.15.040 Board of Appeals.**

**4.15.010 Adoption.**

That certain document in book form entitled "California Historical Building Code, 2007 2010 Edition of Title 24 Part 8," including the Appendices thereof, as approved and copyrighted by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, and California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833, prescribing regulations governing the installation, construction, maintenance, alteration, repair and inspection of historic buildings, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "The Historical Building Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-14 § 1, 10-22-2002)

**4.15.020 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-14 § 2, 10-22-2002)

**4.15.030 Penalties.**

Section 8-104.4 of the California Historical Building Code is hereby amended to read as follows:

Section 8-104.4 Violation and Penalties.

Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not to exceed one hundred eighty (180) days, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this ordinance or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this ordinance shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-14 § 3, 10-22-2002)

**4.15.040 Board of Appeals.**

Section 8-104.3 of the California Historical Building Code is hereby added to read as follows:

Section 8-104.3 Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-14 § 4, 10-22-2002)

**Chapter 4.16**  
**EXISTING BUILDING CODE**

**Sections:**

- 4.16.010 Adoption.**
- 4.16.020 Purposes.**
- 4.16.030 Penalties.**
- 4.16.040 Board of Appeals.**

**4.16.010 Adoption.**

That certain document in book form entitled "California Existing Building Code, 2007 2010 Edition of Title 24 Part 10," including the Appendices thereof, based on the 2009 International Existing Building Code, as approved and copyrighted by the International Code Council (ICC), 4051 West Flossmoor Road, Country Club Hills, IL 60478, and California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "The Existing Building Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-15 § 1, 10-22-2002)

**4.16.020 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-15 § 2, 10-22-2002)

**4.16.030 Penalties.**

Section A102.3 of the California Existing Building Code is hereby amended added to read as follows:

Section A102.3 Violation and Penalties.

Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not to exceed one hundred eighty (180) days, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this ordinance or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this ordinance shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-15 § 3, 10-22-2002)

**4.16.040 Board of Appeals.**

Section A102.4 of the California Existing Building Code is hereby added to read as follows:

Section A102.4 Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-15 § 4, 10-22-2002)

**Chapter 4.17  
ENERGY CODE**

**Sections:**

- 4.17.010 Adoption.**
- 4.17.020 Purposes.**
- 4.17.030 Penalties.**
- 4.17.040 Board of Appeals.**

**4.17.010 Adoption.**

That certain document in book form entitled "California Energy Code, ~~2007~~ **2010** Edition of Title 24 Part 6," including the Appendices thereof, as approved and copyrighted by the International Code Council (ICC), 4051 West Flossmoor Road, Country Club Hills, IL 60478, and California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833, prescribing regulations governing the installation, construction, maintenance, alteration, repair and inspection of energy efficient equipment, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "The Energy Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-16 § 1, 10-22-2002)

**4.17.020 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-16 § 2, 10-22-2002)

**4.17.030 Penalties.**

The following section is hereby added to the California Energy Code to read as follows:

Violation and Penalties.

Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not to exceed one hundred eighty (180) days, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the

Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this ordinance or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this ordinance shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-16 § 3, 10-22-2002)

**4.17.040 Board of Appeals.**

The following section is hereby added to the California Energy Code to read as follows:

Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-16 § 4, 10-22-2002)

**Chapter 4.18**  
**ELEVATOR SAFETY CONSTRUCTION CODE**

**Sections:**

- 4.18.010 Adoption.**
- 4.18.020 Purposes.**
- 4.18.030 Penalties.**
- 4.18.040 Board of Appeals.**

**4.18.010 Adoption.**

That certain document in book form entitled "California Elevator Safety Construction Code, 2007 Edition of Title 24 Part 7," including the Appendices thereof (refer to the California Code of Regulations, Title 8 for the Part 7 item), prescribing regulations governing the installation, construction, maintenance, alteration, repair and inspection of elevators, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "The Elevator Safety Construction Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-17 § 1, 10-22-2002)

**4.18.020 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-17 § 2, 10-22-2002)

**4.18.030 Penalties.**

The following section is hereby added to the California Elevator Safety Construction Code to read as follows:

Violation and Penalties.

Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not to exceed one hundred eighty (180) days, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the

Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this ordinance or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this ordinance shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-17 § 3, 10-22-2002)

**4.18.040 Board of Appeals.**

The following section is hereby added to the California Elevator Safety Construction Code to read as follows:

Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-17 § 4, 10-22-2002)

**Chapter 4.19**  
**REFERENCE STANDARD CODE**

**Sections:**

**4.19.010 Adoption.**

**4.19.020 Purposes.**

**4.19.030 Penalties.**

**4.19.040 Board of Appeals.**

**4.19.010 Adoption.**

That certain document in book form entitled "California Reference Standard Code, ~~2007~~ 2010 Edition of Title 24 Part 12," including the Appendices thereof, as approved and copyrighted by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, and California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833, one copy of which document is now on file in the Building Department of the City of Newman, except as portions thereof are herein specifically amended, deleted and added to, is hereby adopted by reference as "The Reference Standard Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-19 § 1, 10-22-2002)

**4.19.020 Purposes.**

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement. (Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-19 § 2, 10-22-2002)

**4.19.030 Penalties.**

The following section is hereby added to the California Reference Standard Code to read as follows:

Violation and Penalties.

Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not to exceed one hundred eighty (180) days, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance or granting of a permit or approval of plans shall not prevent the

Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this ordinance or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this ordinance shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-19 § 3, 10-22-2002)

**4.19.040 Board of Appeals.**

The following section is hereby added to the California Reference Standard Code to read as follows:

Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

(Ord. 2007-10 § 1, 11-27-2007; Ord. 2002-19 § 4, 10-22-2002)

Chapter 4.20  
RESIDENTIAL CODE

Sections:

4.20.010 Purposes.

4.20.020 Adoption.

4.20.030 Definitions.

4.20.040 Violations and penalties.

4.20.050 Validity.

4.20.060 Board of Appeals

4.20.070 Amendments

4.20.010 Purposes.

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building ; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement.

4.20.020 Adoption.

Those certain documents in book form entitled "California Residential Code – 2010 Edition of Title 24 Part 2.5," and including the Appendices Chapter H – Patio Covers, based on the 2009 International Residential Code, as approved and copyrighted by the International Code Council (ICC), 4051 West Flossmoor Road, Country Club Hills, IL 60478, one copy of which document is now on file in the Building Department of the City of Newman, except as to portions thereof which are herewith specifically amended, deleted and added to, are hereby adopted by reference together as "California Residential Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman.

4.20.030 Definitions.

A. The name "Newman" and/or "California" shall be inserted in the appropriate places provided therefore in each and every section of this Code wherever the City or the State is left blank.

B. The term "Building Official" shall include the term "Chief Building Official", means the Authority Having Jurisdiction / Director of the Building Department within the Community Development and Services Agency, and his or her deputies or designees.

