



AGENDA
NEWMAN PLANNING COMMISSION
REGULAR MEETING OF JUNE 16, 2016
CITY COUNCIL CHAMBERS, 7:00 P.M., 938 FRESNO STREET

1. Call To Order.
2. Pledge Of Allegiance.
3. Roll Call.
4. Approval Of The Agenda.
5. Approval Of Minutes From The April 21, 2016 Meeting. ([View Minutes](#))
6. Items From The Public.
7. New Business
 - a. Public Hearing

Ordinance No. 2016- , An Ordinance Of The City Of Newman Amending Title 1 Administrative, Adding Chapter 1.19 Reasonable Accommodation And Title 5 Zoning, Amending Chapters 5.01 General Zoning Provisions, 5.03 R-1 Single-Family Residential District, 5.04 R-2/R-2s Duplex/Medium Density Single-Family Residential District, 5.05 R-3 Multiple-Residential District, 5.06 C-1 Retail Business District, 5.09 M Light Industrial/Business Park District, 5.14 DBO Density Bonus Overlay District, 5.16 Development Regulations, And 5.23 General Regulations, Conditions And Exceptions For The Purpose Of Implementing The Newman General Plan Housing Element And Addressing Local Land Use Issues

Applicant: City Of Newman

Description: Introduce An Ordinance Amendment Consisting Of Revisions And Additions To Various Sections Of The Newman Municipal Code For The Purpose Of Implementing The Newman General Plan Housing Element And Addressing Local Land Use Issues.

Location: City Of Newman City Limits

([View Report](#))
8. Items From Commissioners.
9. Items From Director And Staff.
10. Adjournment.



MINUTES
NEWMAN PLANNING COMMISSION
REGULAR MEETING OF APRIL 21, 2016
CITY COUNCIL CHAMBERS, 7:00 P.M., 938 FRESNO STREET

1. **Call To Order** - 7:00 P.M.

2. **Pledge Of Allegiance.**

3. **Roll Call PRESENT:** Cardinal And Allan.
ABSENT: Parker And Coleman.

4. **Oath of Office - New Commissioners.**

City Clerk Maier Administered The Oath Of Office To New Commissioner Barbara Dudley And Commissioner Marlena Cardinal.

5. **Approval Of The Agenda.**

ACTION: On Motion By Cardinal Seconded By Dudley, The Agenda Was Approved By The Following Roll Call Vote: AYES: Dudley, Cardinal And Allan; NOES: None; ABSENT: Parker And Coleman; NOT PARTICIPATING: None.

6. **Approval Of Minutes From The January 21, 2016 Meeting.**

ACTION: On Motion By Cardinal Seconded By Dudley, The Minutes From The January 21, 2016 Meeting Were Approved By The Following Roll Call Vote: AYES: Dudley, Cardinal And Allan; NOES: None; ABSENT: Parker And Coleman; NOT PARTICIPATING: None.

7. **Items From The Public** - None.

8. **New Business**

a. **Public Hearing**

General Plan Amendment No. 16-01, Housing Element Update

Applicant: City Of Newman

Description: Adopt PC Resolution No. 2016-1, Recommending The City Council Certify The Housing Element Update Mitigated Negative Declaration And Adopt General Plan Amendment No.16-01 (2015 Housing Element Update).

Location: City Of Newman City Limits

Chairperson Allan Opened The Public Hearing At 7:08 P.M.

Martin Carver, Coastplans, Presented And Reviewed The Housing Element Update/General Plan Amendment No. 2016-01. Carver Discussed HCD's Comments, Final Revisions And CEQA Analysis.

There Being No Further Public Comment, Chairperson Allan Closed The Public Hearing At 7:33 P.M.

ACTION: On Motion By Dudley Seconded By Cardinal, The Planning Commission Adopted Resolution No. 2016-1, Recommending The City Council Certify The Housing Element Update Mitigated Negative Declaration And Adopt General Plan Amendment No.16-01, By The Following Roll Call Vote: AYES: Dudley, Cardinal And Allan; NOES: None; ABSENT: Parker And Coleman; NOT PARTICIPATING: None.

9. Items From Commissioners

Commissioner Allan Welcomed Commissioner Dudley And Congratulated Commissioner Cardinal On Her Reappointment. Allan Inquired About The Homeless Count That Had Taken Place Earlier In The Year.

