

AGENDA
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING OCTOBER 12, 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. Presentation By County Librarian, Vanessa Czopek (Annual Report For Fiscal Year 2009/2010).
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 28, 2010 Regular Meeting.
 - d. Adopt Resolution No. 2010- , Declaring Certain Personal Property Surplus Property And Authorizing Disposal And/Or Sale Of Property.
 - e. Approval And Authorization Of The City's Participation In The PG&E/ICLEI Local Government Operations GHG Inventory Training Series.
9. Public Hearings
 - a. Adopt Resolution No. 2010- , A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.
 - b. Second Reading And Adoption 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.
10. Regular Business
 - a. Appointment Of Candidates To Fill Vacancies On The Planning Commission And Architectural Review Committee.
 - b. Report On A Health And Safety Receivership Program.

Calendar of Events

October 8 - O.H.S. Homecoming Parade - 1:30 P.M.
October 8 - O.H.S. Homecoming Game - 5:30 P.M. & 7:30 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.



STANISLAUS COUNTY LIBRARY

Vanessa Czopek
County Librarian

1500 I Street, Modesto, CA 95354
209-558-7801; FAX: 209-529-4779
www.stanislauslibrary.org

September 1, 2010

Mike Maier, Deputy City Clerk
City of Newman
P.O. Box 787
Newman, CA 95360

Dear Mr. Maier:

Please include Vanessa Czopek, County Librarian, on the October 12, 2010 City Council agenda. She will present the County Library Annual Report for FY 2009/10. Your local library branch manager and Friends of the Library president will attend the meeting as well.

Please contact me at 558-7801 if there are questions or concerns. Please fax a copy of the agenda to 529-4779. Thank you.

Sincerely,

Patti Boardrow
Stanislaus County Library
boardrp@stancounty.com

cc: Kelly Thompson – Newman Branch Manager
Crescencia Maurer – Friends of the Library President

Date.: Oct 1, 2010
Time.: 10:46 am
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

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List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
038168	09/29/10	20.00	PETFINDER.COM	REGISTRATION FEE FOR PET ADOPTION CLASS/TOBIN
038169	09/29/10	25.00	CITY OF CLOVIS-VALLEY LAND USE	REGISTRATION FEE/VALLEY LAND USE CONF/OCASIO
Sub-Total:		----- 45.00		
Grn-Total:		----- 45.00		
Count:	2			

Date..: Oct 8, 2010
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Ck #	Check Date	CK Amount	Vendor Name	Description
037985	10/05/10	-10.00	EDGAR GONZALEZ	Ck# 037985 Reversed
038170	10/08/10	3810.34	ABBOTT & KINDERMANN, LLP	PROFESSIONAL SERVICES/SCM HEARTHSTONE/THRU 9/20/10
038170	10/08/10	1759.75	ABBOTT & KINDERMANN, LLP	GENERAL ADVICE/THRU 9/20/10
038171	10/08/10	15143.81	AECOM USA, INC	ENGINEERING SERV/SAFE ROUTE TO SCHOOL/6/26-9/10/10
038171	10/08/10	15142.56	AECOM USA, INC	ENGINEERING FEE/P,Q,R,S,T,FRESNO,MERCED/WEST
038172	10/08/10	50.00	AMERICAN MOBILE SHREDDING, INC	2 BIN SHREDDING SERVICE/PD
038173	10/08/10	334.35	AT&T	T1 LINE @ PD 8/20/10 TO 9/19/10
038173	10/08/10	146.51	AT&T	PD EMERGENCY DISPATCH LINE @ PD/8/20/10 TO 9/19/10
038174	10/08/10	632.25	JAMES J. BELL	CONTRACT SERVICES/EVIDENCE CLERK/9-15TO9-30-10/BEL
038175	10/08/10	53567.00	BERTOLOTTI DISPOSAL	GARBAGE SERVICE/SEPTEMBER 2010
038176	10/08/10	343.22	BERTOLOTTI DISPOSAL	LANDFILL FEES/SEPT 2010
038177	10/08/10	466.83	B G AUTO	BRAKE ROTORS/ANTI-FREEZE/MINI LAMP/GASKETS
038178	10/08/10	50.00	NOEL T. BORDEN, II	MEALS DURING 5-DAY TRAINING/BORDEN
038179	10/08/10	1785.75	CAL TRAFFIC SIGNS	53 STREET NAME SIGNS/8 DETOUR SIGNS
038180	10/08/10	74.70	CALIF BUILDING STANDARDS COMMI	SB1473 FEES PAYABLE/3RD QUARTER 2010
038181	10/08/10	100.00	JEFF CARTER	PARKING LOT RENT/OCT 2010
038182	10/08/10	8500.00	CBA (CALIFORNIA BENEFITS)	DENTAL-VISION PRE-PAID DEPOSIT
038183	10/08/10	234.00	CBA (ADMIN FEES)	DENTAL-VISION ADMIN FEES/OCT 2010
038184	10/08/10	283.10	CENTRAL SANITARY SUPPLY	GLOVES/DEOD BLOCKS/PINESOL DISINFECT/TP
038184	10/08/10	553.27	CENTRAL SANITARY SUPPLY	PINESOL/CANLINERS/CLASS CLEANER/GLOVES
038185	10/08/10	162.87	CIT TECHNOLOGY FIN SERV, INC	MS GSA OFFICE PRO PLUS/OCT 2010/PD
038186	10/08/10	365.90	CNH CAPITAL	NEW WIRING FOR STARTER/CASE TRACTOR
038187	10/08/10	50.00	CARL J. COELHO (CHUCK)	Veh Operation FIRE/OCT 2010
038188	10/08/10	16.11	ELAINE COLLISON (NT)	COFFEE/WHITE VINEGAR/DISH WASHING SOAP

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Ck #	Check Date	CK Amount	Vendor Name	Description
038189	10/08/10	94.90	COMCAST CABLE	HIGH SPEED INTERNET 9/22/10 TO 10/21/10
038190	10/08/10	3297.49	CONTRACT SWEEPING SERVICES, IN	STREET SWEEPING SERVICES/SEPT 2010
038191	10/08/10	778.38	CORBIN WILLITS SYS, INC.	SERVICE & ENHANCEMENT/OCT 2010
038192	10/08/10	642.47	CROP PRODUCTION SERVICES	30 GALLONS GLY STAR PLUS
038193	10/08/10	225.00	DAVE PIRES	CAMERAED DRAIN AT ST GEORGE BUILDING/PLAZA
038193	10/08/10	375.00	DAVE PIRES	EXCAVATION/JET SPARTAN/DRAIN CAMERAED/PLAZA
038193	10/08/10	37.50	DAVE PIRES	PLUMBING/DOWNTOWN PLAZA PROJECT
038194	10/08/10	110.33	DEPART. OF CONSERVATION	STRONG MOTION FEES PAYABLE/3RD QUARTER 2010
038195	10/08/10	5551.95	DEPARTMENT OF HEALTH SERV	WATER SYSTEM ENFORCEMENT FEES 7/1/09 TO 6/30/10
038196	10/08/10	436.35	E&M ELECTRIC, INC.	REPAIRS TO 2 STREET LIGHTS @ FRESNO ST
038196	10/08/10	250.94	E&M ELECTRIC, INC.	STREET LIGHT REPAIR @ PIONEER DRUG
038196	10/08/10	137.84	E&M ELECTRIC, INC.	REPLACED LIGHT BULB @ PATCHETTS CIRCLE FIXTURE
038196	10/08/10	217.71	E&M ELECTRIC, INC.	CHANGED BOX & TIMER HORSE SHOE PIT @ PIONEER PARK
038196	10/08/10	19.84	E&M ELECTRIC, INC.	SEAL-TITE FLEX/CONNECTORS @ PIONEER PARK
038196	10/08/10	183.99	E&M ELECTRIC, INC.	REPLACED 2 GFCI/CONCESSION BLDG/SHERMAN PARK
038197	10/08/10	50.00	CHAD EARLE (NT)	MEALS FOR 5 DAY TRAINING/EARLE
038197	10/08/10	32.50	CHAD EARLE (NT)	REIMBURSEMENT FOR DOG FOOD/EARLE
038198	10/08/10	1767.63	ECO:LOGIC, INC	PO #11-19
038199	10/08/10	332.50	ENERGY SYSTEMS	SERVICE TO WELL #6/RADIATOR HOSE LEAK
038200	10/08/10	34.95	FIREtoWIRE, INC	WEB HOSTING 10/17/10 TO 11/17/10
038201	10/08/10	1.93	GARTON TRACTOR	PREFORM CLAMP FOR AIR COMPRESSOR
038202	10/08/10	69.96	GEMPLERS ACCT #5224757	RECOIL AIR HOSE/WWTP
038202	10/08/10	34.03	GEMPLERS ACCT #5224757	BINDER CHAIN
038202	10/08/10	156.18	GEMPLERS ACCT #5224757	WARING SIGN/US FLAG/LABELS

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Ck #	Check Date	CK Amount	Vendor Name	Description
038203	10/08/10	306.70	GROENIGER & CO.	CTS PE SQUEEZE OFF TOOL
038203	10/08/10	113.90	GROENIGER & CO.	BARREL B&N/BREAK OFF HYDRANT
038203	10/08/10	56.36	GROENIGER & CO.	100 FT PSI POLY TUBING
038203	10/08/10	830.66	GROENIGER & CO.	10 BRONZE WATER METERS
038204	10/08/10	1120.00	HARRITY CONSULTING	CAL TRANS SUBMITTAL/DOWNTOWN PLAZA
038205	10/08/10	590.86	HEWLETT-PACKARD FINANCIAL SERV	HARDWARE LEASE 10/18/10 TO 11/17/10/PD
038206	10/08/10	262.79	STEPHANIE HOUSE	REIMBURSEMENT FOR TEEN CENTER SNACK BAR/HOUSE
038207	10/08/10	146.67	HUB INTERNATIONAL OF CA INS SE	LIABILITY INS. PREMIUM/SEPT 2010
038208	10/08/10	2450.00	JOE'S LANDSCAPING & CONCRETE,	RE-SEEDING AND WEED CONTROL/HILL PARK
038209	10/08/10	1703.00	KAISER PERMANENTE	HEALTH INSURANCE PREMIUM/NOV 2010
038210	10/08/10	84.85	FRANK B. MARKS & SON, INC	6.72 TONS CONCRETE SAND
038211	10/08/10	2256.45	NBS	ADMIN FEES/10/1/10 TO 12/31/10/LLD
038212	10/08/10	150.00	CITY OF NEWMAN ACCTS RECEIVABL	REFUND HYDRANT DEPOSIT TO PAY #924/TEICHERT CONST
038213	10/08/10	468.70	NEWMAN ACE HARDWARE/JACT, INC	ROPE/MOTION LIGHT/CLEANERS/PAINT/RESPIRATOR/BATTER
038214	10/08/10	550.00	NEWMAN POLICE DEPARTMENT	START-UP CHANGE FOR ANIMAL CLINIC ON 10/9/10
038215	10/08/10	192.91	NORMAC, INC.	OUTDOOR MODULAR
038215	10/08/10	68.41	NORMAC, INC.	PEB VALVE/SWING PIPE
038215	10/08/10	84.54	NORMAC, INC.	FALCON ROTOR
038216	10/08/10	812.00	GEORGE OSNER	PLANNING SERVICES/AREA 3 MASTER PLAN
038217	10/08/10	20.00	OUHS REUNION COMMITTEE	REFUND PIONEER PARK DEPOSIT/10/3/10
038218	10/08/10	720.00	BIANCA PARDO	ZUMBA INSTRUCTOR/SEPTEMBER 2010
038219	10/08/10	927.71	PATTERSON AUTO CARE, INC	4 NEW TIRES MOUNTED & BALANCED/R CALIPER/AIR SENSO
038220	10/08/10	439845.63	PERMA-GREEN HYDROSEEDING	PROGRESS PAYMENT #3/DOWNTOWN PLAZA CONSTRUCTION
038221	10/08/10	55694.56	P G & E	ELECTRIC AND GAS 6/10/10 TO 9/17/10

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038222	10/08/10	6.48	PIONEER DRUG	PLASTIC BAGS/WATER DEPT
038223	10/08/10	76.09	RALEY'S IN STORE CHARGE	COFFEE/FOAM CUPS/SUPPLIES FOR CHIEF SWEARING-IN
038224	10/08/10	122.33	RELIABLE OFFICE SUPPLIES	PENS/DESK CALENDAR/HP INK CARTRIDGE/DAILY REMINDER
038225	10/08/10	1840.00	ROPER MOBILE TECHNOLOGY	PO #11-13
038226	10/08/10	715.00	ROPER, MAJESKI, KOHN & BENTLEY	EMPLOYMENT ADVICE & COUNSEL/AUGUST 2010
038227	10/08/10	12484.65	RRM DESIGN GROUP, INC.	PROFESSIONAL SERVICES/DOWNTOWN PLAZA/AUGUST 2010
038228	10/08/10	41.58	SAFE-T-LITE	3 PAIRS SAFETY GLASSES
038228	10/08/10	90.28	SAFE-T-LITE	13 PAIRS SAFETY GLASSES
038229	10/08/10	332.28	SIRCHIE	EVIDENCE TIES/SYRINGE COLLECTION TUBES/INK PAD
038230	10/08/10	105.01	SOLECON, INC	CLEANED COILS/CHANGED FILTERS/TEEN CENTER
038230	10/08/10	420.02	SOLECON, INC	CLEANED COILS/CHANGES FILTERS/MEMORIAL BLDG
038230	10/08/10	342.54	SOLECON, INC	SERVICED AC/WASH COILS/FILTER CHANGE/THEATER
038230	10/08/10	1013.99	SOLECON, INC	FILTER CHANGE/CLEAN COILS/FILLED FREON
038230	10/08/10	1209.40	SOLECON, INC	INSTALLED THERMOSTAT/FILTER CHANGES/PD
038231	10/08/10	41886.00	STANISLAUS COUNTY	EMERGENCY DISPATCH SERVICES/JUL-SEPT 2010
038231	10/08/10	8604.09	STANISLAUS COUNTY	COUNTY IMPACT FEES JULY-SEPT 2010
038232	10/08/10	12.98	STAPLES ADVANTAGE	CORRECTION TAPE
038232	10/08/10	5.33	STAPLES ADVANTAGE	ballpoint pens
038232	10/08/10	31.57	STAPLES ADVANTAGE	CD MAILER/BINDERS/FINGER MOISTENER
038232	10/08/10	3.13	STAPLES ADVANTAGE	AIR FRESHENER
038232	10/08/10	183.66	STAPLES ADVANTAGE	BANKERS BOXES/HP TONER
038233	10/08/10	150.00	TEICHERT CONSTRUCTION	REFUND PARTIAL HYDRANT DEPOSIT/TEICHERT
038234	10/08/10	530.00	THE RADAR SHOP, INC	ON-SITE LASER RE-CERTIFICATION & TUNING FORK/PD
038235	10/08/10	150.00	BARBARA J. TOSTA	YOUNG AT HEART INSTRUCTOR/SEPT 2010

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Ck #	Check Date	CK Amount	Vendor Name	Description
038236	10/08/10	15.00	TURLOCK EMERGENCY MEDICAL SERV	CPR TRAINING FOR 5 SOCCER COACHES
038237	10/08/10	242.96	USA BLUEBOOK	SOLBERG ELEMENT 230 FILTERS/BLOWERS/WWTP
038238	10/08/10	3.27	VALLEY PARTS SERVICE	FUSE/PD
038238	10/08/10	399.98	VALLEY PARTS SERVICE	BATTERY/CLUTCH WRENCH/REMAN ALTERNATOR/OIL/FILTERS
038239	10/08/10	50.00	GEORGE VARGAS	MONTHLY GAS ALLOWANCE/OCT 2010
038240	10/08/10	134.00	WESTSIDE ANIMAL CLINIC	NATE NEUTER/RUBY
038240	10/08/10	136.50	WESTSIDE ANIMAL CLINIC	2 EUTHANASIA
038240	10/08/10	68.25	WESTSIDE ANIMAL CLINIC	EUTHANSIA
038240	10/08/10	4.34	WESTSIDE ANIMAL CLINIC	FELINE KITTEM FOOD
038240	10/08/10	6.50	WESTSIDE ANIMAL CLINIC	FELINE KITTEN FOOD
038241	10/08/10	58.73	DAVIS, JESSE	MQ CUSTOMER REFUND FOR DAV0041
038242	10/08/10	14.67	HIGUERA, ALFRED	MQ CUSTOMER REFUND FOR HIG0004
038243	10/08/10	37.66	HUBBLE, BOBBI	MQ CUSTOMER REFUND FOR HUB0001
038244	10/08/10	112.74	OLIVEIRA, GARY	MQ CUSTOMER REFUND FOR OLI0041
038245	10/08/10	42.27	RODRIGUEZ, JAZMIN	MQ CUSTOMER REFUND FOR ROD0086
038246	10/08/10	62.30	SALDIVAR, ROQUE	MQ CUSTOMER REFUND FOR SAL0040
038247	10/08/10	67.34	UNGELBACH, FREDRICK	MQ CUSTOMER REFUND FOR UNG0001
Sub-Total:		699671.31		
Grn-Total:		699671.31		
Count:	113			

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING SEPTEMBER 28, 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 – Council Member Martina.
4. Roll Call **PRESENT:** Davis, Candea, Martina And Mayor Katen.
ABSENT: None.