4.20.040 Violations and penalties.

Section 205 of the 1997 Uniform Administration Code as set forth in said Code is omitted, but in lieu thereof, a new Section 205 is added to read as follows:

Section 205.

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City of Newman, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.

Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500 or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.

4.20.050           Validity.

The City Council of the City of Newman hereby declares that should any section, paragraph, sentence or word of this chapter or of the Codes hereby adopted be declared for any reason to be invalid or unconstitutional, it is the intent of the City Council of the City of Newman that it would have passed all other portions of the ordinance codified in this chapter independently of the elimination herefrom of any such portion as may be declared invalid or unconstitutional.

4.20.060           Board of Appeals.

Section 204 of the 1997 Uniform Administrative Code is hereby added to read as follows:

Section 204 Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

4.20.070   Amendments

A. Section R319.1 of the 2010 California Residential Code is hereby amended by adding the following subsection:

R319.1.2 Address Illumination. Addressing shall be illuminated at night in all new buildings. Address signs shall be internally or externally illuminated. When the luminance or the face of a sign is from an external source, it shall have an intensity of not less than 5.0 foot-candles. Internally illuminated signs shall provide equivalent luminance.

Chapter 4.21  
GREEN CODE

Sections:

4.21.010 Purposes.

4.21.020 Adoption.

4.21.030 Definitions.

4.21.040 Violations and penalties.

4.21.050 Validity.

4.21.060 Board of Appeals

4.21.010 Purposes.

The purposes of this chapter are to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the City of Newman; to encourage and instruct people to build safely and economically, rather than to discourage building; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement ; and to provide a minimum of restrictive enforcement and a maximum of good building information and encouragement by enhancing the design and construction of buildings through the use of building concepts having and encouraging sustainable construction practices in the following categories:

- Planning and design
- Energy efficiency
- Water efficiency and conservation
- Material conservation and resource efficiency
- Environmental quality

4.21.020 Adoption.

Those certain documents in book form entitled "California Green Code 'CALGreen' – 2010 Edition of Title 24 Part 11," as approved and copyrighted by the International Code Council (ICC), 4051 West Flossmoor Road, Country Club Hills, IL 60478, one copy of which document is now on file in the Building Department of the City of Newman, except as to portions thereof which are herewith specifically amended, deleted and added to, are hereby adopted by reference together as "California Green Code of the City of Newman," and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Newman.

4.21.030 Definitions.

- A. The name "Newman" and/or "California" shall be inserted in the appropriate places provided therefore in each and every section of this Code wherever the City or the State is left blank.
- B. The term "Building Official" shall include the term "Chief Building Official", means the Authority Having Jurisdiction / Director of the Building Department within the Community Development and Services Agency, and his or her deputies or designees.

4.21.040 Violations and penalties.

Section 205 of the 1997 Uniform Administration Code as set forth in said Code is omitted, but in lieu thereof, a new Section 205 is added to read as follows:

Section 205.

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City of Newman, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.

Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$500 or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.

4.21.050           Validity.

The City Council of the City of Newman hereby declares that should any section, paragraph, sentence or word of this chapter or of the Codes hereby adopted be declared for any reason to be invalid or unconstitutional, it is the intent of the City Council of the City of Newman that it would have passed all other portions of the ordinance codified in this chapter independently of the elimination herefrom of any such portion as may be declared invalid or unconstitutional.

4.21.060           Board of Appeals.

Section 204 of the 1997 Uniform Administrative Code is hereby added to read as follows:

Section 204 Board of Appeals.

The City Council is hereby designated as a Board of Appeals to make correct determination of any appeal arising from actions of the Administrative Authority. Any person dissatisfied with any decision of the building official may appeal in writing to the City Council of the City of Newman, which statement shall specify the ground of such dissatisfaction and shall set forth the address of appellant to which notice may be sent by mail. At the next regular meeting after filing of such appeal, the City Council shall set the same for hearing for a time not later than the next regular meeting of the Council and shall notify the appellant by mail of the time and place of such hearing, and such hearing may take such evidence as it shall deem proper, and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant. The appellant shall cause to be made at his own expense any tests or research required by Council to substantiate his claims. The decision of the City Council on such appeal shall be final.

Chapter 4.22.  
SAFETY ASSEMENT PLACARDS

Sections:

- 4.22.010        Intent  
4.22.020        Application of Provisions  
4.22.030        Definitions  
4.22.040        Placards

4.22.010        Intent

This chapter establishes standard placards to be used to indicate the condition of a structure for continued occupancy. The chapter further authorizes the Building Official and his or her authorized representatives to post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment.

4.22.020        Application of Provisions.

(a) The provisions of this chapter are applicable to all buildings and structures of all occupancies regulated by the City of Newman. The City Council may extend the provisions as necessary.

4.22.030        Definitions.

(a) Safety assessment is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy.

4.22.040        Placards.

(a) The following are verbal descriptions of the official jurisdiction placards to be used to designate the condition for continued occupancy of buildings or structures. Copies of actual placards are attached.

(1) INSPECTED - Lawful Occupancy Permitted is to be posted on any building or structure wherein no apparent structural hazard has been found. This placard is not intended to mean that there is no damage to the building or structure.

(2) RESTRICTED USE is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions on continued occupancy.

(3) UNSAFE - Do Not Enter or Occupy is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Buildings or structures posted with this placard shall not be entered under any circumstance except as authorized in writing by the Building Official, or his or her authorized representative. Safety assessment teams shall be authorized to enter these buildings at any time. This placard is not to be used or considered as a demolition order. The individual who posts this placard will note in general terms the type of damage encountered.

*(b) This ordinance number, the name of the jurisdiction, its address, and phone number shall be permanently affixed to each placard.*

*(c) Once it has been attached to a building or structure, a placard is not to be removed, altered or covered until done so by an authorized representative of the Building Official. It shall be unlawful for any person, firm or corporation to alter, remove, cover or deface a placard unless authorized pursuant to this section.*

Honorable Mayor and Members  
of the Newman City Council

**REPORT ON CDBG AND HOME GRANT LOAN SERVICING**

**RECOMMENDATION:**

1. Adopt Resolution No. 2010- , Authorizing the City Manager to Execute an Agreement with the Housing Authority County of Stanislaus for Loan Servicing Services.

**BACKGROUND:**

The City of Newman has been working with Self-Help Enterprises for the administration and loan servicing of CDBG and HOME loans since 1998. Since Self-Help Enterprises wrote and administered the grants, it was the best option for the City (at that time) to also have them service all grant loans.

According to the current agreement, "...[It] may be renewed annually and the budget increased by the City Manager, not to exceed 20% based on negotiations with SHE, without City Council review."