City Planner Ocasio Reported That The Annual Count Indicated That There Were 17 Homeless People Living In Newman And That The Count Would Be Done Annually And Potentially Semiannually In The Future.

10. Items From Director And Staff

City Planner Ocasio Noted That The Skate Plaza Project Was Beginning To Mobilize And The Dog Park Project Should Be Completed Later This Summer.

11. Adjournment.

ACTION: On Motion By Cardinal Seconded By Dudley And Unanimously Carried, The Meeting Was Adjourned At 7:45 P.M.

**CITY OF NEWMAN
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

PLANNING COMMISSION MEETING DATE: June 16, 2016

AGENDA ITEM: 7.a.

Introduce An Ordinance Amending Title 1 Administrative, And Title 5 Zoning, For The Purpose Of Implementing The Newman General Plan Housing Element And Addressing Local Land Use Issues

APN	City Wide	Applicant/Owner: City of Newman
CEQA	MND Certified April 26, 2016	

REQUEST:

Introduce Ordinance No. 2016- , for review and recommendation to the City Council

LOCATION:

Not site specific, applicable within the City of Newman city limits

ORDINANCES: Revisions/Additions are proposed as follows:

- | | |
|--|--|
| 1. Reasonable Accommodations
(New Ordinance per State Law)
§1.19 | 4. Zoning Code Updates
(To be consistent with State Law
and Local Land Uses) |
| 2. Residential Density Bonuses
(To be consistent with State Law)
§5.14 | §5.01.070
§5.03.020
§5.04.020, §5.04.021 |
| 3. Accessory Residential Units
(To be consistent with State Law)
§5.23.040 | §5.05.020, §5.05.060
§5.06.040
§5.09.020
§5.16.020
§5.23.030 |

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Newman Environmental Quality Guidelines, this project has undergone environmental review requirements; a Mitigated Negative Declaration was certified by the Newman City Council on April 26, 2016.

PROJECT DESCRIPTION:

The proposed Ordinance amendment consists of revisions and additions to various sections of the Newman Municipal Code as a result of adopted Housing Element programs and local land use issues.

BACKGROUND:

On April 26, 2016, General Plan Amendment No. 2016-01 was adopted by the Newman City Council. The Amendment, also known as the 2015 Housing Element Update, is considered a part of the City's General Plan and is updated every four or eight years (depending on the Agency's timeliness). Housing Element Law mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The law also mandates that in order for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems providing opportunities for, and not unduly constraining, housing development. In short, housing policy in California rests largely upon the effective implementation of local general plans and, in particular, local housing elements.

The adopted 2015 Newman Housing Element Update included a number of housing goals, policies, programs and quantified objectives; including Ordinance amendments and additions. Twenty-two housing programs were adopted, of which eight reference Ordinance revisions or additions.

ANALYSIS:

Eight [Program] Ordinance revisions/additions are being proposed to ensure consistency with State Law. These revisions/additions are as follows:

Program H-1a

To comply with the requirements of Government Code §65583.2(h) and (i), Section 5.05.060.D (Housing Element Implementation Standards) will be added to the Newman City Code requiring that sites rezoned to R-3 as a result of Housing Element Program H-1 of the 2009 Housing Element, permit rental and owner multifamily residential development exclusively and without discretionary review at a minimum density of 20 dwelling units per acre.

Program H-3

The City shall adopt an ordinance [via an amendment to section 5.16.020] that establishes specific procedures to grant priority service to housing with units affordable to lower-income households whenever capacity is limited.

Program H-4

Section 5.14 of the NMC (density bonus ordinance) will be amended to be consistent with recent changes in State statute.

Program H-11

The City shall amend its Municipal Code [via the addition of section 1.19] to create a procedure wherein persons with disabilities, including persons with developmental disabilities, seeking equal access to housing may request reasonable accommodation in the application of zoning laws and other land use regulations, policies, and procedures. The amendment shall be based on an analysis that addresses zoning, development standards, building codes, and approval procedures for the development of housing for persons with

disabilities. Examples of standards and requirements to be analyzed include: (1) the definition of family in the zoning code; (2) spacing or concentration requirements; and, (3) any restrictions on licensed residential care facilities with greater than six persons or group homes that will be providing services on-site.

Program H-16

The City shall amend [section 5.09.020 of] the Newman Zoning Ordinance to add emergency shelters as an allowed use by right (i.e., ministerial process only; no conditional use permit required) in the M Light Industrial/Business Park district.