5. Declaration Of Conflicts Of Interest - None

6. Ceremonial Matters

- a. Every Monday Matters Proclamation.

Mayor Katen Presented The Every Monday Matters Proclamation.

- b. Soroptimist International of Gustine-Newman Proclamation.

Mayor Katen Presented The Soroptimist International of Gustine-Newman Proclamation.

7. Items from the Public - Non-Agenda - 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 And 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) Guidelines.
- f. Adopt Resolution 2010-68, 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 2010-69, 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.

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

9. Public Hearings

- a. Conduct A Public Hearing Regarding The Supplemental Law Enforcement Services Fund (SLESF) And Authorize Expenditures For This Funding (AB 1913).

Mayor Katen Opened The Public Hearing At 7:12 P.M.

There Being No Public Comment, Katen Closed The Public Hearing At 7:13 P.M.

ACTION: On A Motion By Candea Seconded By Martina And Unanimously Carried, The Council Authorized The Supplemental Law Enforcement Services Fund (SLESF) Expenditures As Presented.

- 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.

Mayor Katen Opened The Public Hearing At 7:14 P.M.

There Being No Public Comment, Katen Closed The Public Hearing At 7:15 P.M.

ACTION: On Motion By Davis Seconded By Candea And Unanimously Carried, The Public Comment Period Was Closed And The 2009-2010 Consolidated Annual Performance Evaluation Report (CAPER) Past Activity For The Community Development Block Grant (CDBG) Program Was Approved.

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.

ACTION: Ordinance No. 2010- , 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 Was Introduced By Council Member Martina Ordinance Had Its First Reading By Title Only.

- b. Adopt Resolution No. 2010-70 Authorizing The City Manager To Execute An Agreement With The Housing Authority County Of Stanislaus For Loan Servicing.

ACTION: On A Motion By Davis Seconded By Candea And Unanimously Carried, Resolution No. 2010-70, Authorizing The City Manager To Execute An Agreement With The Housing Authority County Of Stanislaus For Loan Servicing Services Was Approved.

- c. Adopt Resolution No. 2010-71, 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).

ACTION: On A Motion By Candea Seconded By Davis And Unanimously Carried, Resolution No. 2010-71, 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) Was Approved.

d. Approval Of Addendum To HOME Regulatory Agreement With 751 Driskell Ave., LP.

ACTION: On Motion By Martina Seconded By Candea And Unanimously Carried, The Addendum To The HOME Regulatory Agreement With 751 Driskell Ave., LP. Was Approved.

e. Update On Marapole Lane Park Development Options.

ACTION: The City Council Directed Staff To Continue This Item To The October 12, 2010 Regularly Scheduled City Council Meeting.

f. Adopt Resolution No. 2010-72, A Resolution Of Intent To Amend The Contract Between CalPERS And The City Of Newman.

ACTION: On A Motion By Candea Seconded By Martina And Unanimously Carried, Resolution No. 2010-72, A Resolution Of Intent To Amend The Contract Between CalPERS And The City Of Newman, Was Approved.

g. Introduction And First Reading Of Ordinance No. 2010-73, An Ordinance Authorizing An Amendment To The Contract Between The City Of Newman And Board Of Administration Of The California Public Employees' Retirement System.

ACTION: Ordinance No. 2010-73, An Ordinance Authorizing An Amendment To The Contract Between The City Of Newman And Board Of Administration Of The California Public Employees' Retirement System Was Introduced By Council Member Candea Ordinance Had Its First Reading By Title Only.

11. Items From District Five Stanislaus County Supervisor.

Supervisor DeMartini Reminded Everyone That The 2010 Healthy Choices' Biggest Loser Contest Weigh -Out Would Be In Patterson At The Hammond Senior Center On Saturday, October 2, 2010. DeMartini Noted That He Is Working With Local School Districts To Create A 2011 Healthier Choices Calendar. DeMartini Mentioned That The Next West Side Healthcare Taskforce Meeting Would Be In Patterson On October 4, 2010.

12. Items From The City Manager And Staff.

City Manager Holland Informed The Council That The Motor At Water Well No. 6 Needs To Be Replaced. Holland Noted That The Youth Soccer Season Had Started And That The Games Are Held

On Saturdays At Sherman Park. He Mentioned That The Per Capita Park Improvement Project Which Includes Improvements To Barrington Park Is Underway. He Remarked The Majority Of That The Fifty-Thousand Dollars In Home Monies That Were Allocated To The 751 Driskell Ave Project Earlier Would Be Coming Back To The City As The Developer Pays Impact Fees For The Project. He Pointed Out That The City Still Has First Time Home Buyer Monies Available And Homes For Sale Through The Neighborhood Stabilization Program. Holland Noted That The Both The Two Tier Retirement System And The Changing Of The Loan Servicing Agent Were Aimed At Being Fiscally Responsible And Staff Will Continue To Look For Ways To Control Costs.

Chief Richardson Reported That Due To A Recent Increase Gang Activity, He Has Assigned An Officer To Work Primarily On Gang Suppression. Richardson Announced That The City Would Be Hosting An Animal Clinic At Pioneer Park On Saturday, October 9, 2010. He Mentioned That The Fall Festival Was Successful Event And That The Department Had Recently Made An Arrest In A Graffiti Case. Richardson Stated That For The Fifth Straight Year One Of Newman's Explorers Took First Place In The Physical Agility Competition At The Explorer Academy.

13. Items From City Council Members.

Council Member Martina Mentioned That He Attended The Newman Co-Op Nursery School's Fortieth Anniversary Event And Praised The Organization And Its Staff.

Mayor Katen Presented The Council With A Copy Of A Book Entitled "Choosing Civility" And Mentioned That The Book Was Given To Him By Tom Changnon, Stanislaus County Superintendent Of Schools. Katen Noted That The Book Is Part Of A Campaign By The County Schools To Increase Civility And Mutual Respect. Katen Noted That He Had A Copy Of The Every Monday Matters Book Available If Any Of The Other City Council Members Would Like To Review It. He Congratulated Chief Richardson On His Recent Appointment. The Mayor Informed Everyone That The Last Orestimba Creek Flood Control Meeting Was Productive And That Congressman Cardoza And The New Army Corps Of Engineers Colonel Were Supportive Of The Project. Katen Thanked Public Works Employee Carlos Cantu For His Hard Work During The Fall Festival And Remarked That It Was A Successful Event. He Thanked The Grill For Donating Food To The Upcoming Proposition 22 Fundraiser And Concluded By Congratulating Mayor Jim Ridenour On His Appointment As League Of California Cities President.

14. Adjournment.

ACTION: On Motion By Katen Seconded By Davis And Unanimously Carried, The Meeting Was Adjourned At 8:10 P.M.

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **8.d.**
City Council Meeting
October 12 of , 2010

DECLARE CERTAIN PROPERTY AS SURPLUS AND APPROVE OF ITS DISPOSAL

RECOMMENDATION:

Staff recommends the City Council:

Adopt Resolution No. 2010- , approving the request of City Departments to surplus obsolete, un-repairable, or otherwise unneeded City property.

BACKGROUND:

City Departments from time to time have property that becomes obsolete, is not repairable, has been replaced or the city has no use for the property. In order for the City to legally dispose of this property, it must be declared surplus by the City Council. A recent assessment of City Departments has identified items ready to be declared surplus.

ANALYSIS:

The identified items are specifically identified in Attachments A. Based on the condition and type of item staff will make every effort to sell the items in an effort to recover some costs. In the event the item cannot be sold or the expense to sell it exceeds its value the item will be properly disposed of.

FISCAL IMPACT:

There may be some minor costs associated with the sale or disposal of the items. This cost may be offset by the sale of the surplus items. Any excess funds generated will be placed in the City's General Fund.

CONCLUSION:

This staff report is submitted for City Council consideration and action. Staff recommends adoption of Resolution No. 2010- , a resolution declaring certain property as surplus property.

ATTACHMENTS:

1. Resolution No 2010- , with list of surplus items.

Respectfully submitted,



Randy Richardson, Chief of Police

REVIEWED/CONCUR:



Michael Holland
City Manager

RESOLUTION NO. 2010-

**A RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY SURPLUS PROPERTY
AND AUTHORIZING DISPOSAL OR SALE OF PROPERTY AND TRANSFERRING FOUND
PROPERTY TO THE CITY OF NEWMAN AS ALLOWED BY STATE LAW**

WHEREAS, the City Manager of the City of Newman has recommended that certain items of personal property are no longer needed by the City and should be declared surplus and sold; and

WHEREAS, the City Manager has recommended that found property that has been held for over 120 days and no owner was located be deemed property of the City of Newman.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman and in accordance with the recommendations of the City Manager those certain items more particularly described in Attachment A and any additional attachments and made a part hereof, are hereby declared surplus and in the public interest should be sold and, that found property held over the legal time limits and no owner located be declared property of the City.

BE IT FURTHER RESOLVED that the City Manager is authorized to sell said items of personal property to the highest responsible bidder.

BE IT FURTHER RESOLVED that the City Council reserves the right to reject any and all bids.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 12th day of October, 2010 by _____, who moved its adoption which motion was duly seconded and was upon roll call carried and the resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk of the City of Newman

ATTACHMENT A

NEWMAN POLICE DEPARTMENT SURPLUS ITEMS

#	Case #	Item	Serial #	Model #	Size	Boy/Girl	Speed	Color
1	08-1209	Bicycle	F4W3D259L					Chrome
2	08-1325	Bicycle	A5365607	Mongoose				Silver/Blue
3	09-4776	Bicycle	79133284	Triax- PK7				Grey
4	09-6419	Bicycle	A02TD0091 977	Magna-Refuge				Green/Silver
5	10-0377	Bicycle	SNP3H5153 4	Huffy-Rock-it				Blue/Red
6	10-1460	Bicycle	01TD808828 8	NEXT brand Back tire missing		Boy		
7	10-1799	Bicycle		Next-Mountain Style				
8	10-1813	Bicycle	AR292912					Chrome (sprayed black)
9	10-2293	Bicycle	CA20525577	Roadmaster- MT Sport		Girl		
10	10-2722	Bicycle		Mongoose- BMX				Purple
11	10-3125	Bicycle	114321	Schwinn		Girl		Whi/Blu/ Purple
12	10-3178	Bicycle- Missing seat	SNFSD04M E9545	Roadmaster- Mt Sport				
13	10-3595	Scooter		Razor				Silver/Red
14	10-2144	Mountain Bike	2HG8399			Mens		Gray
15	10-2202	Bicycle		Schwin- Frontier		Girl		Purple
16	10-1784	Gold Ring #5 14k w/3 grn stones and 2 diamond like stones						Gold/Green

**APPROVAL AND AUTHORIZATION OF THE CITY'S PARTICIPATION IN THE PG&E/ICLEI
LOCAL GOVERNMENT OPERATIONS GHG INVENTORY TRAINING SERIES**

RECOMMENDATION:

Authorize the City Manager to Execute a Participation Agreement with the Great Valley Center for the PG&E/ICLEI Local Government Operations GHG Inventory Training Series.

BACKGROUND:

On September 28, 2010, the City Council approved the City's application for Grant Funds under the Sustainable Communities Planning Grant and Incentives Program (Proposition 84). A part of that application identifies the regional completion of a Green House Gas (GHG) Inventory.

The Great Valley Center, in conjunction with PG&E and ICLEI-Local Governments for Sustainability USA, have created the PG&E/ICLEI Local Government Operations GHG Inventory Training Series where ICLEI will provide expert training to regional organizations and local governments within PG&E's service territory on the process of completing a greenhouse gas emission inventory for government operations at no cost to participating jurisdictions.

ANALYSIS:

GHG Inventories assist agencies in developing strategies and policies for emissions reductions and to track the progress of those policies. Additionally, regulatory agencies and corporations rely on inventories to establish compliance records with allowable emission rates. The completion of a GHG inventory will allow the City and region to 1) identify our current GHG baseline, 2) craft our GHG reduction goals/policies and 3) comply with GHG-related regulations.

By participating in the PG&E/ICLEI Local Government Operations GHG Inventory Training Series, the City of Newman will receive the following from the Great Valley Center and ICLEI:

- A trained Research Fellow (intern) overseen by the Great Valley Center staff to conduct a greenhouse gas emissions inventory of government operations (the inventory will include base year emissions from local government operations, reported by operational sector)
- Project management support and technical instruction
- Review of data and draft reports throughout the process

The resulting data and training from this program will allow the City to produce a GHG Inventory, a valuable tool for future programs; and if funded, the completion of the Sustainable Communities Planning Grant and Incentives Program (Proposition 84) grant activities.

FISCAL IMPACT:

None, only staff time.

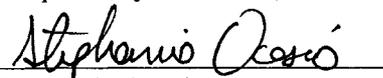
CONCLUSION:

It is in the City's best interest to create a GHG Inventory at this time, said inventory will allow the City to identify, craft and address current and future GHG related issues. Staff recommends that the City Council Authorize the City Manager to Execute a Participation Agreement with the Great Valley Center for the PG&E/ICLEI Local Government Operations GHG Inventory Training Series.

ATTACHMENTS:

1. Exhibit A – Participation Agreement

Respectfully submitted,


Stephanie Ocasio
Assistant Planner

REVIEWED/CONCUR


Michael Holland
City Manager



Participation Agreement

PG&E / ICLEI Local Government Operations GHG Inventory Training Series

Through generous support from the Pacific Gas and Electric Company (PG&E), ICLEI-Local Governments for Sustainability USA is providing expert training to regional organizations and local governments within PG&E's service territory on the process of completing a greenhouse gas emission inventory for government operations. ICLEI's trainings and tools are designed in accordance with the Local Government Operations Protocol,¹ and are seen as the industry standard across the USA.

By signing this document, the City of Newman, CA agrees to the following:

- Commitment to assign a staff person or persons to assist with data collection and verification, to provide written information on the jurisdiction for a final inventory staff report, and to review the inventory final report
- Commitment to issuing a survey of current employee commute patterns, using a survey tool provided by ICLEI
- Release of 2005 government operations electricity and natural gas consumption data for the City of Newman (2005 DTL file) by PG&E to Great Valley Center upon email request from Great Valley Center to PG&E.