In 2005, the City of Newman became an entitlement jurisdiction and joined the Stanislaus County CDBG and HOME Consortiums. Given the City's classification as an entitlement jurisdiction (and subsequent direct funding from HUD) it can no longer pursue state administered CDBG and HOME grants with Self-Help Enterprises. Thus, Self-Help Enterprises' role was scaled back to loan servicing only.

The City is currently on a month-to-month loan servicing arrangement with Self-Help Enterprises. In the 2009/2010 Fiscal Year, the City's contract amount with Self-Help was \$12,240.00. Annual contracts were calculated at a rate of: [(# of loans X servicing cost per loan) X 12 months] + Direct Charges; these costs are paid with program income received from said CDBG/HOME grants (an eligible expense).

**ANALYSIS:**

In an effort to cut down costs and save program income monies, staff began exploring other options for loan servicing. With the City now being an entitlement jurisdiction and administering its First-Time Homebuyer Program in house, it made better sense to have a local loan servicer (in the event that staff had to review files, etc). Upon conferring with other jurisdictions, it was found that the Housing Authority of Stanislaus County provided loan servicing services for a number of local agencies, including Stanislaus County.

Upon meeting with a Housing Authority representative, staff received a proposal for loan services as follows:

Monthly Loan Payments

\$11.00 per month

For Grants (As Opposed To Loans)

A \$25.00 fee for set-up of account and \$75.00 for closing cost and reconveyance of title at loan closing.

For Deferred Payment Accounts

A \$25.00 fee for set-up of account and \$75.00 for closing cost and reconveyance of title at loan closing.

Should any payments be received, a monthly fee of \$11.00 would apply on the months of payment. No charges will be incurred if there was no activity on the loan (i.e. payments).

With this calculation, the maximum costs incurred would be approximately \$7,000.00 (not including if loans should close), this is a savings of 45%. In reality, most loans are deferred and are not making monthly payments, thus, our incurred monthly costs would be significantly less.

**FISCAL IMPACT:**

Positive, a potential savings of up to \$5,740.00 the first year and \$6,932.00 annually thereafter



**CONCLUSION:**

Given that Self-Help Enterprises is no longer issuing new CDBG/HOME First-Time Homebuyer or Rehabilitation Loans, that they are located in Visalia (126 miles away) and that the Housing Authority offers the same services for less cost, staff recommends that the Council Adopt Resolution No. 2010- , Authorizing the City Manager to Execute an Agreement with the Housing Authority County of Stanislaus for Loan Servicing Services

**ATTACHMENTS:**

1. Exhibit A – Resolution No. 2010- ,
2. Exhibit B - Loan Servicing Agreement

Respectfully submitted,



Stephanie Ocasio  
Assistant Planner

**REVIEWED/CONCUR**



Michael Holland  
City Manager



**RESOLUTION NO. 2010-**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE HOUSING AUTHORITY COUNTY OF STANISLAUS FOR GRANT FUNDED LOAN SERVICING**

WHEREAS, in 2005, the City of Newman became an entitlement jurisdiction and a member of the CDBG and HOME Consortiums; and

WHEREAS, the City of Newman is no longer eligible to apply for state-administered CDBG and/or HOME grants with Self-Help Enterprises; and

WHEREAS, in an effort to preserve program-income monies, City of Newman staff has researched the cost of loan serving for it's existing and future CDBG and HOME loans; and

WHEREAS, the City has found that the Housing Authority County of Stanislaus is local, qualified, experienced and will provide the same services as Self-Help Enterprises for a significant cost savings; and

WHEREAS, decreasing administration costs such as loan servicing will assist the City of Newman in providing affordable housing programs in the City.

NOW, THEREFORE, BE IT RESOLVED that the Newman City Council hereby authorizes the City Manager to execute an agreement with the Housing Authority County of Stanislaus for the grant funded loan servicing.

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 September, 2010 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

ATTEST:

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



**DRAFT: FOR REVIEW AND DISCUSSION PURPOSES ONLY**  
**07/23/10**

**City of Newman**

**Loan Servicing Agreement**

This Loan Servicing Agreement (the "Agreement") is made and entered into May 10, 2010 and is between Housing Authority of the County of Stanislaus, a California Public Entity ("Servicer") and the City of Newman, a municipal corporation of the State of California (the "Lender"). The parties agree as follows:

**RECITALS**

**A**

Lender has available funds to lend to qualified low income homeowners to enable those homeowners to rehabilitate their residential real property.

**B**

Lender desires to contract with Servicer to service each loan ("Loan") made by Lender to homeowners for property rehabilitation purposes and Servicer is willing to service each Loan on behalf of the Lender.

**NOW, THEREFORE, LENDER AND SERVICER AGREE AS FOLLOWS:**

- 1. General Scope of Services.** Lender retains Servicer as Lender's agent to employ commercially reasonable and prudent practices to collect all scheduled payments on each Loan; enforce the terms and condition on each note evidencing each Loan ("Note"); and enforce the security for the Loan, which shall be a deed of trust ("Deed of Trust") against the property benefited by the Loan (the "Property"); all pursuant to instructions from Lender.
- 2. Term and Termination.** This Agreement shall commence as of the date set forth above and shall continue until terminated as follows:
  - a. Servicer and Lender mutually agree to terminate the Agreement.
  - b. Either party provides the other with thirty (30) days prior written notice of its intention to terminate this Agreement for any reason, without cause.
  - c. Unless sooner terminated pursuant to subparagraphs (a) or (b) above, this Agreement shall automatically terminate when (i) principal, interest, and all other sums owing under a Loan Note have been paid in full; or (ii) the Lender shall have accepted in writing other consideration in full satisfaction of all amounts owing to Lender under a Loan Note.

Upon termination of this Agreement, Servicer shall deliver to Lender all of Lender's Loan funds then being administered by Servicer, if any, and an appropriate accounting and all necessary documentation regarding those Loan funds. Upon termination, Lender shall immediately reimburse Servicer for any outstanding advances made by Servicer pursuant to Section 4 hereinafter and shall pay Servicer all servicing fees to which Servicer is entitled up to date of termination pursuant to section 6.