Program H-18

The City shall revise the Newman Zoning Ordinance to allow transitional and supportive housing in all zones that allow residential uses, subject only to those restrictions that apply to other residential uses of the same type in the same zone. This will be achieved by revisions to sections 5.01.070, 5.03.020 and 5.06.040.

Program H-20

The City shall amend [section 5.01.070 of] its Zoning Ordinance to allow manufactured housing by right in all districts where a single family home is also allowed by right. The City may add restrictions to the design of manufactured housing that are consistent with state statute.

Program H-21

The City shall amend its 2nd Unit ordinance (Section 5.23.040 NMC) to be consistent with recent changes in State statute.

In addition to the 8 amendments above, an additional amendment regarding Accessory Buildings is also being proposed. If approved, NMC sections 5.01.070 (Definitions) and 5.23.030 (Accessory buildings) shall be revised to clarify the definitions of Accessory Buildings, Arbors and Patio Covers in addition to eliminating the setback requirement between detached unenclosed patio covers and existing structures.

Many residential homes utilize unenclosed patio covers for shade and increased use of their outdoor areas. The current six foot (6') dwelling setback requirement has limited some property owners from enjoying the full potential of their rear yards. The six foot requirement was originally adopted in 1997 as a part of a comprehensive Zoning Code update. The six foot requirement is derived from common fire prevention standards that require structures to have a 1-hour fire protection wall when less than six feet from other structures. This is often utilized when structures are within building setback areas or have zero lot lines (such as commercial or high density areas). Given that the proposed amendment would be applicable to unenclosed patio covers only (sheds and other accessory structures will continue to have dwelling setback requirements) and that all accessory structures, including patio covers, will have to comply with property line setbacks (i.e. NMC 5.23.030.F "...nor shall it be located closer to either street line than is permitted for the main building on the lot.") the six foot dwelling setback for unenclosed patio covers becomes unnecessary.

Public Comment

A Public Notice was published in the West Side Index on May 27, 2016. As of this date (6-8-16), no comments have been received.

CONCLUSION:

The proposed Ordinance revisions and additions will fulfill eight (8) Housing Element programs, make City Code consistent with State Law and address local land use issues. If recommended to Council by the Planning Commission, staff will propose amendments to the aforementioned sections of the Municipal Code for adoption.

Therefore, staff recommends that the Commission recommend approval of proposed Ordinance No. 2016- , to the Newman City Council.

ATTACHMENTS:

1. Exhibit A, Proposed Ordinance No. 2016- ,

ORDINANCE NO. 2016-

AN ORDINANCE OF THE CITY OF NEWMAN AMENDING TITLE 1 ADMINISTRATIVE, ADDING CHAPTER 1.19 REASONABLE ACCOMMODATION AND TITLE 5 ZONING, AMENDING CHAPTERS 5.01 GENERAL ZONING PROVISIONS, 5.03 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, 5.04 R-2/R-2S DUPLEX/MEDIUM DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT, 5.05 R-3 MULTIPLE-RESIDENTIAL DISTRICT, 5.06 C-1 RETAIL BUSINESS DISTRICT, 5.09 M LIGHT INDUSTRIAL/BUSINESS PARK DISTRICT, 5.14 DBO DENSITY BONUS OVERLAY DISTRICT, 5.16 DEVELOPMENT REGULATIONS, AND 5.23 GENERAL REGULATIONS, CONDITIONS AND EXCEPTIONS FOR THE PURPOSE OF IMPLEMENTING THE NEWMAN GENERAL PLAN HOUSING ELEMENT AND ADDRESSING LOCAL LAND USE ISSUES

WHEREAS, pursuant to Article XI, section 7 of the California Constitution, the City of Newman may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, this ordinance protects the public health, safety and welfare by amending the Newman City Code to be consistent with laws for density bonuses and other incentive and concessions available to qualified applicants under Government Code sections 65915 through 65918; and

WHEREAS, the Newman General Plan Housing Element, Program H-3, calls for the adoption of an ordinance that establishes specific procedures to grant priority service to housing with units affordable to lower-income households whenever capacity is limited; and

WHEREAS, The Housing Element of the jurisdiction must identify and develop a plan for removing regulatory barriers to affordable housing, including the relaxation of development standards, the reduction of development fees, the expediting of residential building permits, and/or the prioritization of affordable housing approval; and