In return, the Great Valley Center and ICLEI USA will provide during the project period:

- A trained Research Fellow (intern) overseen by the Great Valley Center staff to conduct a greenhouse gas emissions inventory of government operations (the inventory will include base year emissions from local government operations, reported by operational sector)
- Project management support and technical instruction
- Review of data and draft reports throughout the process

By signing below, the City agrees to participate in this initiative through the life of the project from July 2010 to February 2011.

City of: _____

By: _____

On: _____

¹ The Local Government Operations Protocol (LGO Protocol) is the national standard for conducting a greenhouse gas emissions inventory for local government operations. The LGO Protocol was developed and adopted by the California Air Resources Board (ARB) in conjunction with ICLEI, the California Climate Action Registry, and The Climate Registry. The LGO Protocol provides standard accounting principles, boundaries, quantification methods, and procedures for reporting greenhouse gas emissions from local government operations. It can be found online here: <http://www.theclimateregistry.org/downloads/2010/05/2010-05-06-LGO-1.1.pdf>

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **9.a.**
City Council Meeting
of October 12, 2010

REPORT ON NUISANCE ABATEMENT

RECOMMENDATION:

Adopt Resolution No. 2010- , Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

BACKGROUND:

Abatement notices for property maintenance were sent to several properties in accordance with Ordinance 95-4, Chapter 2, Title 8-2-3.

ANALYSIS:

This notice informs property owners of all nuisance abatement procedures, option and their right to object at a public hearing. It is anticipated that many property owners will comply with the abatement notices prior to the hearing date. A final compliance survey will be done on Monday, October 11, 2010. A list of properties that have not complied with the abatement notice will be handed out at the council meeting prior to the public hearing.

FISCAL IMPACT:

None

CONCLUSION:

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

ATTACHMENTS:

1. Resolution No. 2010- , a resolution declaring the existence of a public nuisance
2. Exhibit A – Abatement List

Respectfully submitted,



Randy Richardson, Chief of Police

REVIEWED/CONCUR:



Michael Holland, City Manager

RESOLUTION NO. 2010-

**A RESOLUTION DECLARING THE EXISTENCE OF A PUBLIC NUISANCE UNDER
ORDINANCE NO. 95-4**

WHEREAS, the Chief of Police has reported a nuisance as outlined in Section 8-2-2 of the Newman Municipal Code located and existing upon property in the City of Newman in violation of Ordinance No. 95-4 of the City of Newman, a description of said property being attached hereto and made a part of this resolution by this reference; and,

WHEREAS, the Chief of Police caused notice to be mailed to the respective owners of the subject properties as in said Ordinance provided, said notice giving notice to abate said nuisance and setting a time and place for hearing objections to the proposed abatement; and,

WHEREAS, said hearing was held on October 12, 2010, at 7:00 p.m., as in said notice provided; and,

WHEREAS, no objections to the proposed abatement were received at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that said City Council of the City of Newman finds that a condition exists with regard to the properties in said City which is dangerous to life, limb and property, and to the public health, safety and morals, in that weeds, rubbish, dirt and rank growth are growing, located and existing upon said property in violation of the provisions of Ordinance No. 95-4 of the City of Newman, which endangers and may injure neighboring property and endangers and injures the welfare of residents in the vicinity of said property, and which is a fire hazard; that a description of said properties is attached hereto and made a part of this resolution by this reference.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 12th day of October, 2010 by Council Member _____, who moved its adoption, which motion was duly seconded and was adopted upon roll call vote.

AYES:
NOES:
ABSENT:

APPROVED:

Mayor

ATTEST:

Deputy City Clerk

City of Newman
Abatement list

1. 2036 T Street

Tall grass and weeds through out the front and backyard of the property

2. 1188 Walnut Creek

Tall grass and weeds through out the front and backyard of the property

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **9.a.**
City Council Meeting
of October 12, 2010

REPORT ON NUISANCE ABATEMENT

RECOMMENDATION:

Adopt Resolution No. 2010- , Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

BACKGROUND:

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ANALYSIS:

This notice informs property owners of all nuisance abatement procedures, option and their right to object at a public hearing. It is anticipated that many property owners will comply with the abatement notices prior to the hearing date. A final compliance survey will be done on Monday, October 11, 2010. A list of properties that have not complied with the abatement notice will be handed out at the council meeting prior to the public hearing.

FISCAL IMPACT:

None

CONCLUSION:

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

ATTACHMENTS:

1. Resolution No. 2010- , a resolution declaring the existence of a public nuisance
2. Exhibit A – Abatement List

Respectfully submitted,

Randy Richardson, Chief of Police

REVIEWED/CONCUR:

Michael Holland, City Manager

RESOLUTION NO. 2010-

**A RESOLUTION DECLARING THE EXISTENCE OF A PUBLIC NUISANCE UNDER
ORDINANCE NO. 95-4**

WHEREAS, the Chief of Police has reported a nuisance as outlined in Section 8-2-2 of the Newman Municipal Code located and existing upon property in the City of Newman in violation of Ordinance No. 95-4 of the City of Newman, a description of said property being attached hereto and made a part of this resolution by this reference; and,

WHEREAS, the Chief of Police caused notice to be mailed to the respective owners of the subject properties as in said Ordinance provided, said notice giving notice to abate said nuisance and setting a time and place for hearing objections to the proposed abatement; and,

WHEREAS, said hearing was held on October 12, 2010, at 7:00 p.m., as in said notice provided; and,

WHEREAS, no objections to the proposed abatement were received at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that said City Council of the City of Newman finds that a condition exists with regard to the properties in said City which is dangerous to life, limb and property, and to the public health, safety and morals, in that weeds, rubbish, dirt and rank growth are growing, located and existing upon said property in violation of the provisions of Ordinance No. 95-4 of the City of Newman, which endangers and may injure neighboring property and endangers and injures the welfare of residents in the vicinity of said property, and which is a fire hazard; that a description of said properties is attached hereto and made a part of this resolution by this reference.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 12th day of October, 2010 by Council Member _____, who moved its adoption, which motion was duly seconded and was adopted upon roll call vote.

AYES:
NOES:
ABSENT:

APPROVED:

Mayor

ATTEST:

Deputy City Clerk

City of Newman
Abatement list

1. 2036 T Street

Tall grass and weeds through out the front and backyard of the property

2. 1188 Walnut Creek

Tall grass and weeds through out the front and backyard of the property

Sulema and Ricardo Palmino
8260 Forecast Dr.
Dos Palos, Ca 93620

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS,
DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance at: **1188 Walnut Creek Dr., APN No. 026-059-037-000,**
Tall grass and weeds through out the front and backyard of the property, which must be abated by the destruction, or removal thereof within 10 days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on **October 12, 2010** at **7:00 p.m.**, at which time and place all objections will be heard and given due consideration.

Dated: September 2, 2010

Jessica Tobin
Community Service Officer

Sulema and Ricardo Palmino
8260 Forecast Dr.
Dos Palos, Ca 93620

Second Notice

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS, DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance at: 1188 Walnut Creek Dr., APN No. 026-059-037-000,
Tall grass and weeds through out the front and backyard of the property, which must be abated by the destruction, or removal thereof within 10 days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on **October 12, 2010** at **7:00 p.m.**, at which time and place all objections will be heard and given due consideration.

Dated: September 14, 2010

Jessica Tobin
Community Service Officer

Sulema and Ricardo Palmino
8260 Forecast Dr.
Dos Palos, Ca 93620

THIRD AND FINAL NOTICE

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS,
DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance at: 1188 Walnut Creek Dr., APN No. 026-059-037-000,
Tall grass and weeds through out the front and backyard of the property, which must be abated by the destruction, or removal thereof within 10 days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

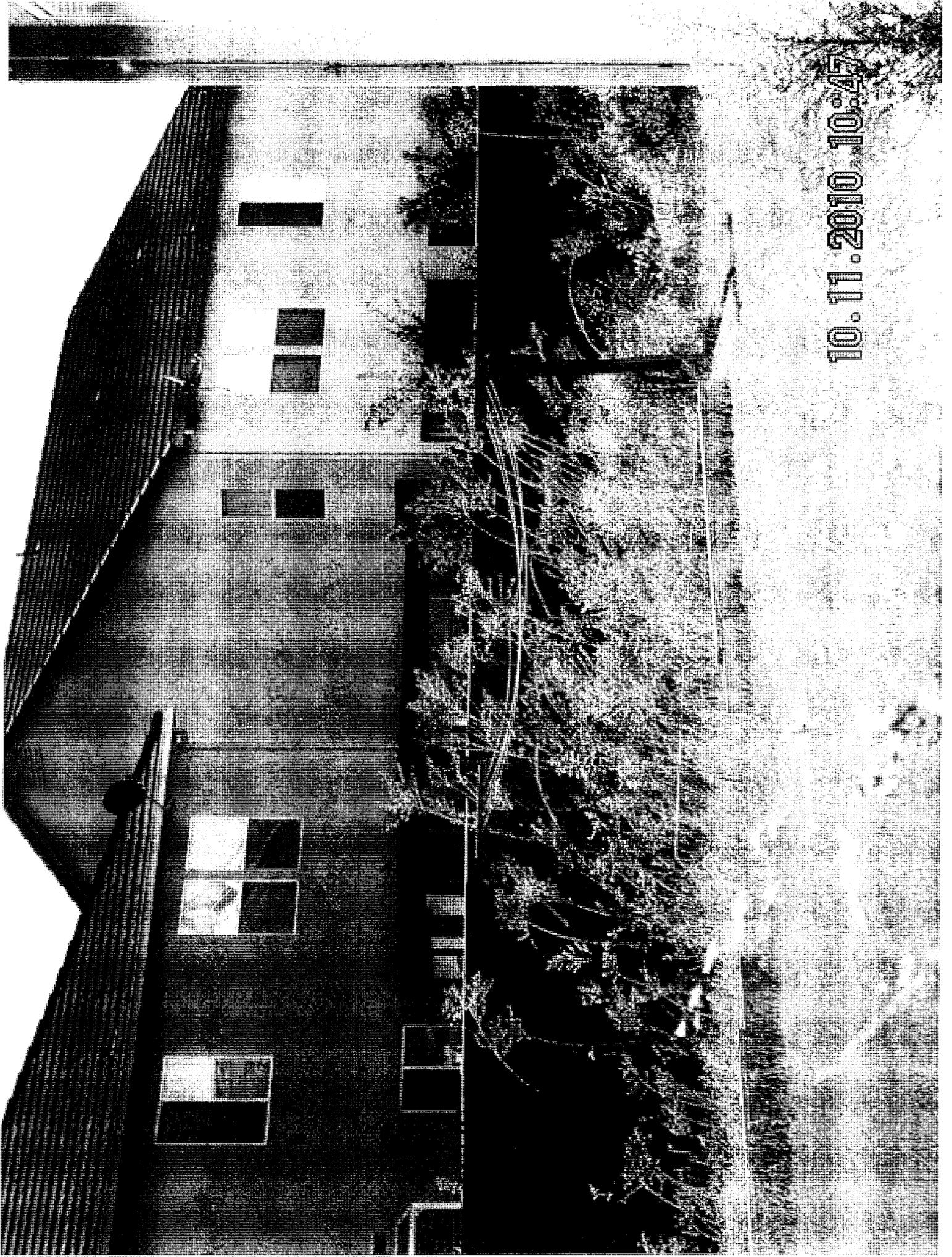
All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on October 12, 2010 at 7:00 p.m., at which time and place all objections will be heard and given due consideration.

Dated: September 24, 2010

Chad Earle
Corporal



10.11.2010 10:47



10.11.2010 10:45

Celia and Ezequiel Pando
294 Herlong Ave.
San Jose, Ca 95123

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS,
DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance

at: 2036 T Street, APN No. 026-045-046-000,

Tall grass and weeds through out the front and backyard of the property, which must be abated by the destruction, or removal thereof within 10 days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on October 12, 2010 at 7:00 p.m., at which time and place all objections will be heard and given due consideration.

Dated: September 2, 2010

Jessica Tobin
Community Service Officer

Celia and Ezequiel Pando
294 Herlong Ave.
San Jose, Ca 95123

Second Notice

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS, DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance at: 2036 T Street, APN No. 026-045-046-000,

Tall grass and weeds through out the front and backyard of the property, which must be abated by the destruction, or removal thereof within 10 days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on October 12, 2010 at 7:00 p.m., at which time and place all objections will be heard and given due consideration.

Dated: September 14, 2010

Jessica Tobin
Community Service Officer

Celia and Ezequiel Pando
294 Herlong Ave.
San Jose, Ca 95123

THIRD AND FINAL NOTICE

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS, DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

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Tall grass and weeds through out the front and backyard of the property, which must be abated by the destruction, or removal thereof within **10** days of the date of the notice.

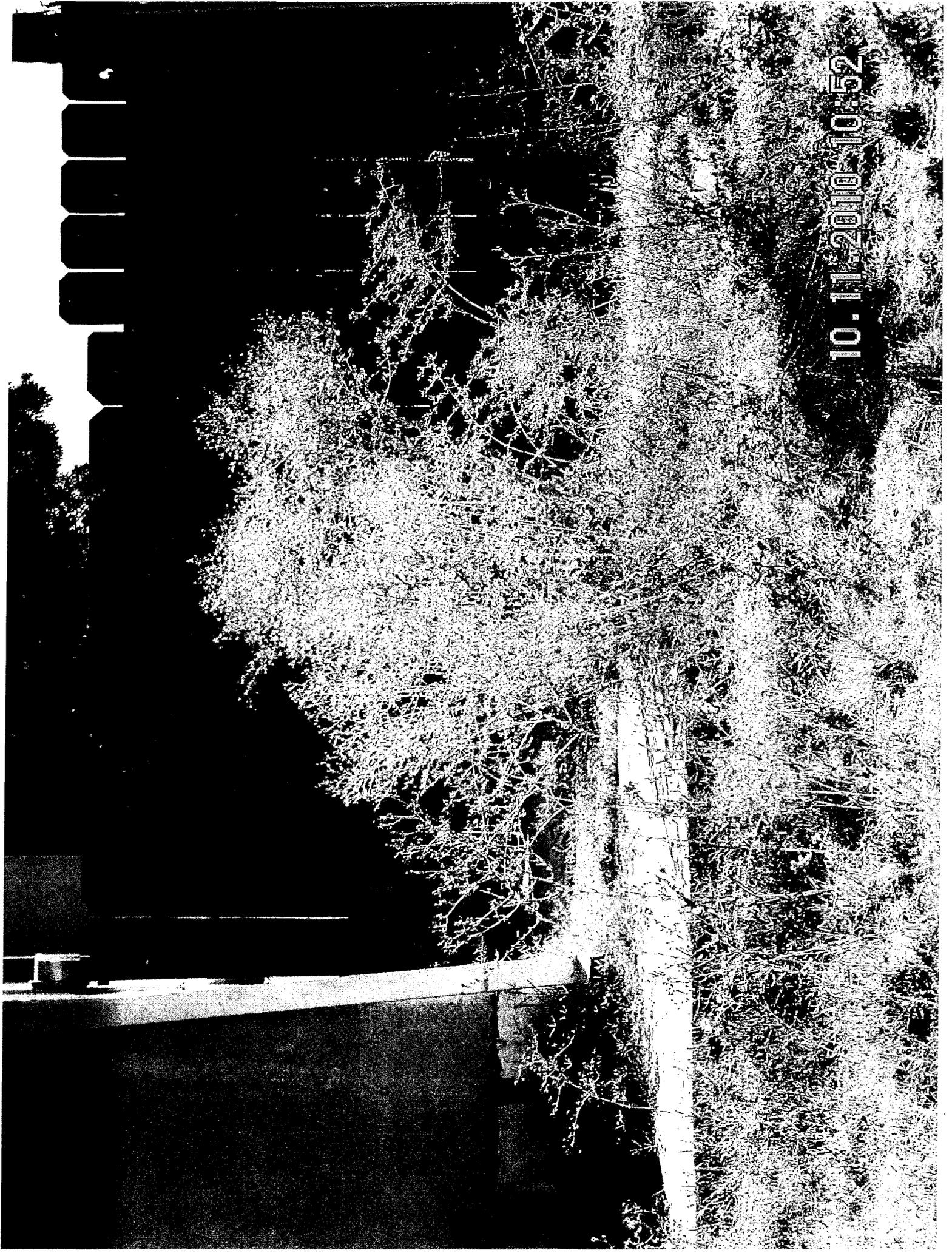
All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on **October 12, 2010** at **7:00 p.m.**, at which time and place all objections will be heard and given due consideration.