- 3. Specific Loan Servicing Functions.** Servicer shall: (a) issue payment coupons or monthly statements to the borrower directing Loan repayment to Servicer, (b) issue payoff demands and beneficiary statements, (c) demand, receive and collect all Loan payments and deposit them by into Servicer's trust account; (d) issue annual Form 1099-INT statements to the

borrower and Lender; (e) answer borrower inquiries, demands and requests; (f) grant appropriate payment deferrals, except for the date of the maturity of the Loan unless previously approved by Lender; (g) monitor the continued effectiveness and claims on any property insurance listed in the Loan escrow instructions; (h) request and receive notices of default on senior liens; (i) receive notices of property tax delinquencies, should a tax service be ordered thru escrow or subsequently; (j) execute and deliver on Lenders' behalf and in Lenders' name any documents necessary or convenient for the exercise of any rights or duties which Lender may have under any Deed of Trust that secures a Loan, including but not limited to Substitution of Trustee, Request for Full or Partial Reconveyance, Payoff Demands, Beneficiary Statements, Declarations and Notices of Defaults, bidding authorizations and other instructions to the Trustee (appointed or substituted) of the Deed of Trust; (k) endorse to Servicer's Trust Account any checks or money orders payable to Lender and to deposit them by the next business day into Servicer's trust account; (l) with the consent of Lender, initiate and direct judicial or non-judicial foreclosure of the Loan, as Lender deems appropriate, and with such consent, communicate to the trustee or sheriff the amount of any credit bid. Lender also agrees and authorizes Servicer to employ any outside services such as, but not limited to, appraisers, attorneys and foreclosure companies to further evaluate and protect Lenders' interest in the Note and Deed of Trust, all subject to reimbursement upon demand or prior collection of funds to pay for said outside services, including any services provided by Servicer which is not under the scope of this agreement (including but not limited to a trustee fee in a foreclosure situation). Servicer shall promptly communicate to Lender any material information about collection of the Loan and the source of non-borrower Loan payments. Servicer may produce a copy of this Agreement as evidence of its authority.

**4. Protective Advances.** Lender shall make such advances that are necessary and prudent to protect and to collect Lender's interest in the Loan. Servicer, in its absolute discretion, may, but shall not be obligated to advance its own funds to protect the security of Lender's Loan, including advances to cure senior liens, property insurance, foreclosure expenses, repair, advertising, litigation expenses and similar items, but not Loan payments. Servicer shall be reimbursed such advances, with interest at the Loan rate, from the next Loan payment, or within 10 days after a written demand to Lender. To secure Servicer's advances, Lender hereby irrevocably assigns to Servicer, to the extent of advances owed to Servicer, the first Loan payments received after an advance is made. Lender will be liable for actual attorneys' fees incurred as result of said failure to act or failure to advance funds.

**5. Loan Documents.** Servicer shall retain custody as agent for Lender of the original Note and Deed of Trust for each Loan.

**6. Compensation.** For its services, Servicer shall be paid: a servicing fee of \$11.00 per month for Loan accounts with monthly payments. On grant accounts or deferred payment accounts the cost for initial set-up will be \$25.00 per account; with an additional \$75.00 charge for closing of the account and reconveyance once the account is satisfied in full. Reimbursement of all wiring fees, advancing, overnight charges, non-sufficient funds charges assessed on returned checks, reconveyance fees, advancing fees, demand fees, any other fees earned by servicer and all bankruptcy administration fees shall be at 100%. Servicer's compensation is subject to change upon 30 days advanced written notice to Lender. Servicer is guaranteed to receive a minimum of three (3) months service fees based on the original principal balance of a Loan.

**7. Real Estate Owned.**  If this box is checked, Servicer is also Lender's agent to liquidate any real estate acquired by Lender in foreclosure of the Deed of Trust. Servicer's pre-foreclosure servicing fee shall continue as if the Loan was unpaid. An additional contract shall be signed at the time Lender acquires title to the Property outlining terms and fees of retaining Servicer to manage the Property. Servicer shall: (a) arrange appropriate property insurance; (b) manage the property, including arranging maintenance, tenant relations, repair and security; (c) arrange for the valuation and resale of the Property, including hiring a Realtor® or real estate Broker, at customary commission rates, to list, show and sell the Property; and (d) accept reasonable offers on the Property, at the price and terms approved by Lender (or the Majority on a Multi-Lender Loan) and execute all necessary and appropriate documentation to carry out the sale. Advances by Servicer are subject to the terms of Section 4.

8. **No Representations of Warranties.** Lender further understands and agrees that the security for any Note and Deed of Trust is directly related to the equity in the secured Property as shown in the Lender Disclosure Statement and THAT NO REPRESENTATIONS OR WARRANTIES ARE IMPLIED OR EXPRESSED by Servicer regarding the value of the Property for security purposes. Lender understands that the value or saleability of real estate can change at any time and therefore, equity in the secured Property can increase or decrease. Lender hereby releases Servicer from any and all claims and liability whatsoever in connection with the determination of the value of the secured Property.

9. **Right to Rely on Prior Servicer Information.** Lender further understands and agrees that if a Loan has been previously serviced by another servicing agent or by the Lender, Servicer shall rely on all information transmitted to Servicer from former servicer of Lender. Servicer shall have no duty or obligation to verify the accuracy or correctness of any information received from a former servicer of Lender.

10. **Indemnification.** Lender hereby indemnifies Servicer from any and all liability, including attorney's fees and costs incurred in defending a legal action naming Servicer as defendant, which might arise during the course of or subsequent to Servicer's execution of its duties hereunder, including but not limited to being named as defendant based on former servicer's actions unless said liability arises due to Servicer's gross negligence or willful misconduct as determined by a court of competent jurisdiction. Additionally, Lender holds Servicer harmless against any losses caused by fire or other hazard on non-insured Properties if said Property was uninsured prior to receipt of files from a former servicer (on takeover files) or escrow holder (on new closings) and within 60 days of receipt of complete file information to Servicer. Additionally, Lender holds Servicer harmless against any losses caused by Notices of Defaults and/or Notices of Trustee Sale recorded against the Property if said Notice was recorded prior to receipt of complete file information from a former Servicer (on takeover files) or escrow holder (on new closings) and within 60 days of receipt of complete file information to Servicer.

11. **Tax Service.** Lender agrees that should a tax service not be ordered through originating loan broker or requested through Servicer in writing, Lender holds Servicer harmless from any losses incurred by Lender should tax default occur.

12. **Monitoring of Underlying Liens.** Lender agrees that Servicer is not responsible for monitoring underlying lien(s) against secured Property unless specific delinquency notice from underlying lien(s) has been received by Servicer.

13. **Relationship of Parties.** Lender acknowledges that Servicer is serving as its agent with respect to the Loan, Note, and Deed of Trust and that no other relationship between Lender and Servicer, including that of a partnership, joint venture, or tenants-in-common is created by this Agreement.

14. **Prepayment Penalties.** Servicer will be entitled to receive and Lender hereby assigns to Servicer any prepayment penalties and all late charges collected from borrower by the Servicer under the Note.