WHEREAS, the Newman General Plan Housing Element, Program H-4 calls for the amendment of the city's density bonus ordinance to be consistent with state law; and

WHEREAS, the County of Stanislaus joined with the City of Newman and other Stanislaus County jurisdictions in 2013 to develop and publish a regional sustainability toolbox that included model reasonable accommodation and density bonus ordinances; and

WHEREAS, the Newman City Council recognizes that the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing; and

WHEREAS, the Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities; and

WHEREAS, a fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of

land use, zoning and building regulations, policies, practices and procedures will further the jurisdiction's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities; and

WHEREAS, the Newman General Plan Housing Element, Program H-11 calls for the creation of a procedure wherein persons with disabilities, including persons with developmental disabilities, seeking equal access to housing may request reasonable accommodation in the application of zoning laws and other land use regulations, policies, and procedures; and

WHEREAS, the Newman General Plan Housing Element, Program H-16, calls for the amendment of the Newman Zoning Ordinance to add emergency shelters as an allowed use by right (i.e., ministerial process only; no conditional use permit required) in the M Light Industrial/Business Park district; and

WHEREAS, the Newman General Plan Housing Element, Program H-18, calls for the amendment of the Newman Zoning Ordinance to allow transitional and supportive housing in all residential zones that allow residential uses, subject only to those restrictions that apply to other residential uses of the same type in the same zone; and

WHEREAS, the Newman General Plan Housing Element, Program H-20, calls for the amendment of the Newman Zoning Ordinance to allow manufactured housing by right in all districts where a single family home is also allowed by right; and

WHEREAS, The Government Code §65852.2 requires local governments with a second unit ordinance to consider second-unit applications as a ministerial application only as of July 1, 2003; and

WHEREAS, Chapter 5.23 (General Regulations, Conditions, and Exceptions), Section 5.23.040 (Accessory Residential Units), of Title 5 (Zoning) of the Newman City Code constitutes a second unit ordinance for the purpose of Government Code §65852.2; and

WHEREAS, the Newman General Plan Housing Element, Program H-21 calls for the amendment of the city's second unit ordinance to be consistent with state law; and

WHEREAS, this ordinance protects the public health, safety and welfare by amending the Newman City Code to be consistent with mandates imposed by federal and state statutes related to housing; and

WHEREAS, this ordinance relies on an Initial Study and Negative Declaration prepared to evaluate the environmental effects of the policies and programs contained in the General Plan Housing Element and certified by the Newman City Council on April 26, 2016 (Resolution No. 2016-24).

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

Section 1.

All of the recitals set forth above are held to be true and correct and by this reference are hereby incorporated herein as findings.

Section 2.

Title 1 (Administrative) of the Newman City Code shall be amended to add the following chapter:

Chapter 1.19
REASONABLE ACCOMMODATION

Sections:

- 1.19.010 Intent and Purpose.*
- 1.19.020 Applicability.*
- 1.19.030 Application Process.*
- 1.19.040 Approval Process.*
- 1.19.050 Findings and Decisions.*
- 1.19.060 Appeals Determination.*

1.19.010 Intent and purpose.

This Chapter is established pursuant to the provisions of California Government Code Sections 12927(c)(1) and 12955(1) to provide a formal procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures, and to establish relevant criteria to be used when considering such requests.

1.19.020 Applicability.

In order to make specific housing available to an individual with a disability, any person may request a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This Chapter applies only to those persons who are defined as disabled under the Acts.

1.19.030 Application Process.

A. In order to make housing available to an individual with a disability, an applicant may request a reasonable accommodation in zoning and other land use regulations, policies, practices and procedures.

B. All requests shall be reasonable and limited to the minimum that the applicant believes is necessary to accommodate the disability. Requests for reasonable accommodation shall be submitted via a form approved by the Planning Department, together with the appropriate fee, as established by resolution adopted by the City Council, and shall be filed with the Planning Department. The applicant is requested to provide the following information:

- 1. Name and address of the applicant;*
- 2. Name and address of the property owner(s);*
- 3. Address of the property for which accommodation is requested;*
- 4. The current use of the property for which accommodation is requested;*
- 5. Description of the requested accommodation, and the regulation(s), policy or procedure for which accommodation is sought, which could include site plans, floor plans, and/or details as necessary to define the extent of the accommodation;*
- 6. The basis for the claim that the fair housing laws apply to the individual(s) with a disability and evidence supporting the claim, which may be in the form of a letter from a medical doctor or other licensed healthcare professional, a handicapped license, or other appropriate evidence;*
- 7. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the property; and*
- 8. How the property will be used by the applicant and individual(s) with disabilities.*

C. Any information identified by the applicant as confidential shall be retained by the city in a manner so as to respect the privacy rights of the individual with a disability and shall not be made available for public inspection.

D. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an applicant's obligation to comply with other applicable regulations not at issue in the requested reasonable accommodation.

E. If an individual needs assistance in making the request for reasonable accommodation, the city will provide assistance to ensure that the process is accessible. Such assistance shall be limited to that which can be provided by existing city staff, and in no case shall the city be responsible for hiring any outside expert to assist an individual.

F. The fee for an application for reasonable accommodation shall be established by resolution of the City Council.

1.19.040 Approval Process.

A. Approval Authority:

1. Administrative Review - The Planning Director or an appointed designee has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this Chapter. The Planning Director or appointed designee may refer the matter to the Planning Commission, as appropriate.

2. Planning Commission Review - The Planning Commission has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this Chapter, when referred by the Planning Director or when a reasonable accommodation request includes any encroachment into the front yard setback area, results in a building size increase above what is allowed in the applicable zoning district with respect to height, lot coverage and floor area ratio maximums, or whenever a reduction in required parking is requested.

B. Notice: No advance notice or public hearing is required for consideration of reasonable accommodation requests by the Planning Director. Requests for reasonable accommodation subject to review by the Planning Commission shall require advance notice and a public hearing pursuant to the requirements of Section 5.25.050 (Public Hearings) of Chapter 5.25 (Permit Requirements) of Title 5 (Zoning) of the Newman City Code.

C. Decision: The Planning Director or an appointed designee shall render a decision or refer the matter to the Planning Commission within 30 days after the application is complete, and shall approve, approve with conditions or deny the application, based on the findings set forth in Section 1.19.050. The decision shall be in writing and mailed to the applicant.

1. If the application for reasonable accommodation involves another discretionary decision, the reviewing body for that decision shall accept as final the determination regarding reasonable accommodation by the Planning Director or an appointed designee, unless the reasonable accommodation request has been referred by the Planning Director or an appointed designee to the Planning Commission for consideration.

2. If the application for reasonable accommodation is referred to, or reviewed by, the Planning Commission, a decision to approve, approve with conditions, or deny the application shall be rendered within 20 working days after the close of the public hearing, based on the findings set forth above.

1.19.050 Findings and decision.

A. Any decision on an application under this Chapter shall be supported by written findings addressing the criteria set forth in this subsection. An application under this Chapter for a reasonable accommodation shall be granted if all of the following findings are made:

1. The housing, which is the subject of the request, will be used by an individual disabled as defined under the Acts.

2. *The requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.*

3. *The requested reasonable accommodation would not impose an undue financial or administrative burden on the city.*

4. *The requested reasonable accommodation would not require a fundamental alteration in the nature of a city program or law, including but not limited to land use and zoning.*

5. *There are no reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the city's applicable rules, standards and practices.*

B. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Section 1.19.050 A above.

1.19.060 Appeals determination.

Any decision on an application under this Chapter shall be subject to appeal pursuant to Section 5.27.030 (Appeals) of Chapter 5.27 (Interpretation, Administration, and Enforcement) the Newman City Code.

Section 3.

Title 5 (Zoning), Chapter 5.01 (General Zoning Provisions), Section 5.01.070 (Definitions) of the Newman City Code is amended as follows:

5.01.070 Definitions.

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

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

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

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

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

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

"Accessory use" means a use incidental, related, appropriate and clearly subordinate to the main use of the site or building, which accessory use does not alter the principal use of the site.

"Acre, gross" means a measure of total land area of any lot including future streets, parks, and other land dedications.

“Acre, net” means the gross area of a site excluding:

1. Land to be dedicated for required rights-of-way, either public or private;
2. Land determined to be hazardous and unbuildable;
3. Land to be dedicated for schools and parks or other facilities dedicated for public use.