Dated: September 24, 2010

Chad Earle
Corporal

10.11.2010 10:52





**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:

1. Conduct a public hearing
2. Conduct a second reading and adoption Ordinance No. 2010- , 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 January 1, 2011, 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 28th day of September, 2010 by Council Member _____, and adopted at a regular meeting of said City Council held on the 12th 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 ~~108.8~~ 102.4 of the California Plumbing Code is hereby added to read as follows:

Section ~~108.8~~ 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.

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4.11.090 Abrogation and greater restrictions.

4.11.100 Interpretation.

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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:

<u>4.22.010</u>	<u>Intent</u>
<u>4.22.020</u>	<u>Application of Provisions</u>
<u>4.22.030</u>	<u>Definitions</u>
<u>4.22.040</u>	<u>Placards</u>

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.

REPORT TO COUNCIL

City of Newman

1162 Main Street • Post Office Box 787

Newman, California 95360

<http://www.cityofnewman.com/>

Staff Report

October 12, 2010

Honorable Mayor and

Members of the City Council

Title: Health and Safety Receivership Program

Location/Council District: Citywide

Recommendation: Staff recommends that City Council (1) review and approve implementation of a Health and Safety Receivership program for the City of Newman and (2) retain the Weintraub Genshlea Chediak law corporation ("Weintraub") to implement the Health and Safety Receivership program as directed by the City Manager.

Contact: Michael E. Holland, City Manager

Presenters: Michael E. Holland, City Manager;
Douglas L. White, Attorney for Weintraub

Department: City Manager's Office

Description/Analysis

The City Council directed staff to develop a Health and Safety Receivership program ("Program") for the City of Newman ("City"). The goal of this Program will be to create a process for the City to place into receivership residential, commercial and industrial properties that pose a health and safety risk to the residents of the City. To that end, staff recommends that the City retain Weintraub and direct them to develop the comprehensive Program with City staff and implemented at the direction of the City Manager.

Summary of Program

Step 1 - Inspection

Before the City can place a property into receivership, the City's enforcement staff will first need to inspect the applicable property, building or structure to determine if it is substandard. Cal Health & Safety Code ("HSC") § 17980(b). To accomplish this, the City enforcement staff must request an "Inspection Warrant" from the court pursuant to California Code of Civil Procedure ("CCP") Sections 1822.50 et seq. This Inspection Warrant application will include a comprehensive list of violations that once verified by enforcement staff, will support the City's receivership application, including but not limited to, the most current public health and safety threats, code violations and past inspection history.

Step 2- Notice

After inspection, the enforcement agency may issue a notice to abate requiring the owner of a substandard property to repair or abate any problems identified by the City's enforcement staff ("Notice"). The Notice must give the owner a "reasonable time" to repair or abate the identified problems. CCP §17980.6. The substance of the Notice must include: (i) the name, address, and telephone number of the agency that issued the Notice or order, (ii) the date, time, and location of any public hearing or proceeding concerning the Notice or order, and (iii) any information relating to the fact that the lessor is not permitted to retaliate against a lessee pursuant to Section 1942.5 of the California Civil Code. HSC § 17980.6 (a), (b), and (c).

Step 3 – Petition the Court for Receiver

In the event that the owner of the substandard property fails to comply with terms of the order and/or Notice within a reasonable time, the City may, through a receivership petition, ask the court for monetary damages, an order prohibiting the owner from claiming and enjoying certain tax benefits derived from the property (for specific information regarding tax benefit penalties, see HSC §17980.11); an order authorizing the agency to remove any violation or abate any nuisance specified in the Notice or order (Id. § 17982.); and/or the appointment of a receiver who will be entitled to collect rents, place liens on the property and pay for repairs and improvements as necessary and to correct the conditions cited in the Notice.

A receiver is an officer and representative of the court appointed to take possession and to repair or abate property. A receiver is only available where authorized by statute or where necessary to preserve property rights. *Turner v. Super. Ct.*, 72 CA3d 804, 811 (1977). A petition to the court for receiver should take the form of a complaint. HSC § 17988. The party moving to appoint a receiver must present competent and admissible evidentiary facts to the court based on personal knowledge. *McCaslin v. Kenney*, 100 CA2d 87, 94 (1950). Furthermore, the party requesting the appointment of a receiver must set forth facts establishing at least one of the statutory grounds for the receivership. See generally, *Miller v. Oliver*, 174 C 407, 408-410 (1917).

Step 4 – Role of Receiver

There are certain specific individuals who may not serve as a receiver. Unless the parties agree otherwise (in writing and filed with the court), the following individuals may not be appointed as receivers: (i) a party to the action; (ii) an attorney to the action; (iii) person interested in the action; or (iv) a person related to the judge of the court within the third degree. CCP § 566. At the hearing on the application for appointment or confirmation of the receiver, each party may suggest (in writing) one or more persons for the appointment as receiver. California Rules of Court §3.1177. The court may only appoint a receiver who has “demonstrated to the court his or her capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the building.”

A receiver is given broad powers once appointed to manage the property in the receivership. Pursuant to HSC § 17980.7, the receiver takes full and complete control of the property and (i) manages and pays expenses of the operation of the substandard building, (ii) secures cost estimates for necessary repairs/rehabilitations, (iii) enters into contracts to employ contractors to perform necessary repairs, (iv) collects rent and income from substandard building and uses those funds to pay for repairs, (v) relocates tenants and provides for relocation compensation, and (vi) exercises the powers granted to receivers under Section 568 of the Code of Civil Procedure.

A receiver may borrow funds to pay for repairs (subject to court approval). These funds are backed by Receiver’s “certificates” issued by the court, which take priority over all other liens on the property. *Washington Mutual Bank v. Powell*, No. 07AS03480 (2007); *Title Ins. Trust Co. v. CA Dev’t Co.*, 171 Cal. 227 (1915); *Dorn & McKee v. Crank*, 96 Cal. 381(1892). Furthermore, if authorized by a court order upon a showing of necessity, receivers may sell any property in their possession. *Cal-American Income Property Fund VII v. Brown Develop. Corp.*, 138 CA3d 268, 274 (1982).

To ensure that the receiver is acting in the best interest of the parties to the action and the citizens of the City, the receiver is subject to certain reporting requirements. As such, the receiver must provide monthly reports to the City including information on the following: (i) total amount of rents received, (ii) nature and amount of contracts negotiated, (iii) payments made towards the repair of the property, (iv) progress of necessary repairs, (v) other payments made relative to the operation of the building, and (vi) the amount of tenant relocation benefits paid by the receiver. HSC § 17980.7.

Step 5 – Closing of the Case (HSC § 17980.7.)

The receiver is discharged when all the conditions set forth in the Notice are remedied and complete accountings of all costs and repairs have been delivered to the court. The owner of the substandard property must pay the City reasonable and actual costs associated with receivership action, including any unpaid fines, attorney fees and costs of the receivership. The receivership action will conclude when the City records a notice of final disposition of its health and safety receivership enforcement action in the Stanislaus County Recorder’s office. Id. § 17985.

Administrative Issues

Payment for preparation, implementation and operation of the Program may come from either the General Fund or, to the extent the substandard property is within the jurisdiction of the City’s Redevelopment Agency, from the City’s Redevelopment fund. The Program may be used for any type of property. Weintraub will require a retainer of \$20,000 to cover legal fees relating to implementing the

Program and initiating health and safety receivership actions against properties identified by the City Manager. As discussed above, the City will be able to obtain reimbursement or refund of nearly all costs associated with the Program by the imposition of a super priority tax lien(s) on receivership properties. However, it may take some time for the City to be reimbursed and the timeline for any such reimbursement will depend on various factors, including the financial market and economic conditions affecting property values within the City.

Policy Considerations: The City Council has determined that citywide conditions require the implementation of a health and safety receivership program. The Program will address health and safety issues within the City and growing resident concerns regarding properties that have fallen into disrepair and which also fail to meet existing codes and standards.

Environmental Considerations:

California Environmental Quality Act (CEQA): Under the CEQA guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Commission/Committee Action: None to date.

Respectfully Submitted by: _____

Approved by: _____

Recommendation Approved

Michael E. Holland, City Manager

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **10.a.**
City Council Meeting
October 12, 2010

**REPORT ON APPOINTMENTS TO FILL VACANCIES ON THE PLANNING COMMISSION
AND THE ARCHITECTURAL REVIEW COMMITTEE**

RECOMMENDATION:

Consider appointment or re-appointment of Planning Commission and Architectural Review Committee members.

BACKGROUND:

The City currently has one vacancy on the Planning Commission and two vacancies on the Architectural Review Committee. The vacancy on the Planning Commission was created by the resignation of Commissioner Don Alves. The vacancies on the Architectural Review Committee exist due to the expiration of two of five Architectural Review Committee Members terms; both are seeking reappointment.

A notice was published in the West Side Index, one application for the Planning Commission and two applications for the Architectural Review Committee were received. The following citizens submitted applications for service:

Planning Commission

- Leland M. Coleman

Architectural Review Committee

- Kent A. Madenwald
- David W. Reed

All of the candidate's applications are attached for your review. Potential questions for the candidates will be provided to the Council at the meeting should the Council decide to interview the candidates.

The appointment to Planning Commission would be effective immediately and the term will expire in 2011.

The appointments to the Architectural Review Committee would be effective immediately; all terms for Architectural Review Committee are two years in length and will expire in 2012.

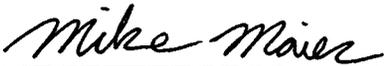
FISCAL IMPACT:

N/A

ATTACHMENTS:

1. Candidate's Applications
2. Letters to Candidates
3. Public Notice

Respectfully submitted,



Mike Maier
Deputy City Clerk

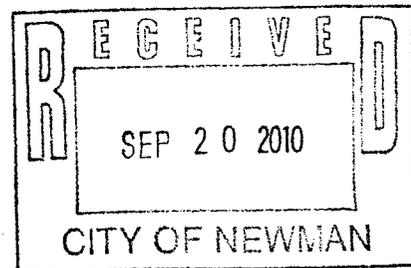
REVIEWED/CONCUR:



Michael E. Holland
City Manager



City of Newman APPLICATION FOR CITIZEN SERVICE



POSITION DESIRED: Planning Commission Parks & Recreation Commission
 Architectural Review Committee Other _____

NAME: Leland M. Coleman

ADDRESS: 1130 Barrington Ave.

HOME PHONE: 862-1282 **BUSINESS PHONE:** (209) 854-2474

OCCUPATION: Professional Commercial Driver

EDUCATION: (List highest year completed and all degrees): Attended Principia College (Completed 3.75 years of my B.A. Degree in French Language/ Minor-Computer Science. In process of completing degree.). Microsoft Certified System Administrator & Certified Microsoft Network Administrator.

Are there any workday evenings you could not meet? Yes No
If so please list: _____

Why are you interested in this position? Have been interested in the past when I was once involved on two occasions to participate in City of Newman's planning workshops. In one of the workshops participants were divided into several groups which included Newman residents, business leaders, and city officials.

Former Newman Chief of Police Mike Brady was at my table. I loved the process involved in serving the community then. Mr.Brady saw that in me and suggested I serve on the city's commission sometime.

What do you consider to be your major qualifications? Only my strong desire as a citizen of Newman to see our great city grow and develop in a steady way. To take positive actions in advising the City Council Members on matters of development, zoning, and capital improvements that shall bring the best benefits to the citizens and businesses of Newman, real estate developers, and visitors to our GREAT city! I grew up in a small agricultural town as a boy in Southern California with a small population. I loved it! Newman has that same aspect, too, and encapsulates so much more and promise to all that lives, works, and visits here!

Please attach a written statement containing any additional information you feel would be helpful to the City Council.

TECHNICAL & BUSINESS EXPERIENCE

Help Desk Technician

2007 - Present

First Church of Christ, Scientist (Christian Science Church Member)

2003 - Present

Assistant Head of Tech Committee (2007 –2009)

Head of Tech Committee (2009 – Present)

- Operate and maintain church's small LAN network.
- Upgrade and service computer hardware.
- Maintain and service church's printers, credit card magstripe card reader, and fax machine.
- Work closely with other heads of committees at church who use the computers, printers, and fax machine when technical problems arise, and develop and strengthen those relationships with these other committees.
- Report directly to the Board Chairman of the church.
- Responsible for coordinating and maintaining the church's Internet account with account representatives/partners at AT&T Business Center.
- Ensure computer operations are aligned with church priorities and objectives.
- Offer consultation to church staff members on technical and troubleshooting issues regarding the church's computers.

First Baptist Church of Gustine

2010

IT Director/Consultant & Web Advisor (January 2010 – Present)

- Operate and maintain church's small LAN network.
- Upgrade and service computer hardware.
- Maintain and service church printer.
- Work closely with the Senior and Assistant Pastors, and Secretary in

- developing and implementing network and web-based operations according to church policies, procedures, and objectives.
- Responsible for coordinating and maintaining the church's presence on the internet by ensuring weekly content can be properly uploaded to the internet in a timely fashion.
 - Responsible for implementing new web-based technologies to enhance the content on the church's website to make the site more user-friendly.
 - Offer consultation to church staff members on technical and troubleshooting issues regarding the church's computers and wireless network.

PrePaid Legal Services, Inc. & Identity Theft Service

2005 - Present

Independent Senior Associate (2005 - Present)

- Operate and run a Home-Based business featuring many types of legal plan products for sale to both individuals and business entities.
- Help recruit and train new Associates in their own PrePaid Legal Services Home-Based businesses.
- Have both a customer base and Associate team members in my organization in five states in the continental United States.

TECHNICAL SKILLS

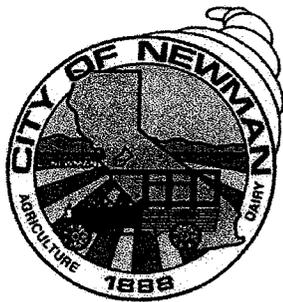
Software Applications: MS Office Word 2007, PowerPoint 2007,
OneNote 2007, Excel 2007,

Diagnostic & Registry

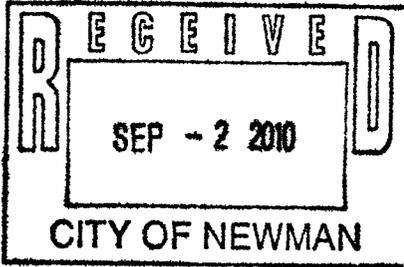
Repair Software: Registry Patrol 3.0, TuneUp Utilities 2008 & 2009,
XP Medic, and SiSoft Sandra (the System Analyzer,
Diagnostic, and Reporting Assistant).

Operating Systems:

MS Windows 95, 98, 98SE, 2000, ME, NT 4.0, XP (Home, Media & Professional Editions), and Vista Home Premium. Server Operating Systems include MS Windows Server 2003, Windows Server 2003 SP1 & Windows Server 2003 SP2.



City of Newman APPLICATION FOR CITIZEN SERVICE



POSITION DESIRED: Planning Commission Parks & Recreation Commission
 Architectural Review Committee Other _____

NAME: Kent A. Madenwald

ADDRESS: 612 Waxwing Ln, Newman, CA 95360

HOME PHONE: 862-4477 **BUSINESS PHONE:** None

OCCUPATION: Retired

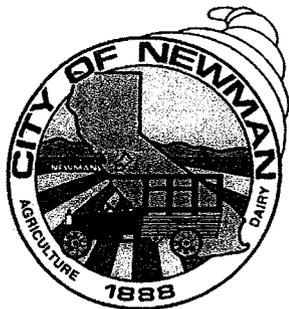
EDUCATION: (List highest year completed and all degrees): MS Geolgy and Engineering. Completed courses for PhD in Geology.