15. **Power of Attorney.** The Lender hereby grants Servicer an irrevocable power of attorney, coupled with an interest, to perform all acts that Servicer is authorized to perform on behalf of the Lender pursuant to this Agreement including, without limitation, the power to enforce the terms of the Note and the Deed of Trust; to assume and enter into contracts for completion of improvements to a property; to take title to a property as trustee or nominee for the Lender; and to cause title to the property to be taken in the name of the Lender. Without limiting the foregoing, Servicer is expressly authorized to do the following: execute requests for reconveyance; file notices of default; select a foreclosure agent; make demands; request substitutions of trustees; seek a receiver; publish and record notices of sale; file complaints; obtain judgments and deficiencies judgments; seek relief from any stay of foreclosure proceedings or defend any litigation which seeks to restrain such foreclosure proceedings; accept reinstatements; bid at a foreclosure sale and otherwise conduct judicial or non-judicial foreclosure proceedings; file, prosecute, and defend legal actions and otherwise enforce the terms of the

Note and Deed of Trust; employ attorneys, accountants, appraisers, and other third parties; and obtain market studies and other reports.

**16. Reliance By Third Parties.** Every document or instrument executed by Servicer in connection with the Loan, Note, Deed of Trust, or Property shall be conclusive evidence in favor of every person relying upon or claiming under said document or instrument: (i) that at the time of delivery thereof, the agency or trust created by this Agreement was in full force and effect; (ii) that such document or instrument was executed in accordance with the terms, conditions, and limitations contained in this Agreement; and (iii) that Servicer was duly authorized and empowered to execute and deliver every such document or instrument.

**17. Notices.** All notices, requests, demands and other communications given or required to be given hereunder shall be in writing and sent by nationally recognized courier service such as Federal Express, by United States registered or certified mail with return receipt requested, or by fax machine duly addressed to the parties as follows:

IF TO SERVICER: HOUSING AUTHORITY OF THE  
COUNTY OF STANISLAUS  
Attention: Executive Director  
1701 Robertson Road  
Post Office Box 581918 (95358-0033)  
Modesto, California 95354  
Facsimile: (209) 557-2011

IF TO LENDER: CITY OF NEWMAN, a municipal corporation  
of the State of California  
Attention: City Manager  
1162 Main Street  
Newman, California 95360  
Facsimile: (209) 862-3199

A notice sent by fax machine will be presumed received on the date sent if transmitted and received during or prior to normal business hours and on the next business day if sent after normal business hours.

Delivery of any notice or other communication hereunder shall be deemed made on the date indicated in the return receipt or courier's records as the date of delivery or first attempted delivery to the address of the addressee set forth above. Any party may change its address for purposes of this Section by giving notice to the other party as provided in this Section.

**18. Attorney Fees.** If litigation is commenced between the parties, the Prevailing Party in that litigation shall be entitled to recover from the nonprevailing party all reasonable attorney fees and costs. "Prevailing Party" shall include without limitation a party who dismisses an action in exchange for sums allegedly due; the party who receives performance from the other party for an alleged breach of contract or a desired remedy where the performance is substantially equal to the relief sought in an action; or the party determined to be the prevailing party by a court of law.

**19. Partial Invalidity.** If any word, phrase, clause, sentence or paragraph of this Agreement is, or shall be, invalid for any reason, the same shall be deemed severable from the remainder and shall in no way affect or impair the validity of this Agreement or any provision set forth herein.

**20. Governing Law.** This Agreement shall be construed and enforced in accordance with and governed by the law of the State of California.

**21. Assignment.** Neither party may assign its rights or obligations under this Agreement without the written consent of the other party, which consent shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the

parties hereto, and to their respective heirs, legal representatives, successors in interest, and assign.

**22. Dispute Resolution.** The parties hereto will attempt to settle any claim or controversy arising out of or relating to this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. However, at any time before or during such negotiations, or following any unsuccessful negotiations, either party may be written notice to the other demand that the dispute be submitted to mediation. When such a demand is made, the parties shall within ten (10) days jointly make arrangements for the mediation of the dispute through the auspices, and pursuant to the then current mediation rules and procedures, of the Judicial Arbitration and Mediation Services ("JAMS"), except to the extent such rules and procedures are modified by agreement of the parties. If the dispute has not been resolved within sixty (60) days of any written demand for mediation, or within a longer time period to which the parties may agree, the dispute shall be submitted to binding arbitration in accordance with the commercial arbitration rules of J.A.M.S. In all cases submitted to JAMS for arbitration, the arbitration proceedings shall be conducted at a location mutually agreed upon by the parties and, if they cannot agree, then in Modesto, California. The arbitration shall be conducted by a single arbitrator. If the parties cannot agree on a single arbitrator within ten (10) days following submission of a dispute to JAMS for arbitration, then the arbitrator shall be selected in accordance with JAMS' commercial arbitration rules. The parties shall advance their respective administrative fees, and advance in equal shares the arbitrator's fee.

Notwithstanding any rules or procedures of JAMS to the contrary, the arbitrator shall be bound to render a decision in accordance with applicable state and federal laws and shall issue written findings of fact and conclusions of law (the "written opinion"). In any petition to confirm, correct or vacate the arbitration award, the arbitrator's written opinion shall be subject to judicial review for limited the purpose of insuring that it conforms to applicable state and federal laws. Except for this limited right of judicial review and other statutory grounds for correcting or vacating the arbitrator's award, the parties agree that the decision of the arbitrator shall be final and binding upon them. Any arbitration award shall include the cost of arbitration and reasonable attorney's fees to the prevailing party, if the arbitrator determines that there is a prevailing party in any such dispute. Judgment may be entered on the award in the Stanislaus County Superior Court.

Any negotiation or mediation which takes place pursuant to this Agreement shall be confidential and shall be treated as a compromise and settlement negotiation for purposes of applicable rules of evidence.

**23. Entire Agreement.** All prior agreements between the parties hereto are incorporated in this Agreement which constitutes the entire agreement between the parties. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to each and every term and condition included herein and may not be contradicted by evidence of any prior agreement, contemporaneous oral agreement, or prior and/or contemporaneous oral representations. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms and conditions and that no extrinsic evidence whatsoever may be introduced in any judicial proceeding, if any, involving this Agreement. Any and all agreements or representations regarding the terms and conditions of this Agreement that are not expressly set forth herein are null and void.

**24. Language Construction.** The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted al or any portion of this Agreement.

**25. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

**26. Authority of the Parties.** Each individual executing this Agreement on behalf of the

respective parties represents and warrants that he or she is duly authorized to execute this Agreement on behalf of the respective parties.

Dated: \_\_\_\_\_

Michael E. Holland  
City Manager

\_\_\_\_\_  
Signature

Dated: \_\_\_\_\_

William Fagan  
Executive Director

\_\_\_\_\_  
Signature

DRAFT

Honorable Mayor and Members  
of the Newman City Council

Agenda Item: **10.c.**  
City Council Meeting  
of September 28, 2010

**APPROVAL AND SUPPORT OF THE CITY'S APPLICATION FOR GRANT FUNDS FROM  
THE SUSTAINABLE COMMUNITIES PLANNING GRANT AND INCENTIVES PROGRAM  
UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD  
CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006**

**RECOMMENDATION:**

Adopt Resolution No. 2010- Approving The Application For Grant Funds For The Sustainable Communities Planning Grant And Incentives Program Under The Safe Drinking Water, Water Quality And Supply, Flood Control, River And Coastal Protection Bond Act Of 2006 (Proposition 84)

**BACKGROUND:**

In September 2008 Governor Schwarzenegger signed SB 732, creating the Strategic Growth Council. The Council is a cabinet level committee that is tasked with coordinating the activities of state agencies to:

- Improve air and water quality
- Protect natural resource and agriculture lands
- Increase the availability of affordable housing
- Improve infrastructure systems
- Promote public health
- Assist state and local entities in the planning of sustainable communities and meeting AB 32 goals

On April 22, 2010, the Strategic Growth Council requested the submittal of Proposals for the Sustainable Communities Planning Grant and Incentive Program. The Sustainable Communities Planning Grant is funded by Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, which authorized the Legislature to appropriate \$90 million for planning grants and planning incentives that reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits.

**ANALYSIS:**

This Sustainable Communities Planning Grant and Incentives program implements the vision of the Governor and Legislature to foster the development of sustainable communities throughout California. It is designed to help local governments meet the challenges of adopting land use plans and integrating strategies in order to transform communities and create long term prosperity.

The primary goal of this grant program is to develop and implement plans that reduce greenhouse gas emissions and achieve the following objectives:

- |  |  |
|--|--|
| • Improve air and water quality                    | • Reduce automobile usage and fuel consumption |
| • Promote public health                            | • Improve infrastructure systems               |
| • Promote equity                                   | • Promote water conservation                   |
| • Increase housing affordability                   | • Promote energy efficiency and conservation   |
| • Increase infill and compact development          | • Strengthen the economy                       |
| • Revitalize urban and community centers           |  |
| • Protect natural resources and agricultural lands |  |

These objectives are consistent with the State Planning Priorities as well as Strategic Growth Council objectives.



Agenda Item: **10.c.**

Consistent with the intent of this grant program, the City of Newman, in partnership with Stanislaus County, the Cities of Ceres, Hughson, Modesto, Oakdale, Patterson, Riverbank, Turlock and Waterford, Stanislaus County LAFCO, StanCOG, and the Great Valley Center, has been working on plans for a Stanislaus County Sustainability Toolbox. The proposed toolbox includes a county-wide green house gas inventory and tracking system to create the baseline for the required SB375 and AB32 Sustainable Community Strategy, a multijurisdictional GIS-based impact assessment tool, a community engagement strategy for smart growth, energy and water efficiency innovation programs and model ordinances and general plan policies that will be available for all local and regional jurisdictions.

The proposal requests a total of \$1,115,000 to be distributed equally among the ten municipal jurisdictions to implement the Stanislaus County Sustainability Toolbox, a collaborative effort to implement a variety of specific actions and activities that will provide a comprehensive regional template that that can be utilized by each jurisdiction for the updating and creation of short and long term planning documents.

Newman's portion of the toolbox is known as Component 4; Non-Motorized Transportation Plan and Policies. If awarded, the City will prepare a model Non-Motorized Transportation Plan that will include policies and implementation measures that would be effective in individual neighborhood designs, applicable to both small communities and to designated areas of larger cities. It is envisioned that the City of Newman's Non-Motorized Transportation Plan will result in a greater number of individuals freely choosing alternative transportation modes (walking, bicycling, etc.), which will lead to healthier lifestyles, improved air and water quality, and a safer, more sustainable community.

**FISCAL IMPACT:**

Positive, potential City of Newman grant award of \$100,000.00 with an in-kind staff time match of \$20,000.00.

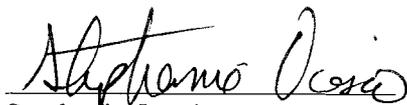
**CONCLUSION:**

In order to apply for the grant, the each participating jurisdiction is required to have an authorizing resolution approving the application for grant funds from its governing body. Staff recommends approval and support of the City's Application for Grant Funds from the Sustainable Communities Planning Grant and Incentives Program under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act Of 2006 through adoption of Resolution No. 2010- .

**ATTACHMENTS:**

1. Exhibit A – Resolution No. 2010-

Respectfully submitted,



Stephanie Ocasio  
Assistant Planner

**REVIEWED/CONCUR**



Michael Holland  
City Manager



**RESOLUTION NO. 2010-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE SUSTAINABLE COMMUNITIES PLANNING GRANT AND INCENTIVES PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84)**

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the Strategic Growth Council has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the Strategic Growth Council require a resolution certifying the approval of application(s) by the Applicants governing board before submission of said application(s) to the State; and

WHEREAS, the applicant, if selected, will enter into an agreement with the State of California to carry out the development of the proposal.

NOW, THEREFORE, BE IT RESOLVED that the City of Newman City Council hereby

1. Approves the filing of an application for the Stanislaus County Regional Sustainability Toolbox grant in order to become a sustainable community;
2. Certifies that applicant understands the assurances and certification in the application, and
3. Certifies that applicant or title holder will have sufficient funds to develop the Proposal or will secure the resources to do so, and
4. Certifies that the Proposal will comply with any applicable laws and regulations.
5. Appoints the City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 28th day of September, 2010 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:

ATTEST:

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

\_\_\_\_\_  
City Clerk of the City of Newman



Honorable Mayor and Members  
of the Newman City Council

Agenda Item: **10.d.**  
City Council Meeting  
of September 28, 2010

**APPROVAL OF AMENDMENT TO HOME REGULATORY AGREEMENT WITH  
751 DRISKELL AVE., LP.**

**RECOMMENDATION:**

Approve amendment to the existing HOME regulatory agreement with 751 Driskell Avenue, LP.

**BACKGROUND:**

On May 12, 2010, the City Council authorized the City Manager to execute a HOME Regulatory agreement with Corporation for Better Housing (also known as 751 Driskell Avenue, LP) for the development of a 68 unit income-eligible housing project known as the Newman Family Apartments; the agreement allocated \$233,000.00 in HOME funds (in the form of a loan) to the project.

**ANALYSIS:**

The purpose of The Home Investment in Affordable Housing Program (HOME) is to provide funds to states and local governments for acquisition, rehabilitation, new construction of affordable housing and tenant-based rental assistance. As a part of the City of Turlock/Stanislaus County HOME Consortium, the City of Newman receives funding on an annual basis for housing related activities. In order to meet timeliness and expenditure deadlines, each member of the Consortia must annually commit or spend a portion of their HOME funding. HOME funding is allocated on a use it or lose it basis; if the City doesn't spend it, funds will be returned to HUD.