Are there any workday evenings you could not meet? Yes No
If so please list: First and Third Tuesdays (VFW Meetings)

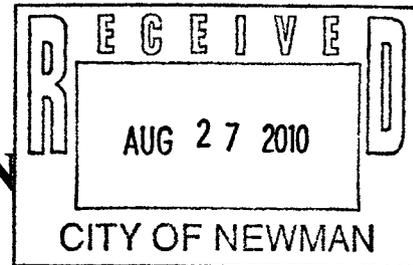
Why are you interested in this position? Continue serving City of Newman in advisory capacity.

What do you consider to be your major qualifications? 60+ years in consulting and management.

Please attach a written statement containing any additional information you feel would be helpful to the City Council.



City of Newman APPLICATION FOR CITIZEN SERVICE



POSITION DESIRED: Planning Commission Parks & Recreation Commission
 Architectural Review Committee Other _____

NAME: David W. Reed

ADDRESS: 1541 Kern St

HOME PHONE: 862-0729 BUSINESS PHONE: Same

OCCUPATION: Volunteer

EDUCATION: (List highest year completed and all degrees): _____

High School

Are there any workday evenings you could not meet? Yes No

If so please list: _____

Why are you interested in this position? Have served on this commission for several years and

would like to continue.

What do you consider to be your major qualifications? Long time Newmanite {24 years}, served

on city council for a number of years, and am familiar with city codes and ordinances.

Please attach a written statement containing any additional information you feel would be helpful to the City Council.



October 5, 2010

Leland M. Coleman
1130 Barrington Ave.
Newman, CA 95360

Re: Planning Commission Interview/Appointment

Dear Leland:

Pursuant to the city's policy for filling commission vacancies, the City Council will hold brief interviews with each candidate at their Regular Meeting on October 12, 2010 at 7:00 p.m. in the Council Chambers, 1200 Main Street. Following the interviews the Mayor and Council will appoint and confirm the new commissioner.

Please plan on attending the October 12th meeting. Should you have any questions regarding this process please feel free to contact me. Thank you for your interest in serving as a member of the City of Newman Planning Commission.

Sincerely,

A handwritten signature in cursive script that reads 'Mike Maier'.

Mike Maier
Deputy City Clerk



October 5, 2010

Kent Madenwald
612 Waxwing Lane
Newman, CA 95360

Re: Architectural Review Committee Interview/Appointment

Dear Kent:

Pursuant to the city's policy for filling committee vacancies, the City Council will hold brief interviews with each candidate at their Regular Meeting on October 12, 2010 at 7:00 p.m. in the Council Chambers, 1200 Main Street. Following the interviews the Mayor and Council will appoint and confirm the new committee members.

Please plan on attending the October 12th meeting. Should you have any questions regarding this process please feel free to contact me. Thank you for your interest in serving as a member of the City of Newman Architectural Review Committee.

Sincerely,

A handwritten signature in cursive script that reads 'Mike Maier'.

Mike Maier
Deputy City Clerk



October 5, 2010

David Reed
1541 Kern Street
Newman, CA 95360

Re: Architectural Review Committee Interview/Appointment

Dear David:

Pursuant to the city's policy for filling committee vacancies, the City Council will hold brief interviews with each candidate at their Regular Meeting on October 12, 2010 at 7:00 p.m. in the Council Chambers, 1200 Main Street. Following the interviews the Mayor and Council will appoint and confirm the new committee members.

Please plan on attending the October 12th meeting. Should you have any questions regarding this process please feel free to contact me. Thank you for your interest in serving as a member of the City of Newman Architectural Review Committee.

Sincerely,

A handwritten signature in cursive script that reads "Mike Maier".

Mike Maier
Deputy City Clerk



PUBLIC NOTICE

NOTICE IS HEREBY GIVEN THAT the City of Newman is seeking interested candidates to fill terms on the following City of Newman Commissions/Committees:

Planning Commission – one seat
Architectural Review Committee – two seats

Applications For Citizen Service are available at City Hall, 1162 Main Street, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. or at www.cityofnewman.com. Applications will be accepted until September 23, 2010.

Mike Maier

Mike Maier
Deputy City Clerk

Date: August 27, 2010

PUBLISH: September 2, 2010

Honorable Mayor and Members
of the Newman City Council

REPORT ON A HEALTH AND SAFETY RECEIVERSHIP PROGRAM

RECOMMENDATION:

Staff recommends that the City Council:

- (1) Review and consider implementation of a Health and Safety Receivership program for the City of Newman.
- (2) Consider retaining the Weintraub Genshlea Chediak law corporation ("Weintraub") to implement the Health and Safety Receivership program as directed by the City Manager.

BACKGROUND:

At a previous meeting, the City Council directed staff to develop a Health and Safety Receivership program ("Program") for the City of Newman ("City"). The goal of this Program will be to create a process for the City to place into receivership residential, commercial and industrial properties that pose a health and safety risk to the residents of the City. To that end, staff recommends that the City consider retaining Weintraub and direct them to develop the comprehensive Program with City staff and implemented at the direction of the City Manager. .

ANALYSIS:

Below is summary of the proposed Health and Safety Receivership program:

Step 1 - Inspection

Before the City can place a property into receivership, the City's enforcement staff will first need to inspect the applicable property, building or structure to determine if it is substandard. Cal Health & Safety Code ("HSC") § 17980(b). To accomplish this, the City enforcement staff must request an "Inspection Warrant" from the court pursuant to California Code of Civil Procedure ("CCP") Sections 1822.50 et seq. This Inspection Warrant application will include a comprehensive list of violations that once verified by enforcement staff, will support the City's receivership application, including but not limited to, the most current public health and safety threats, code violations and past inspection history.

Step 2- Notice

After inspection, the enforcement agency may issue a notice to abate requiring the owner of a substandard property to repair or abate any problems identified by the City's enforcement staff ("Notice"). The Notice must give the owner a "reasonable time" to repair or abate the identified problems, CCP §17980.6. The substance of the Notice must include: (i) the name, address and telephone number of the agency that issued the Notice or order, (ii) the date, time, and location of any public hearing or proceeding concerning the Notice or order, and (iii) any information relating to the fact that the lessor is not permitted to retaliate against a lessee pursuant to Section 1942.5 of the California Civil Code. HSC § 17980.6 (a), (b), and (c).

Step 3 – Petition the Court for Receiver

In the event that the owner of the substandard property fails to comply with terms of the order and/or Notice within a reasonable time, the City may, through a receivership petition, ask the court for monetary damages, an order prohibiting the owner from claiming and enjoying certain tax benefits derived from the property (for specific information regarding tax benefit penalties, see HSC §17980.11); an order authorizing the agency to remove any violation or abate any nuisance specified in the Notice or order (Id. §17982.); and/or the appointment of a receiver who will be entitled to collect rents, place liens on the property and pay for repairs and improvements as necessary and to correct the conditions cited in the Notice.

A receiver is an officer and representative of the court appointed to take possession and to repair or abate property. A receiver is only available where authorized by statute or where necessary to preserve property rights. *Turner v. Super. Ct.*, 72 CA3d 804, 811 (1977). A petition to the court for receiver should take the form of a complaint. HSC §17988. The party moving to appoint a receiver must present competent and admissible evidentiary facts to the court based on personal knowledge, *McCaslin v. Kenney*, 100 CA2d 87, 94 (1950).

Agenda Item: **10.b.**

Furthermore, the party requesting the appointment of a receiver must set forth facts establishing at least one of the statutory grounds for the receivership. See generally, *Miller v. Oliver*, 174 C 407, 408-410 (1917).

Step 4 – Role of Receiver

There are certain specific individuals who may not serve as a receiver. Unless the parties agree otherwise (in writing and filed with the court), the following individuals may not be appointed as receivers: (i) a party to the action; (ii) an attorney to the action; (iii) person interested in the action; or (iv) a person related to the judge of the court within the third degree, CCP §566. At the hearing on the application for appointment or confirmation of the receiver, each party may suggest (in writing) one or more persons for the appointment as receiver, California Rules of Court §3.1177. The court may only appoint a receiver who has “demonstrated to the court his or her capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the building.”

A receiver is given broad powers once appointed to manage the property in the receivership. Pursuant to HSC §17980.7, the receiver takes full and complete control of the property and (i) manages and pays expenses of the operation of the substandard building, (ii) secures cost estimates for necessary repairs/rehabilitations, (iii) enters into contracts to employ contractors to perform necessary repairs, (iv) collects rent and income from substandard building and uses those funds to pay for repairs, (v) relocates tenants and provides for relocation compensation, and (vi) exercises the powers granted to receivers under Section 568 of the Code of Civil Procedure.

A receiver may borrow funds to pay for repairs (subject to court approval). These funds are backed by Receiver’s “certificates” issued by the court, which take priority over all other liens on the property, *Washington Mutual Bank v. Powell*, No. 07AS03480 (2007); *Title Ins. Trust Co. v. CA Dev’t Co.*, 171 Cal. 227 (1915); *Dorn & McKee v. Crank*, 96 Cal. 381(1892). Furthermore, if authorized by a court order upon a showing of necessity, receivers may sell any property in their possession, *Cal-American Income Property Fund VII v. Brown Develop. Corp.*, 138 CA3d 268, 274 (1982).

To ensure that the receiver is acting in the best interest of the parties to the action and the citizens of the City, the receiver is subject to certain reporting requirements. As such, the receiver must provide monthly reports to the City including information on the following: (i) total amount of rents received, (ii) nature and amount of contracts negotiated, (iii) payments made towards the repair of the property, (iv) progress of necessary repairs, (v) other payments made relative to the operation of the building, and (vi) the amount of tenant relocation benefits paid by the receiver. HSC § 17980.7.

Step 5 – Closing of the Case (HSC §17980.7.)

The receiver is discharged when all the conditions set forth in the Notice are remedied and complete accountings of all costs and repairs have been delivered to the court. The owner of the substandard property must pay the City reasonable and actual costs associated with receivership action, including any unpaid fines, attorney fees and costs of the receivership. The receivership action will conclude when the City records a notice of final disposition of its health and safety receivership enforcement action in the Stanislaus County Recorder’s office, Id. §17985.

Administrative Issues

Payment for preparation, implementation and operation of the Program may come from either the General Fund or, to the extent the substandard property is within the jurisdiction of the City’s Redevelopment Agency, from the City’s Redevelopment fund. The Program may be used for any type of property. Weintraub will require a retainer of \$20,000 to cover legal fees relating to implementing the Program and initiating health and safety receivership actions against properties identified by the City Manager. As discussed above, the City will be able to obtain reimbursement or refund of nearly all costs associated with the Program by the imposition of a super priority tax lien(s) on receivership properties. However, it may take some time for the City to be reimbursed and the timeline for any such reimbursement will depend on various factors, including the financial market and economic conditions affecting property values within the City.

Policy Considerations

The City Council has determined that citywide conditions require the implementation of a health and safety receivership program. The Program will address health and safety issues within the City and growing resident concerns regarding properties that have fallen into disrepair and which also fail to meet existing codes and standards.

Environmental Considerations:

California Environmental Quality Act (CEQA): Under the CEQA guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Commission/Committee Action:

None to date

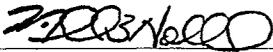
FISCAL IMPACT:

Weintraub will require a retainer of \$20,000. Due to limited Redevelopment Agency resources this would be a General Fund expense and pulled from the reserves.

CONCLUSION:

Staff recommends the Council Review and consider implementation of a Health and Safety Receivership program for the City of Newman and consider retaining the Weintraub Genshlea Chediak law corporation ("Weintraub") to implement the Health and Safety Receivership program as directed by the City Manager.

Respectfully submitted,



Michael Holland
City Manager

October 6, 2010

Mr. Michael E. Holland
City Manager
City of Newman
P. O. Box 787
Newman, California 95360

 MERITAS LAW FIRMS WORLDWIDE

Douglas L. White
916.558.6022 DIRECT
dlwhite@weintraub.com

Re: Fee Engagement
City of Newman/Health and Safety Receiverships

Dear Mr. Holland:

Thank you for asking us to represent the City of Newman with regard to health and safety receiverships. We are pleased to accept the assignment, and this letter agreement sets forth the terms of our engagement. A new letter agreement may be required for future representation to expand or clarify the scope of our representation. Except as modified or expressed by any new letter, all legal services we perform will be on the terms described in this letter.

I will be your principal contact with the firm. Subject to any supervisory role, your work, or parts of it, also may be performed by other lawyers and paralegals in the firm.

The current hourly charges for our attorneys are dependent upon the skill and experience of the individual involved. At present, the firm's hourly fees for attorney services range from \$190 to \$550. The current hourly charge for our paralegals and law clerks ranges from \$100 to \$180. My current hourly rate is \$285.

If our hourly rates are changed, you will be notified on your monthly billing statement. If you have any questions concerning any new rates, please contact us immediately.

At this time, we request the payment of a retainer of \$20,000 as an advance against fees and costs. This initial advance payment, as well as any future advance payments, will be held in our trust account. You authorize us to use those funds from time to time to pay the fees and costs incurred as we proceed with your representation. Any funds remaining at the conclusion of this representation after payment of all fees and costs will be returned to you. Any interest earned on funds held in our trust account will be paid, as required by law, to the

Mr. Michael E. Holland
City Manager, City of Newman
October 6, 2010
Page 2 of 4

State Bar of California to fund legal services for indigent persons. California law will govern this letter agreement.

We will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the effectiveness of certain strategies and courses of action or statements of opinion regarding the outcome of your legal matters are expressions of our best professional judgment, but are not guaranties.

We will bill monthly for all the legal services provided by our attorneys and other professional staff. In addition to hourly fees for services rendered, expenses incurred by us on your behalf will be billed to you. We generally will request that you pay costs directly or advance funds to us for payment of costs. Certain ancillary services such as computer research and photocopying will be billed based upon direct use.

Our billings are due and payable upon presentation. If you have any questions about any items on your statement, please contact us promptly. Any unpaid balances will begin to accrue interest at the simple annual rate of ten percent (.833 percent per month) 30 days from the date of the statement. Upon receipt, amounts paid will be applied first to any accrued interest and then to the unpaid balance of expenses and fees. Should balances in your account remain past due, your account will be reviewed by our management who will determine whether to continue with the representation or withdraw and pursue collection of your account. You agree to pay any collection costs, including court and/or arbitration costs, filing fees and reasonable attorneys' fees.

We do not normally provide clients with an estimate of the total fees and costs that they will incur for our legal services in connection with a particular matter because the full scope of the efforts required to render appropriate services usually cannot be determined in advance and the work required to be done is often not completely within our control. For example, in the case of complex business transactions or litigation, we frequently must respond to the actions of opposing counsel or other parties, and the range of appropriate responses is often dictated by the nature of those actions.

Mr. Michael E. Holland
City Manager, City of Newman
October 6, 2010
Page 3 of 4

The California Business and Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

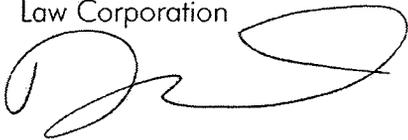
If any provision of this letter agreement is held to be unenforceable for any reason, the remainder of the letter agreement will be severable and will remain in effect.

You may terminate our representation at any time. We also reserve the right to withdraw from representation, including for nonpayment of fees or costs, misrepresentation or failure to disclose material facts and conflicts of interest with another client. We try to identify and discuss with our clients any situation that may lead to our withdrawal.