The Newman Family Apartments project qualifies for HOME funding and the City has already committed \$233,000 in HOME towards the project. Given that the project will provide much-needed housing, staff is proposing that the City commit an additional allocation of \$50,000 (also a loan) towards the project to increase its affordability.

**FISCAL IMPACT:**

\$50,000.00 - A FY 10/11 budget adjustment is necessary to create a line item under Fund 26 (HOME Consortium).

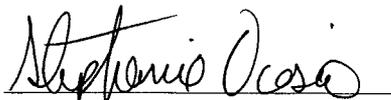
**CONCLUSION:**

In order to meet funding commitment deadlines, the City of Newman must commit/spend its HOME funding on an annual basis. By allocating an additional \$50,000 towards the Newman Family Apartments project, the City is meeting its Consortia commitment requirements and increasing the affordability of the project. Staff recommends the Council approve an amendment to the existing HOME Regulatory agreement with 751 Driskell Avenue, LP for the additional HOME loan of \$50,000.00 and approve a budget adjustment for said loan.

**ATTACHMENTS:**

1. Exhibit A – Budget Adjustment

Respectfully submitted,



Stephanie Ocasio  
Assistant Planner

**REVIEWED/CONCUR**



Michael Holland  
City Manager



## BUDGET ADJUSTMENT FORM

DESCRIPTION /COUNCIL OR RESOL. REFERENCE	LINE	GL ACCOUNT #	INCREASE BUDGET	DECREASE BUDGET
HOME Consortium	1	26-5710	\$ 50,000.00	\$ -
Newman Family Apartments	2	26-7940-48	\$ 50,000.00	\$ -
	3			
	4			
	5			
	6			
	7			
	8			
	9			
	10			
	11			
	12			
	13			
	14			
	15			
	16			
	17			
	18			
	19			
	20			
PREPARED BY: S. Ocasio			Fiscal Year	2010-11
APPROVED BY:			Period/ Month	Sep-10
ENTERED BY:			JE #	



Honorable Mayor and Members  
of the Newman City Council

**UPDATE ON MARAPOLE LANE PARK DEVELOPMENT OPTIONS**

**RECOMMENDATION:**

Provide staff direction regarding the development of the subject park site.

**BACKGROUND:**

On January 10, 2008, Friends for Sophia's Dog Park (FFSDP) made a presentation to the Parks and Recreation Commission on the benefits gained from an off leash dog park. Pros and cons were discussed at the meeting and it was determined (by the Commission) that an off leash dog park was not feasible at that time.

On March 12, 2009, FFSDP returned to the Parks and Recreation Commission and presented a potential park site, a proposed site plan and project amenity phasing plan. Upon discussion, the Commission formally introduced and supported the proposed off leash dog park at 1269 Marapole Lane and recommended development of said park to the City Council.

On June 23, 2009, FFSDP presented their dog park project to the City Council for review and decision. It was agreed that FFSDP would be responsible for all development costs with the City being responsible for the maintenance of the park (an LLD eligible expense) upon completion. It was stated at the meeting that without a City monetary contribution, the park development would take longer and would have to be phased over time. Upon discussion, the City Council unanimously voted to approve the Dog Park without a monetary contribution.

On April 27, 2010, FFSDP updated the Council on the Park's progress and provided a funding update.

Given some existing site conditions, staff attempted to obtain a project status update from FFSDP and was able to make contact on July 21, 2010. On July 22<sup>nd</sup>, the City received the non profit's formal project withdrawal letter.

On August 10, 2010, staff presented the Council with a number of development options for the site. Council directed staff to return with a cost comparison between sod and seed for the park site.

**ANALYSIS:**

The cost to develop the site will vary according to the type of development the Council chooses. The following is a comparison of costs between installing sod versus planting grass seed at the park site:

- Drainage/Irrigation/Sod: *Approximately* \$15,800.00
- Drainage/Irrigation/Hydroseed: *Approximately* \$9,500.00

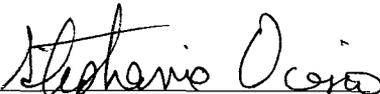
**FISCAL IMPACT:**

Between \$9,500.00 and \$15,800.00; at this time, the City has a \$5,000.00 Per Capita Grant Allocation available for immediate use. The City also has approximately \$190,500.00 in Park Facilities Fees available for new park development.

**CONCLUSION:**

To prevent the possibility of blight, it is in the best interest of the City to continue development of the site. Staff has presented development options for the park site and respectfully requests Council direction regarding development at 1269 Marapole Lane.

Respectfully submitted,

  
Stephanie Ocasio  
Assistant Planner

**REVIEWED/CONCUR**

  
Michael Holland  
City Manager



Honorable Mayor and Members  
 of the Newman City Council

**AMENDMENT TO CALPERS CONTRACT ESTABLISHING A  
 TWO-TIER RETIREMENT SYSTEM**

**RECOMMENDATION:**

Adopt Resolution No. 2010- , a Resolution of Intent to approve an amendment to contract between the Board of Administration CalPERS and the City Council City of Newman.

**BACKGROUND:**

In March 2003, the City Council approved a Resolution to amend the contract between the City and CalPERS to enhance the retirement benefits for Public Safety Personnel to 3% @ 50. In October 2005, the City Council approved a similar Resolution for miscellaneous employees authorizing a 2.7% @ 55 formula for retirement benefits. These changes were made during a time when CalPERS was receiving above-average returns on their investments.

**ANALYSIS:**

Due to the changing economic conditions, the City continues to explore ways to control current and future costs to the City. While substantial progress has been made to control current costs, amending the contract between the City and CalPERS and initiating new retirement packages (Public Safety 3% @ 55 and Miscellaneous 2% @ 55) will help the City in the future. The proposed new formulas will be applicable only to persons hired by the City after the effective date; anticipated to be on or around December 1, 2010. Based upon labor laws and CalPERS rules, current employees will remain on the existing system.

Based upon existing employees remaining on the current system, the fiscal benefits of a two-tier retirement system will not be realized by the City immediately. Savings will be achieved when existing employees leave the City and new employees (under the new retirement system) are hired to replace them. With a relatively young staff, the City is not anticipated to attain a significant costs savings for approximately a decade or more.

**FISCAL IMPACT:**

Current rates:	Public Safety (3% @ 50)	Miscellaneous/Management (2.7% @ 55)
City Contribution	26.923%	17.444%
Employee Contribution rate		
Employer paid	6%	5%
Employee paid	3%	3%
<b>Total City Contribution rate *</b>	<b>32.923%</b>	<b>22.444%</b>
* multiplied by annual salary		
Proposed Rate	Public Safety (3% @ 55)	Miscellaneous/Management (2% @ 55)
City Contribution	15.592%	8.475%
Employee Contribution rate		
Employer paid	0%	0%
Employee paid	9%	7%
<b>Proposed City Contribution rate*</b>	<b>15.592%</b>	<b>8.475%</b>
* multiplied by annual salary		
<b>Savings for the City</b>	<b>17.331%</b>	<b>13.969%</b>



Other options considered:	Public Safety (2% @ 50)	Miscellaneous/Management (2% @ 60)
City Contribution	13.436%	6.755%
Employee Contribution rate		
Employer paid	0%	0%
Employee paid	9%	7%
Proposed City Contribution rate*	13.436%	6.755%
* multiplied by annual salary		

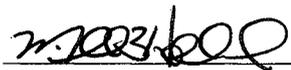
**CONCLUSION:**

As the City continues to search for ways to control and/or reduce current and future costs, one area that surfaces is retirement contributions. In the early to middle half of the decade, the economy was rolling along and CalPERS was reaping the benefits. As a result, many cities elected to enhance the retirement packages provided to their employees. In addition to the enhanced formulas, many cities (including Newman) agreed to pay the employee contribution rate as well. As one can see from the tables above, Newman can not sustain this type of benefit moving forward.

After reviewing the actuaries provided by CalPERS, staff is proposing a two-tier retirement system be implemented. All existing employees would continue on the current retirement formulas; 3% @ 50 for Public Safety and 2.7% @ 55 for Miscellaneous and Management. New employees hired after the effective date would be placed on the new retirement system and required to pay the entire employee contribution rate. Under this proposal, the City cost would be reduced by 17.331% and 13.969% of the new employee's annual salary. While this will not result in immediate savings nor will it solve our current budget deficit, the City will realize a significant savings as existing employees leave the City's service and new employees are hired.

Staff recommends the Council agree that a two-tier retirement system is in the best long-term interest of the City and support the proposal requiring new employees to pay the entire employee contribution rate by adopting the attached Resolution of Intent.

Respectfully submitted,



Michael Holland  
City Manager



**RESOLUTION NO. 2010-**

**A RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM AND THE CITY COUNCIL CITY OF NEWMAN**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20475 (Different Level of Benefits). Section 21354 (20/0 @ 55 Modified formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract; and

Section 20475 (Different Level of Benefits). Section 2,1362.2 (30/0 @ 55 Modified formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 28th day of September, 2010, 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 vote:

AYES:  
NOES:  
ABSENT:

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor Ed Katen

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



**RESOLUTION OF INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
CITY COUNCIL  
CITY OF NEWMAN**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20475 (Different Level of Benefits). Section 21354 (2% @ 55 Modified formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract; and

Section 20475 (Different Level of Benefits). Section 21362.2 (3% @ 55 Modified formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: \_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date adopted and approved





**EXHIBIT**

California  
Public Employees' Retirement System



## **AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Newman



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective January 1, 1982, and witnessed November 24, 1981, and as amended effective August 16, 1983, April 1, 1986, July 15, 1986, June 30, 1994, January 1, 2000, July 1, 2003, and December 1, 2005 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective December 1, 2005, and hereby replaced by the following paragraphs numbered 1 through 18 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members; age 50 for local safety members entering membership in the safety classification on or prior to the effective date of this amendment to contract and age 55 for local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.



2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1982 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
  
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
  - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
  - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.



PLEASE DO NOT SIGN "EXHIBIT C"

- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
  - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Police Officers (herein referred to as local safety members);
  - b. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **FIREFIGHTERS.**
6. By special agreement between the Board and the Public Agency assets held by the Travelers Insurance Company a local retirement system, were transferred to the employer account in five installments. The final installment was made on June 30, 1986. Miscellaneous employees who were employed by Public Agency on January 1, 1982 and who waived their rights under the local retirement system became members of this System on January 1, 1982. Said employees were credited with service rendered for the Public Agency prior to January 1, 1982. Police employees became members of this system on April 1, 1986. Said employees were credited with service rendered for the Public Agency prior to April 1, 1986. Miscellaneous employees who were employed by Public Agency on January 1, 1982 and who did not waive their rights under the local retirement system, by specific contract provision were excluded until said exclusions was removed by amendment to the contract effective July 15, 1986. Said employees were credited with service rendered for the Public Agency prior to July 15, 1986.
7. Benefits paid to retired persons under the local retirement system on January 1, 1982 have been recalculated in accordance with Section 20481. The benefits which would have been payable under the local retirement system shall not be reduced.



## PLEASE DO NOT SIGN "EXHIBIT ONLY"

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after December 1, 2005 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after December 1, 2005 and not entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.5 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.7% at age 55 Modified).
10. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law Subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law to the reduction provided therein for Federal Social Security (3% at age 50 Full).
12. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 55 Full).
13. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 20965 (Credit for Unused Sick Leave).
  - b. Section 20938 (Limit Prior Service to Members Employed on Contract Date).



- c. Section 20475 (Different Level of Benefits). Section 21354 (2% @ 55 Modified formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Modified formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

- 14. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
- 15. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
- 16. Public Agency shall also contribute to said Retirement System as follows:
  - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
- 17. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.



18. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF NEWMAN

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

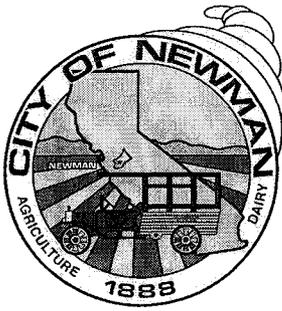
Attest:

\_\_\_\_\_  
Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"

PLEASE DO NOT SIGN "EXHIBIT ONLY"





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

**Date:** September 22, 2010

**To:** City Council

**From:** Michael E. Holland, City Manager *MEN*

**Subject:** Agenda Item No. 10.g. – Introduction and First Reading of Ordinance.

As a companion action to Agenda Item No. 10.f., the attached Ordinance would need to be adopted to move forward with the two-tier retirement system. A second reading and public hearing would take place on October 26<sup>th</sup>, should the Council approved this item.

Staff recommends the City Council Introduce and conduct a First Reading of Ordinance No. 2010- , An Ordinance Authorizing An Amendment To The Contract Between The City Of Newman and Board Of Administration Of The California Public Employee's Retirement System.



ORDINANCE NO. 2010-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF NEWMAN AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

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

Section 1.

That an amendment to the contract between the City Council of the City of Newman and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

Section 2.

The Mayor of the City of Newman is hereby authorized, empowered and directed to execute said amendment for and on behalf of said Agency.

Section 3.

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 at least once in the West Side Index, a newspaper of general circulation, 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 28<sup>th</sup> day of September, 2010 by Council Member \_\_\_\_\_, and adopted at a regular meeting of said City Council held on the 12<sup>th</sup> day of October, 2010 by the following vote:

AYES:  
NOES:  
ABSENT:

APPROVED:

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

ATTEST:

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