We look forward to our engagement in this matter and appreciate the opportunity to provide these services. At all times, please feel free to contact me to discuss any aspects of our representation, including staffing and billing matters. Please confirm your agreement by signing a copy of this letter agreement and returning it in the enclosed envelope.

Very truly yours,

WEINTRAUB GENSHLEA CHEDIAK
Law Corporation



Douglas L. White

DLW/ens
enclosures

[Signatures appear on following page.]

(1222327.DOC)

Mr. Michael E. Holland
City Manager, City of Newman
October 6, 2010
Page 4 of 4

The terms of the engagement are approved.

Dated: _____

CITY OF NEWMAN

By: _____

Michael E. Newman

Its: _____
City Manager

S. GUY PUCCIO
BIOGRAPHY
1122 Highway 4, Suite 4
PO Box 1059, Arnold, CA 95223
209.795.0290
Cellular: 916.325.2387
DRE License #00250388
Email: guy@legislativeadvocates.com

S. Guy Puccio offers services regarding real property, real property secured transactions, and securities where the investment vehicle includes interests in real property. His services include consulting; support litigation and expert testimony; tax-deferred exchanges; specialized residential, land, and commercial real estate brokerage; property tax assessment appeals; atypical mortgage lending and brokerage; and review real property appraisals. He has served and is available to serve as a court-appointed receiver, commissioner, administrator, trustee, and special master. In addition, Guy has provided consulting services to trustees of estates in bankruptcy. He has administered probate estates, including transactions involving real property and mortgages secured by real property.

Guy has testified before committees of the California State Assembly and Senate and has participated in drafting proposed legislation and regulations that have become law. Guy formerly was a California State Registered Lobbyist. He is the past legislative advocate for, among others, the Executive Council of Homeowners (ECHO), Commercial Real Estate Finance Forum (CREFF), KaiserAir, First American Title Insurance Company, Commonwealth Title, California Rental Housing Information Services, Inc., and Point Center Financial.

Guy formerly served as a member of the Statutory Advisory Commission to the DRE, chaired the DRE Real Estate Finance Advisory Committee (REFAC) that was primarily involved with mortgage broker and banker issues, and with the issuance of securities. He also chaired a number of DRE committees or task forces, including the solicitation Task Force formed to consider when a real estate license is required and what activities unlicensed personnel may perform.

Guy has served as a director and member of the Real Estate Finance and Legislative Committees and as a Pension Trustee for the California Association of Realtors ("C.A.R."). He has served as Vice Chair of C.A.R.'s Legislative Committee and as a member of its Environmental Hazards Committee. Further, he previously served as a director and member of the Executive Committee and Chair of the By-Laws Committee of the Southern Alameda County Association of Realtors (now known as the Bay East Association of Realtors).

Guy is a past president, past legislative and education chairs of the Mortgage Institute of California (now merged with the California Mortgage Association); and he is a past State Legislative Chair and a member of the State Board, as well as a former Capitol Region Legislative Chair of the California Trustees Association (now the United Trustees Association). He has held positions on various advisory boards, committees, and associations for the DRE and for the State Chancellor of Community Colleges.

Guy has been a guest speaker and lecturer at various universities, colleges, local associations of Realtors, institutions, societies, clubs, organizations, and for media (e.g., KCBS Real Estate Magazine, KABL Radio, The Financial Network News, and KRON TV). He is frequently called upon to speak on real property and real property secured transactions and the issuance of securities relating to the real estate industry.

Guy has authored many articles appearing in the Alameda newspapers, magazines of various boards or associations of Realtors, bulletins and newsletters of the mortgage industry, title company publications, and newsletters of the United Trustees Association. He is the principal author of a consumer brochure, entitled, "Trust Deed Investments - What You Should Know!" and has prepared or edited other consumer booklets and disclosures published by the DRE, e.g., "Disclosures in Real Property Transactions", "A Homeowner's Guide to Foreclosure in California", and "Reverse Mortgages – Is One Right For You?".

Guy also is the principal author of chapters in the Real Estate Reference Book, published by the DRE, including "Agency", "Real Estate Finance", "Escrow" and "Title to Real Property". He also edited books entitled, The Supplement of the Complete Text of the Mortgage Brokerage Business, previously published by US Financial and California Real Estate Law, previously published by McGraw Hill.

Guy holds an AA degree in Real Estate, a BA degree in Finance (partial independent study with 186 units in residency), and a Masters Degree in Public Policy (independent study supported by manuscripts and academic work product)¹. He also served as a member of the faculty of Chabot Community College, California State University at Hayward, Merritt College and Laney College. He has guest lectured at various colleges and universities, including Boalt Hall (the School of Law) at the University of California, Berkeley campus.

Guy is a licensed California real estate broker, is a certified Trustee Sales Officer – Level II, holds a lifetime teaching credential at the state community college and college/university levels in special designated subject areas, and is a current member of the Calaveras County Assessment Appeals Board and a former member of the Alameda County Assessment Appeals Board.

¹ To complete the academic degrees, the university selected was based upon an inquiry indicating accreditation as a correspondence and an on-line educational institution. Later, the university was discredited for academic misrepresentations and for engaging in other unacceptable conduct. It is no longer an active educational institution questioning the continuing efficacy of the degrees.

S. GUY PUCCIO

EXPERIENCE PROFILE

1122 Highway 4, Suite 4
PO Box 1059, Arnold, CA 95223
209.795.0290
Cell Phone: 916.325.2387
guy@legislativeadvocates.com

PROFESSIONAL EXPERIENCE

PRESIDENT: **PARKWAY LAND, INC., A CALIFORNIA CORPORATION**
dba S. Guy Puccio & Associates - Consultation, Support
Litigation Services; Educational and Lecturing Services;
Specialized Residential, Land, and Commercial Real Estate
Brokerage; atypical Mortgage Brokerage; and Review Appraisals
dba Wallace, Puccio & Garrett – State and Local Government
Consulting and Legislative Advocacy

ADJUNCT INSTRUCTOR EXPERIENCE

PAST INSTRUCTOR: Chabot College, Hayward
California State University, Hayward
Merritt and Laney Colleges, Oakland
California Mortgage Association
Anthony Schools, San Francisco

SEMINAR LEADER: For various institutions, societies, colleges, corporations,
associations and clubs

SPEAKING EXPERIENCE

SEMINARS AND LECTURES

SUBJECTS: Real Estate Law, Secured Transactions, Appraisals, Real
Property Investments, Property Taxation and Exchange,
Titles and Escrows, Securities, Public Policy and Political
Science at various institutions, for example:

- The California Department of Real Estate
- KCBS "Real Estate News" and KABL "Close-Up"
- Appearances on Bay Area TV Channels 2, 4, and 7
- Various California Boards or Association of Realtors
- The Mortgage Institute of California (now CMA)
- National Home Equity Mortgage Association
- Boalt Hall University of California Law School
- Ohlone College, Fremont
- Contra Costa College, El Cerrito
- Society of Government Appraisers
- International Right of Way Association
- United Trustee's Association

- Cable Network Financial News
- American Financial Services Association
- Various other associations, investor groups, etc.

APPRAISER EXPERIENCE

ASSIGNMENTS: Conducted for individuals, partnerships, corporations, governments, attorneys, courts, mortgage brokers/bankers, savings and loan associations, and banks--assignments to value residential subdivisions, schools, industrial buildings, apartments, commercial buildings, mobile home facilities, land and acreage, service stations, assessment appeals, and condemnations

PAST MEMBER: Panel of Approved Appraisers:
VA, FNMA, HUD/FHA, City of Hayward, Bank of California, and Lloyds Bank
(FNMA no longer has an approved Panel of Appraisers)

SPECIAL EXPERIENCE

TESTIFIED: Before various legislative committees, including the California State Senate Committee on Banking; Commerce and the Assembly Committee on Finance; and Insurance and participated in the drafting of legislation.

QUALIFIED: As an expert witness in the State Superior Courts, Federal District Courts, and U.S. Bankruptcy Courts

SERVED AS:

- Court-appointed Commissioner, Administrator, Receiver & Special Master
- Trustee with power of sale under deeds of trust
- Personal representative in probate estates
- Arbitrator and mediator in real property, real property secured transactions, securities, and for construction and subdivision matters
- Legislative Advocate for the real estate, mortgage, and title industries
- Past member of the Alameda County Assessment Appeals Board

CREDENTIALS

DESIGNATIONS: Senior Member, National Association of Review Appraisers, Mortgage Underwriters
Certified Trustee Sale Officer – Level II

LICENSE: California Real Estate Broker, No. 00234426

TEACHING: Standard-Designated Subjects, Calif. No. 3398 (Lifetime)

APPOINTMENTS: Current member of the Calaveras County Assessment Appeals Board

EDUCATION

Colleges, Universities and Institutes - area of study

- Chabot College – Real Estate
- University of California, Berkeley Extension – History of Architecture
- California State University of Hayward – Political Science
- San Jose State University – Music
- St. Regis University – Finance and Public Policy¹
- State Bar of California – Continuing Education
- Mortgage Institute of California – Real Property Secured Transactions
- American Institute of Real Estate Appraisers – Appraisal Methodology
- California Association of Realtors®/Realtor Institute – Brokerage

Degrees

- Associate of Arts Degree in Real Estate
- Bachelor of Arts Degree in Finance (partial independent study with 186 quarter units in residency)¹
- Master of Arts Degree in Public Policy (independent study supported by manuscripts and academic work product)¹

PAST AND PRESENT MEMBERSHIPS

- The Mortgage Institute (merged with the California Mortgage Association)
 - Past President, Legislative Chair, and Education Chair
- California Association of Realtors®
 - Past Member of the Board of Directors
 - Past Vice Legislative Chair, North
 - Formerly Served on The Real Estate Finance, Legislative, and Environmental Hazards Committees, among others.
 - Past Chair, Special Studies Group for Mortgage Brokers/Bankers
- Southern Alameda County Association of Realtors (Bay East Association)
 - Past Director and Executive Committee Member
 - Past Chair of the By-Laws and Finance Committees
 - Member of the Education Committee
- United Trustee's Association
 - Member and past Board Member
 - Past State Legislative Chair and Capital Region Chair

Additional Current or Past Memberships:

- National Association of Realtors®

- Calaveras Association of Realtors®
- Chabot College Real Estate Advisory Board
- California Association of Real Estate Teachers
- Commonwealth Club of California
- American Federation of Teachers, AFL-CIO
- American Federation of Musicians, AFL-CIO
- City of Hayward Housing Committee

THE CALIFORNIA DEPARTMENT OF REAL ESTATE

- Past Advisory Commissioner and chair or member for numerous commissions, committees, and task forces, including, among others:
 - Real Estate Finance Advisory Commission (REFAC)
 - Solicitation Task Force
 - Ethics and Standards of Conduct of Real Estate Licensees
 - Licensing and Certification of Real Estate Appraisers
 - Revisions - Lender/Purchaser Disclosure Statement and Mortgage Loan Disclosure Statement/Good Faith Estimate

- Contracting Consultant
 - In enforcement actions including expert testimony
 - Consumer brochures entitled, "Trust Deed Investments, What You Should Know!!", "Disclosures in Real Property Transactions", "A Homeowner's Guide To Foreclosure in California", and "Reverse Mortgages – Is One Right For You?"
 - Chapters 5, 8, 10, and 12 of the Real Estate Reference Book
 - Conducted training sessions for DRE investigators/examiners and auditors, as well as other related federal, state, and local agencies on mortgage brokerage and lending, securities, and licensing

PUBLICATIONS

- Miscellaneous articles appearing in the Alameda Newspapers
- Articles, bulletins, newsletters, and magazines of
 - *Various Boards of Realtors®*
 - *The Mortgage Institute (now CMA)*
 - *The California Association of Realtors®*
 - *The United Trustee's Association*
 - *The National Home Equity Mortgage Association*
 - *The California Association of Residential Lenders/Mortgage Brokers (now CAMP)*
- Classroom syllabi for California Community Colleges and California State University - Hayward
- Seminar/workshop outlines approved by the *Department Of Real Estate*
- Editing of the books entitled, Supplement - Complete Text Of The Mortgage Loan Business (U. S. Financial Education) and California Real Estate Law (McGraw-Hill) – no longer in publication

(Revised September 2010)

¹ To complete the academic degrees, the university selected was based upon an inquiry indicating accreditation as a correspondence and an on-line educational institution. Later, the university was discredited for academic misrepresentations and for engaging in other unacceptable conduct. It is no longer an active educational institution questioning the continuing efficacy of the degrees.

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 22nd, 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

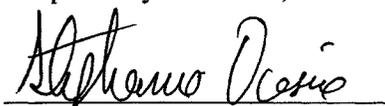
FISCAL IMPACT:

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

Agenda Item: **10.d.**
City Council Meeting
of October 12, 2010

**APPROVE EXTENSION OF THE LANDSCAPE MAINTENANCE SERVICES CONTRACT
WITH JOE'S LANDSCAPING AND CONCRETE, INC.**

RECOMMENDATION:

Approve extension of the Landscape Maintenance Services Contract with Joe's Landscaping and Concrete, Inc. for an additional 3 year period which would expire on October 16, 2013.

BACKGROUND:

On October 16, 2007 The City of Newman and Joe's Landscaping and Concrete, Inc. entered into a 3 year contract for Parks and Landscape Maintenance for the Lighting and Landscape Districts in the City of Newman. The current contract expires on October 16, 2010. Joe's Landscaping and Concrete, Inc. has done an outstanding job of maintaining the parks and landscaped areas within the City's Lighting and Landscaped District. According to the agreement the contract may be extended for an additional three (3) year period upon mutual agreement between the Contractor and the City of Newman.

ANALYSIS:

Extending the contract between the City of Newman and Joes' Landscaping & Concrete, Inc. allows for the continuing maintenance of the City's Parks and Landscaped areas within the Lighting and Landscaped Districts. The current contract amount is \$121,680 annually. The Contractor has agreed to not increase the price of the contract and agreed to a three year extension. In addition, the Contractor will maintain Howard B. Hill Park at no additional cost to the City. At the end of the contract it is recommended to review the contract and seek new bids. This is not a General Fund expenditure, and is paid for through the Lighting and Landscape District.

FISCAL IMPACT:

Contract Amount - \$121,680.00

Fund – Lighting and Landscape District

CONCLUSION:

It is recommended that the City Council approve the extension of the contract between Joe's Landscaping & Concrete, Inc. and the City of Newman at the current contract price for an additional 3 year term which will expire on October 16, 2013, at which time the city will solicit proposals for maintenance services of the City's Parks and Landscaped areas within the Lighting and Landscape Districts.

ATTACHMENTS:

1. Resolution No. 2010- , A Resolution authorizing a 3-year extension on contract services with Joe's Landscaping and Concrete, Inc.
2. Exhibit A – Letter requesting a contract extension from Joe's Landscaping and Concrete, Inc.
3. Exhibit B – Joe's Landscaping and Concrete, Inc. contract

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR



Michael Holland
City Manager

RESOLUTION NO. 2010-

**APPROVING THE EXTENSION OF THE LANDSCAPE MAINTENANCE SERVICES
CONTRACT WITH JOE'S LANDSCAPING & CONCRETE, INC.**

WHEREAS, the City Manager of the City of Newman has recommended that the City Council approve a three (3) year extension to the existing contract with Joe's Landscaping & Concrete, Inc. for the maintenance of landscaped areas and parks within the City's Lighting and Landscape Districts; and

WHEREAS, the City Council is desirous of extending the contract for (3) years with Joe's Landscaping & Concrete, Inc.; and

WHEREAS, the City Council of the City of Newman has determined it would be in the best interest of the City to extend the term of the contract for three (3) years with Joe's Landscaping & Concrete, Inc.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman hereby approves extending the contract with Joe's Landscaping & Concrete, Inc. in the amount of \$121,680.00 annually for three years, expiring on October 16, 2013 and authorizes the City Manager to execute said contract for landscape maintenance services.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 12th day of October 2010 by Council Member _____, who moved its adoption which motion was duly seconded and was upon roll call carried and the resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk of the City of Newman



September 15, 2010

To Whom It May Concern:

This letter is in regards to the Landscape Maintenance for Parks and Recreations for the City of Newman. In the past three years Joe's Landscaping & Concrete, Inc. has been performing the maintenance of approximately twenty three locations overall. As the contract comes to an end, the company would like to ask for an extension for three more years (as it is indicated in the existing contract). The company hopes that you are satisfied 100% with the work performed in these past years. The communication between the City of Newman and our company has been one of the key elements in being able to perform our best. In conclusion, Joe's Landscape and Concrete would like to thank you for all the work given and hopes to continue business.

A handwritten signature in black ink, appearing to read "Joe's", written over a horizontal line.

President
Joe's Landscaping & Concrete, Inc.

Business Address Joe's Landscaping P.O. Box 883 Newman, CA 95360

Phone Number (209) 765-3114

Dated this _____ day of _____ 2010

SIGNED: _____ ACCEPTED: _____

BY: [Signature] CITY OF NEWMAN

DATE: 9/23/10 DATE: _____

LANDSCAPED AREAS

Zone	District	Location	Approx. Length	Price Per Week	Price Per Year
1	Corgiat Estates	2000 Block	500 ft.	\$ 30.00	\$ 1,560.00
2	Creek Canyon	2100-2200 Block	1,240 ft.	\$ 50.00	\$ 2,600.00
4	Oakwood Vista	400-600 Block	1,600 ft.	\$ 80.00	\$ 4,160.00
5	Lucas Ranch	1200-1300 Block	3,000 ft.	\$ 210.00	\$ 10,920.00
5	Lucas Ranch	500 Block Hills Ferry Rd.	580 ft.	\$ 30.00	\$ 1,560.00
7	Stonehedge	400 Block	600 ft.	\$ 25.00	\$ 1,300.00
9	Silva Ranch	1600 Block	600 ft.	\$ 25.00	\$ 1,300.00
10	Lucas Ranch II	1500-1600 Block	1,500 ft.	\$ 55.00	\$ 2,860.00
11	Stephens Ranch	2100 Block	2,000 ft.	\$ 60.00	\$ 3,120.00
12	Walnut Creek	2100 Block Prince Rd.	280 ft.	\$ 30.00	\$ 1,560.00
13	Hearthstone Ranch	West wall by RR/Hwy. 33	1,675 ft.	\$ 60.00	\$ 3,120.00
13	Sherman Parkway	Hwy. 33 - Barrington Ave.	3,685 ft.	\$ 300.00	\$ 15,600.00
14	Sherman Parkway	Barrington Ave. - Hills Ferry Rd.	3,300 ft.	\$ 250.00	\$ 13,000.00
14	Sherman Parkway	100-400 Block - Hills Ferry Rd.	1,670 ft.	\$ 50.00	\$ 4,160.00
14	Sherman Parkway	Edinburgh Way	330 ft.	\$ 80.00	\$ 2,600.00
14	Sherman Parkway	Cinnamon Teal Dr.	1286 ft.	\$ 110.00	\$ 5,720.00
14	Sherman Parkway	200 Block - Cinnamon Teal	555 ft.	\$ 50.00	\$ 2,600.00
				\$ 1,495.00	\$ 77,740.00

Sprinkler Repair Cost Per Sprinkler: \$ 30⁰⁰

Tree Trimming Annual Cost: \$ 5,000⁰⁰

PARKS

Zone	Park	Location	Acres	Price Per Week	Price Per Year
10	Joe Borba Park	1601 Rose Park Dr.	1.97	\$ 120.00	\$ 6,240.00
11	Alfred "Bush" Rose Park	2207 Park Circle	4.97	\$ 240.00	\$ 12,480.00
12	Walnut Creek Park	1241 Walnut Creek Dr.	2.87	\$ 180.00	\$ 8,320.00
14	William Rae Sherman Park	330 Cinnamon Teal Way	8.46	\$ 325.00	\$ 16,900.00
				\$ 845.00	\$ 43,940.00

Total Weekly Charges: \$2,340.00
 Total Annual Charge: \$121,680.00

AGREEMENT BETWEEN THE CITY OF NEWMAN AND JOE'S LANDSCAPING
TO PROVIDE PARKS AND LANDSCAPE MAINTENANCE DISTRICT SERVICES

This agreement made and entered into this 25th day of September, 2007 by and between the City of Newman, a Municipal Corporation (hereafter "City") and Joe's Landscaping (hereafter "Contractor").

RECITALS

WHEREAS, City desires to contract for Parks and Landscape Maintenance District Services (hereafter "services"); and

WHEREAS, Contractor is a company experienced in providing Parks and Landscape Maintenance Service; and

WHEREAS, the two parties desire to enter into an Agreement whereby the Contractor will provide said Parks and Landscape Maintenance District Services for the City.

NOW, THEREFORE IT IS MUTUALLY AGREED BY AND BETWEEN THE UNDERSIGNED PARTIES AS FOLLOWS:

1. Scope of Work

SCOPE OF WORK

Work to be performed shall include the lawn mowing and edging of parks; the mowing and edging of lawn strips, the trimming and pruning of all bushes, vines and shrubs in landscape areas and the abatement of weeds in all areas and/or facilities as listed in Contract Documents, and marked on map listed in exhibit "A", and listed in section 24.

Work to be performed shall include mowing and edging, pruning and trimming, and abatement of weeds of all areas on a once (1) per week schedule. Mowing height shall be no less than 1" and no more than 2" for all warm season grasses, and 1 ½" to 3" for all cool season grasses.

Contractor shall also sweep lawn and turf areas as needed to keep them clean and clear of all lawn clippings generated as a result of said mowing. Contractor shall also keep all sidewalks, curb areas, walkways and pavement areas clean and clear of all clippings generated as a result of said mowing, pruning, trimming and weed

abatement. Means of sweeping and/or cleaning may be by manual labor such as sweeping or the use of power blowers and/or the use of mechanical sweepers. In no case shall any equipment be used that is determined to be a safety hazard or a public nuisance by the City's authorized representative.

2. Additions and Deletions of Parks and Landscape Maintenance Areas: Contractor agrees that the number of parks or landscape maintenance areas may be increased or decreased from time to time. Such increases may be due to new developments or annexations to the City. Landscape Maintenance areas shall be increased or decreased, upon written notice by the City. Increased parks and landscape maintenance areas shall be in addition to those already indicated on Exhibit "A" attached herein. All additional mowing, edging, pruning, trimming and weed abatement of parks and landscape maintenance areas shall be paid by the City monthly, at a rate agreed prior to commencing of said maintenance, and upon monthly invoice by the Contractor. Additionally, the City reserves the right to reduce the frequency of parks and landscape maintenance service to cover additions or reductions of districts. In all cases, reductions or additions to mowing and maintenance shall be based on previously agreed upon rate for said service. Changes in mowing or maintenance additions or reductions shall be negotiated between the Contractor and the City's Director of Public Works, or the City's authorized representative.
3. Compensation and Payment: In consideration of the work to be performed by Contractor as described in Scope of Work and in Section 2, the Agreement and all other provisions of the Agreement pertaining to said paragraphs, City agrees to pay Contractor a monthly sum of ~~7,320~~ . Said sum to be paid within thirty (30) days of receipt of an invoice by Contractor. Payment for work performed under section 2 and all other provisions of this Agreement pertaining to said paragraphs shall be paid per rates and stipulations of said paragraphs and shall be invoiced in the same manner as work performed under section 1 in order that the City make payment or adjustments to payments for such work on the same day that payment for regular service shall be made.
4. Equipment: It shall be the responsibility of the of the Contractor to provide all necessary equipment as may be needed to perform the duties of this contract and as listed in sections 1 and 2. All equipment used in performance of this contract shall meet or exceed all local state and federal safety standards that may apply to such devices. The City reserves the right to terminate the use of any equipment that it deems hazardous, excessively noisy or considered to be a public nuisance to the health of its residents, employees, or authorized agents. All equipment used in the performance of this contract shall be clearly marked so as to be identifiable as belonging to the Contractor.
5. Park and Facility Use: The City reserves the right to use any or all of its facilities listed in this contract at any time it deems appropriate and or necessary, and may at its discretion make changes to mowing schedules upon 72 hour written notice to contractor.

6. Permits and License: Contractor shall at its own cost and expense apply for and obtain all necessary permits and licenses required in connection with the requirements of this agreement. Contractor shall at all times comply with all laws, ordinances, and regulations of all governmental authorities under which the work is performed pursuant to this Agreement. Contractor shall maintain a file containing all necessary permits and licenses available for City inspections at any time. In the event law, ordinances, and/or regulations of all authorities are enacted subsequent to the signing of this Agreement which have an impact on costs to the Contractor, said costs either positive or negative shall be negotiated and adjustments may be made to the amounts to be paid as indicated herein.
7. Independent Contractor: In the performance of the services under this Agreement, Contractor shall be an Independent Contractor, maintaining complete control of its personnel and operations. As such, Contractor shall pay all salaries, wages, expenses, social security taxes, federal and state unemployment taxes and any similar taxes relating to the performance of this Agreement. Contractor shall be held responsible for its workers and subcontractors when working with and/or around hazardous materials and the education thereof.
8. Subcontractor: Contractor shall not subcontract any parts of this Agreement without prior written consent of the City's Public Works Director. All persons engaged in the parks and landscape maintenance service will be considered as employees of the Contractor, and subject to the provisions of this Agreement. Additionally, this Agreement, nor the work to be performed under this Agreement, shall not be in any way assigned or transferred by the Contractor without written consent of the City.
9. Termination: City may terminate this Agreement in whole at any time by written thirty (30) day notice to Contractor. Such termination shall be effective in the manner specified in such notice, shall be without prejudice to any claims which City may have against Contractor and shall be subject to other provisions of this Agreement. On receipt of such notice contractor shall, except as and, to the extent directed, immediately discontinue the placing of orders for materials, facilities and supplies in connection with the performances of the services, and shall, if requested, make every reasonable effort to procure termination of existing subcontracts upon terms satisfactory to the City. Thereafter, Contractor shall only do such work as may be necessary to preserve and provide the services already in progress and to dispose of any property as requested by the City.

Contractor may terminate this Agreement in whole anytime by written thirty (30) day notice to City.

10. Indemnity: Contractor shall save, hold and indemnify City, its officers, agents, employees, volunteers and subcontractors from all claims, demands, damages, judgments, costs or expenses in law or equity that may at any time arise from or relate to any work performed by Contractor, its agents, employees or subcontractors under the terms of this Agreement.

11. Insurance: In addition to any other form of insurance or bond required under the terms of this Agreement, Contractor shall procure and maintain for the duration of this Agreement the following types and limits of insurance:
12. Acceptability of Insurers: Insurance is to be placed with insurers with a Best's rating ratio of no less than A:VII
13. Automobile Liability Insurance: Contractor shall provide coverage on an occurrence basis for bodily injury including death, of one or more persons, property damage and personal injury, with limits of not less than one million (\$1,000,000) per occurrence. These automobile liability policies shall provide coverage for owned, non-owned and hired autos.
14. General Liability Insurance: Contractor shall provide coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than two million (\$2,000,000) per occurrence.

These general liability policies shall provide contractual liability coverage for the terms of this Agreement. These general liability policies shall provide an additional insured endorsement in favor of City, its mayor, council, officers, agents, employees and volunteers.

Workers' Compensation: Contractor shall provide workers' compensation with statutory limits of not less than one million (\$1,000,000) per accident.

15. Endorsement: All policies shall contain the following endorsements:

An endorsement providing City with thirty (30) days written notice of cancellation or materials change in policy language or terms.

The insurance required under this Agreement shall be maintained until all work required to be performed under the terms of this Agreement is satisfactorily completed as evidence by formal acceptance by City.

Contractor shall furnish the City Public Works Department with a Certificate of Insurance evidencing all insurance required under this Agreement.

All costs of insurance required under this requirement shall be included in the amounts indicated elsewhere herein and no additional costs which may be required by extensions of the insurance policies.

16. Penalties for Non-Performance: In the event Contractor does not complete required services as listed in contract documents designated for a given week, the City shall deduct from the amount owed the Contractor the proportionate value of the incomplete work. For purposes of determining the amount to be deducted, it is hereby agreed that deductions will be based on amounts listed in section 24.

Deductions will be specific as to landscape maintenance district for which service was not performed.

17. Term: This Agreement will be for a term of three (3) years and shall remain in affect until March 1, 2010, at which time it will terminate. The agreement may be extended for an additional three (3) year period upon mutual agreement between Contractor and the City Of Newman.
18. Interpretation: This Agreement, together with the Exhibits attached hereto, and all documents, drawings, specifications and instruments specifically referred to herein and made a part hereof shall constitute the entire Agreement between the parties, and no other proposals, conversations, bids memoranda, or other matter shall vary, alter, or interpret the terms of this Agreement or other documents which is signed by both parties.
19. Severability: It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held illegal or in conflict with any law of the State of California or jurisdiction over any of the parties hereto, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provisions held invalid.
20. Governing Law: This Agreement and the attachments hereto shall be governed by and construed in accordance with the laws of the State of California.
21. Cost of Litigation: If any legal action is necessary to enforce any provisions hereof or for damages by reason of an illegal breach of any provision of this Agreement, the prevailing party shall be entitled to receive from the losing party all costs, and expenses and such an amount as the court may adjudge to be reasonable attorney's fees.
22. Notices: All notices to the parties shall be sent by registered or certified mail to the address specified below:

City of Newman
P.O. Box 787
1162 Main Street
Newman, CA 95360

23. Execution: In witness whereof, the parties have caused this Agreement to be executed the day and year first above written.

Amending Agreement

THIS AMENDING AGREEMENT dated this 9th day of October, 2007

BETWEEN:

City of Newman

-AND-

Joe's Lawn Maintenance

Background

- A. City of Newman and Joe's Lawn Maintenance ("the Parties") entered into the contract dated September 25, 2007, for the purpose of providing services stated in the contract documents, in the areas listed in Landscape Maintenance District on a once (1) per week schedule.
- B. The parties desire to amend the Contract on the terms and conditions set forth in this Amending Agreement ("the Agreement").
- C. This Agreement is the first amendment to the Contract.

IN CONSIDERATION OF the parties agreeing to amend their obligations in the existing Contract, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, both parties agree to keep, perform, and fulfill the promises, conditions and agreement below:

Amendments

1. The Contract is amended as follows:
 - a. NOTICE OF AWARD: The original bid amount of \$ 1,830.00 per week will be amended to \$1,990.00. This will reflect the addition of the landscape districts of Edinburgh Way (330 feet) and Cinnamon Teal Way (1,286 feet).
 - b. LANDSCAPE MAINTENANCE DISTRICT LISTING: All districts and lengths stated in item 24. "Landscape Maintenance District Listing" remain with the addition of:

Sherman Ranch	Edinburgh Way	330 ft.
Sherman Ranch	Cinnamon Teal Way	1,286 ft.

- c. SCOPE OF WORK: Item number 3 "Compensation and Payment" City agrees to pay Contractor a monthly sum of \$7,960.00 which includes the addition of \$160.00 per week for the Edinburgh Way and the Cinnamon Teal Way locations. This replaces the original agreement of \$7,320.00 per month.

ACCEPTANCE OF AMENDING AGREEMENT:

Receipt of the above Amending Agreement is hereby acknowledged

This 9th day of October, 2007

By: 

Title: PRESIDENT.

Owner: City of Newman

By: 

Title: Public Works Director

NOTICE OF AWARD

Project: Landscape Maintenance District Services

To: Joe's Lawn maintenance
P.O. Box 883
Newman, CA 95360

The owner represented by the undersigned has considered the Bid submitted by you for the above described work in response to its Notice to Contractors dated February 14, 2007.

It appears that it is to the best interest of said Owner to accept your bid in the amount of **\$1,830.00 Per Week**; you are hereby notified that your bid has been accepted.

If you fail to execute said contract and to furnish bonds and certificates within ten (10) calendar days from the date of delivery of this notice, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your bid as abandoned and to award the work covered by your bid to another, or to re-advertise the work or otherwise dispose thereof as the Owner may see fit.

ACCEPTANCE OF NOTICE

Receipt of the Above Notice of Award is hereby acknowledged

This 25th day of September, 2007

By: Joe Garcia
Title: Owner

Owner: City of Newman

By: Ernie Danya
Title: Public Works Director

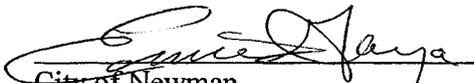
NOTICE TO PROCEED

Project: City of Newman Landscape Maintenance District Services

Date: September 25, 2007

To: Joe's Lawn Maintenance
P.O. Box 883
Newman, CA 95360

You are hereby notified to commence WORK in accordance with the Agreement dated September 25, 2007 on or before October 16, 2007 You are to provide services stated in the Contract Documents, in the areas listed in Landscape Maintenance District on a once (1) per week schedule. The contract date begins on October 16, 2007 and ends on October 16, 2010.


City of Newman

By: **Ernie Garza**
Title: **Director of Public Works**

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by

Joe's Lawn Maintenance

This the 25th day of September, 2007

By: 
Title: OWNER

24. Landscape Maintenance District Listing

<u>District</u>	<u>Location</u>	<u>Approx. Length</u>
Lucas Ranch	1200-1300 Block – Driskell Ave.	3,000 ft.
Lucas Ranch	500 Block – Hills Ferry Rd.	580 ft.
Oakwood Vista	400-600 Block – Driskell Ave.	1,320 ft.
Stonehedge	400 Block – Merced St.	400 ft.
Silva Ranch	1600 Block – Hoyer Ave.	400 ft.
Corgiat Estates	2000 Block – Upper Rd.	450 ft.
Creek Canyon	2100-2200 Block – Upper Rd.	1,240 ft.
Lucas Ranch II	1500-1600 Block – Canal School Rd.	1,725 ft.
Stephens Ranch	2100 Block	1,240 ft.
Walnut Creek	2100 Block – Prince Rd.	280 ft.
Hearthstone Ranch	West wall along RR & Highway 33	1,675 ft.
Sherman Parkway	Highway 33 – Barrington Ave.	3,685 ft.
Sherman Parkway	Barrington Ave. – Hills Ferry Rd.	3,240 ft.
Sherman Ranch	200 Block – Cinnamon Teal	555 ft.
Sherman Ranch	100-400 Block – Hills Ferry Rd.	1,670 ft.

<u>Parks</u>	<u>Location</u>	<u>Acres</u>
Joe Borba Park	1601 Rose Park Drive	1.97
Walnut Creek Park	1241 Walnut Creek Drive	2.87
Ranchwood Park	2207 Park Circle	4.97
William Rae Sherman	330 Cinnamon Teal Way	8.46

The undersigned has examined the locations of the work and is familiar with the scope of work, and special provisions, and the existing local conditions at the place where the work is to be done. He further agrees that he can provide the work shown in a finished and workmanlike manner to the satisfaction of the City.

CITY LICENSE NUMBER # 11105

EXPIRATION DATE 6/30/07

DATE 2/6/07

SIGNATURE Joe Borba

COMPANY Joe's Lawn Maintenance

ATTEST _____

Business Address P.O. Box 883 Newman Ca 95360

Phone Number (209) 765-3114

Dated this 6th day of February 2007

SIGNED:

Joe Garcia

BY: Joe Garcia

DATE: 2/6/07

ACCEPTED:

CITY OF NEWMAN

BY: _____

DATE: _____

Notice is hereby given that the City of Newman will accept sealed proposals for the mowing and edging of parks; the trimming and pruning of shrubs, bushes and vines of all landscape maintenance areas and the abatement of weeds in all areas and/or facilities as listed below:

<u>District</u>	<u>Location</u>	<u>Approx. Length</u>	<u>Price Per Week</u>
Lucas Ranch	1200-1300 Block	3,000 ft.	<u>130</u>
Lucas Ranch	500 Block Hills Ferry Rd	580 ft.	<u>30</u>
Oakwood Vista	400-600 Block	1,320 ft.	<u>80</u>
Stonehedge	400 Block	400 ft.	<u>25</u>
Silva Ranch	1600 Block	400 ft.	<u>25</u>
Corgiat Estates	2000 Block	450 ft.	<u>30</u>
Creek Canyon	2100-2200 Block	1,240 ft.	<u>50</u>
Lucas Ranch II	1500-1600 Block	1,725 ft.	<u>55</u>
Stephens Ranch	2100 Block	1,240 ft.	<u>60</u>
Walnut Creek	2100 Block Prince Rd	280 ft.	<u>30</u>
Hearthstone Ranch	West wall by RR/Hwy33	1,675 ft.	<u>60</u>
Sherman Parkway	Highway 33 - Barrington Ave.	3,685 ft.	<u>150</u>
Sherman Parkway	Barrington Ave. - Hills Ferry Rd.	3,240 ft.	<u>130</u>
Sherman Ranch	200 Block - Cinnamon Teal	555 ft.	<u>50</u>
Sherman Ranch	100-400 Block - Hills Ferry Rd.	1,670 ft.	<u>80</u>
	Edinburgh way	330 ft	50
	Cinnamon Teal	1,286 ft	110
<u>Parks</u>	<u>Location</u>	<u>Acres</u>	<u>Price Per Week</u>
Joe Borba Park	1601 Rose Park Drive	1.97	<u>120</u>
Walnut Creek Park	1241 Walnut Creek Drive	2.87	<u>160</u>
Alfred "Bush" Rose Park	2207 Park Circle	4.97	<u>240</u>
William Rae Sherman Park	330 Cinnamon Teal Way	8.46	<u>325</u>

Total: \$1,830

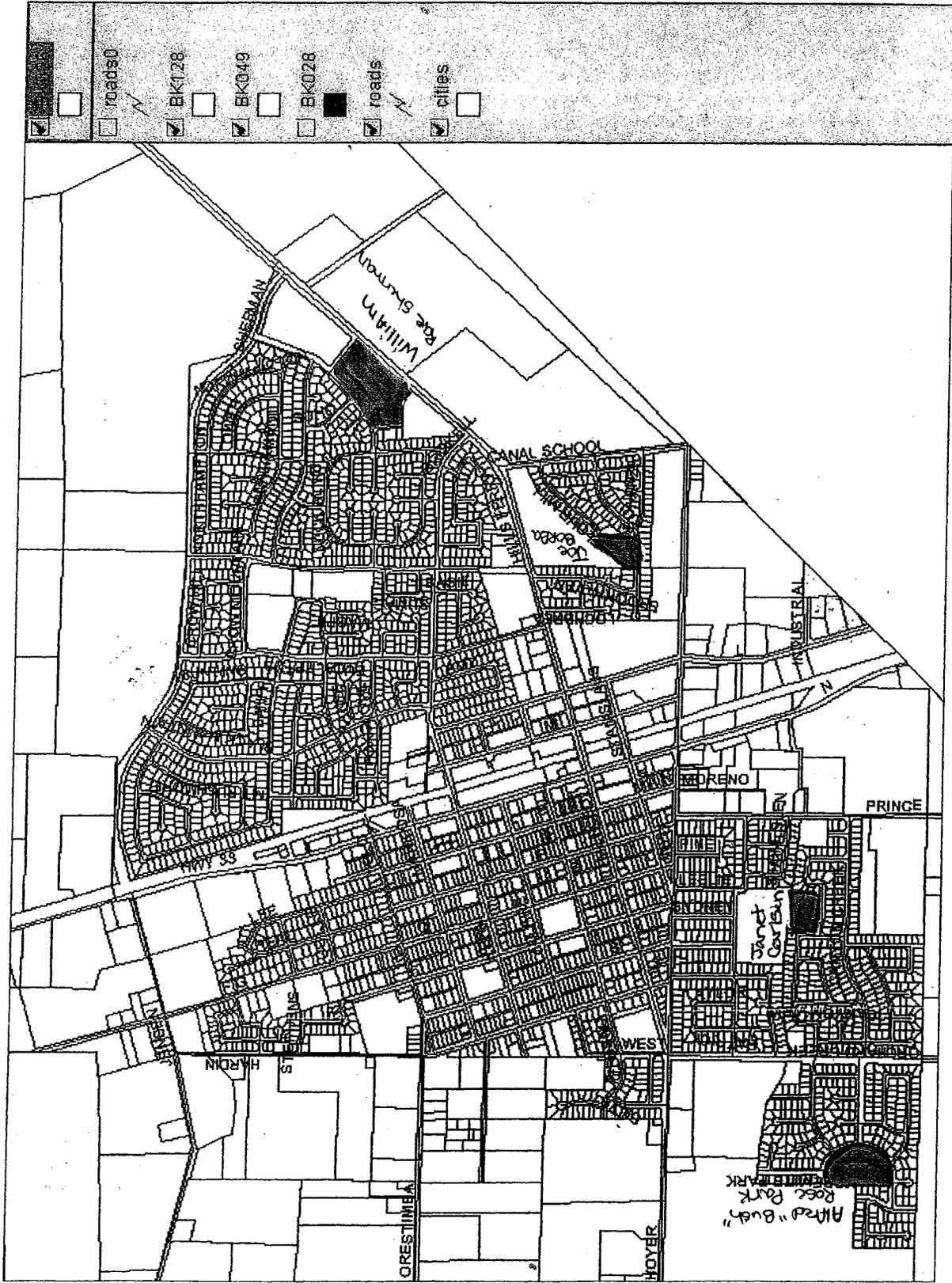
Special Provisions

The following list of special conditions are part of this contract and are to be considered as applying to said contract, and as such are enforceable under the terms and conditions set forth in the contract documents.

1. It is hereby agreed upon between the city and the contractor that, the city will when it determines necessary call for halting of all mowing, sweeping, and trimming of specific parks and or facilities as needed. The purpose of this provision is to accommodate periods or seasons of the year that do not require mowing or maintenance of said facilities.
2. The contractor shall at his own expense repair and or replace any sprinkler, valve, piping, or park fixture including but not limited to picnic tables, playground equipment, cement curbing, wooden curbing, any trees, and or other plant material that is damaged as a result of the contractor carrying out the work as described in this contract. Said repairs and or replacements shall be performed under the supervision of the City's authorized representative. In addition all materials used are to be of equal or superior quality as determined by the city's representative.
3. The contractor shall provide the city with a schedule listing all times and days that mowing will occur, and shall submit to the city any requests for change in said schedule. All changes are subject to approval by the city Public Works Director or his authorized representative. In no case shall the mowing of any park or facility begin before 7:00 AM on weekdays, and 8:00 AM on weekends.
4. In consideration of the use of the facilities listed in section 24 of the contract, the Contractor agrees that there will be no mowing and or other maintenance relating to the performance of this contract on the following days of the week – Saturday or Sunday. Exemptions may be granted by the Director of Public Works and or the authorized representative as it may be deemed appropriate. All exemptions shall be given only in writing and only upon written request of the contractor.
5. No vehicles will be allowed to enter the park or facilities areas where there is not a paved access and or road upon which to travel, unless express written permission has been given by the city.
6. There shall be no use of weed eaters around base of trees, so as to prevent damage to the trees.
7. Contractor shall keep on file with the city and provide a telephone number that is accessible 24 hours a day so that complaints and or requests can be addressed within 24 hours of notification. It is further agreed that contractor be available to resolve complaints and or requests for service in a period of no longer than 24 hours.

CITY OF NEWMAN - PARKS AND LANDSCAPE MAINTENANCE

ATTACHMENT "A"



Honorable Mayor and Members
of the Newman City Council

**APPROVE LAND PURCHASE AND SALE AGREEMENT
FOR WASTEWATER TREATMENT PLANT**

RECOMMENDATION:

Adopt Resolution No. 2010- , authorizing the City Manager to execute a Land Purchase and Sale Agreement for an additional 142.1 +/- acres for use in operation of the Wastewater Treatment Plant.

BACKGROUND:

In 2009, the City constructed a new 40 +/- acre storage basin at the Wastewater Treatment Plant. This new basin was constructed on lands that were used as part of the farming operation; disposal of treated effluent. Based upon the requirements of our current permit requirements and the Wastewater Disposal Master Plan, additional lands are necessary to maximize the potential of our current plant. This purchase is a necessity.

ANALYSIS:

Over the past several months, City staff has worked with the property owners to craft a purchase and sale agreement to govern to the sale of 142.1 +/- acres of land adjacent to the Wastewater Treatment Plant. Based upon the recommendations of the Chief Plant Operator and our wastewater consultants, this land represents the best and most efficient opportunity to increase the City's land disposal inventory in a cost effective manner. Major deal points are identified below:

1. Price shall be \$13,992.00 per acre or \$1,988,263.00 total purchase price. Price is based upon an independent land appraisal requested by the City.
2. City agrees to lease back the property to Seller until May 31, 2012. This provides the City time to prepare for the improvements that will be necessary to incorporate the land into the City's farming operation.
3. The City agrees to process a potential planning application for two parcels of land located adjacent to Hills Ferry Road. While the agreement calls for staff to support the application, a provision is included that clearly identifies this agreement does not restrict or limit the Council authority over the potential application.

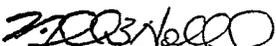
FISCAL IMPACT:

This action will require a budget adjustment equal to the total purchase price of \$1,988,263.00. The funding source is Fund 60 Sewer Operations, which is estimated to have a fund balance of nearly \$5,100,000 at the end of the fiscal year.

CONCLUSION:

Staff recommends the Council approved the attached Land Purchase and Sale Agreement. The additional lands are a necessary improvement at the wastewater treatment plant and will allow staff to maximize efficiencies and plan for the foreseeable future. The proximity of the parcels to the existing plan also makes this purchase a rational decision. Staff recommends the City purchase the identified lands at the appraised value.

Respectfully submitted,



Michael Holland
City Manager

RESOLUTION NO. 2010-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LAND PURCHASE AND SALE AGREEMENT FOR AN ADDITIONAL 142.1 +/- ACRES FOR USE IN OPERATION OF THE WASTEWATER TREATMENT PLANT

WHEREAS, the City of Newman desires to purchase all or a portion of certain properties described as Merced County APNs 054-004-010, 054-004-011, 054-005-009 And 054-006-001 for use in operation of the City's Wastewater Treatment Plant; and

WHEREAS, based upon the requirements of our current permit requirements and the Wastewater Disposal Master Plan, additional lands are necessary to maximize the potential of our current plant making this purchase a necessity; and

WHEREAS, over the past several months, City staff has worked with the property owners to craft a purchase and sale agreement to govern to the sale of 142.1 +/- acres of land adjacent to the Wastewater Treatment Plant; and

WHEREAS, the City and the property owners have reached an agreement on the terms of such purchase; and

WHEREAS, the City hired an independent land appraiser and the purchase price is based upon that appraisal; and

WHEREAS, based upon the recommendations of the Chief Plant Operator and our wastewater consultants, this land represents the best and most efficient opportunity to increase the City's land disposal inventory in a cost effective manner; and

WHEREAS, this purchase will require a budget adjustment equal to the total purchase price of \$1,988,263.00. The funding source is Fund 60 Sewer Operations, which is estimated to have a fund balance of nearly \$5,100,000 at the end of the fiscal year; and

NOW, THEREFORE BE IT RESOLVED that the City of Newman does hereby authorize the City Manager to execute a Land Purchase and Sale Agreement for an additional 142.1 +/- acres for use in operation of the Wastewater Treatment Plant.

The foregoing resolution was introduced at a regular meeting of the Redevelopment Agency of the City of Newman held on the 12th day of October, 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