“Adult businesses” include the following:

1. Any business conducted for the entertainment of adults, engaged in the selling, renting, or displaying of publications depicting the specified anatomical areas or specified sexual activities described herein or other material of a sexually explicit nature.
2. A particular business at a particular location that sells, offers for sale, rents, exhibits, shows or displays specified anatomical areas or specified sexual activities in the form of a book, magazine, newspaper, pamphlet, film, video, or other form or medium, or sexually oriented devices intended for use in the specified sexual activities, which receives 25 percent or more of the gross revenue from or devotes 25 percent or more of the stock on hand or 25 percent or more of the gross floor area to such activity, is presumed to be engaging in “substantial or significant” conduct with respect to such activity.
3. Any business wherein the selling of any food or beverage served by employees engaged in partial or total nudity or exposed anatomical areas is conducted.
4. Any business conducted for the entertainment of adults wherein an employee, patron or any other person engages in or is shown specified sexual activities or exhibits or engages in partial or total nudity or otherwise exposes specified anatomical areas as set forth elsewhere in this Code.
5. Any business which, as a substantial or significant portion of its business, provides live or filmed entertainment wherein specified anatomical areas of the human anatomy are exposed.

“Agreement of sale” means any agreement or written instrument which provides that title to any property shall thereafter be transferred from one owner to another owner, including a lease with option to buy.

“Alley” means a public or private thoroughfare which affords a secondary means of access to abutting property.

“Alter” means to make a change in the exterior appearance or the supporting members of a structure, such as bearing walls, columns, beams, or girders, that will prolong the life of the structure. Routine maintenance is not considered an alteration.

“Animal, domestic” means a small animal of the type generally accepted as a pet, including dog, cat, rabbit, songbird, fish, and the like, but not including chicken, duck, goose, peafowl, goat, sheep, hog, horse or the like.

“Animal, exotic” means a wild animal not customarily confined or cultivated for domestic or commercial purposes but kept as a pet or for display.

“Animal hospital” means a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use, and within an enclosed soundproof structure.

“Animal, large” means an adult animal larger than three and one-half feet in height or 250 pounds or more. This term includes horse, cow, and any other mammal customarily kept in a pen, corral or stable.

“Animal, small” means an animal no larger than three and one-half feet in height or less than 250 pounds. This term includes fish, bird, and any mammal customarily kept as a domestic pet within a dwelling unit.

“Animated or moving sign” means any sign which uses movement, lighting, or special materials to depict action or create a special effect or scene.

“Apartment” means any building or portion thereof which is designed and built for occupancy of four or more families.

“Arbor” means an arbor, ~~patio cover~~, lath house, pergola, trellis or other similar structure without walls or a solid roof, intended specifically to enhance the appearance of the garden or which has a function relating to the use of outdoor space, but not including a house, *patio cover*, garage, carport or storage building; provided, that it is not located within the front-yard setback or side-yard setback area of a main building.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Building site” means a lot or parcel of land, in single or joint ownership, and occupied or to be occupied by a main building and accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required by the terms of this title and having its principal frontage on a street, road, highway or waterway.

Business Frontage. The primary “business frontage” is that portion of the building elevation facing a street, parking lot or walkway in which the primary entrance to the building is located. All other business frontage is secondary business frontage. If more than one business is located in a single building, then such length shall be limited to that portion which is occupied by each individual business.

“Business, retail” means the retail sale of any article, substance, service or commodity, within a building, but not including the sale of lumber or other building materials.

“Business, wholesale” means the wholesale handling of any article, substance, service or commodity, but not including the handling of lumber or other building materials or the open storage or sale of any material or commodity, and not including the processing or manufacture of any product or substance.

“Buyer” means any person, copartnership, association, corporation, fiduciary, or other legal or business entity which intends to sign an agreement or instrument which on its face appears to be legally binding or is intended to be legally binding, subject to specified conditions. Such agreement or instrument shall include, but is not necessarily limited to, a deposit receipt, seller’s instructions, contract of sale, exercise of option to buy, or executed deed when there is no prior written agreement.

“Canopy” means any fixed overhead shelter used as a roof, which may or may not be attached to a building and which does not project over public property.

“Carport” means an accessory structure or portion of a main structure open on two or more sides designed for the storage of motor vehicles, without full enclosure.

“Cemetery” means land used or intended to be used for the burial of the dead, and dedicated for such purposes, including columbariums, crematoriums, mausoleums and mortuaries, when operated in conjunction with and within the boundaries of such premises.

“Charitable films” means commercials, motion pictures, television, or videotapes produced by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a

charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film(s) or from showing the films, tapes or photographs.

“City” means the City of Newman.

“City Council” means the City Council of the City of Newman.

“Clinic” means a place for the provision of group medical services.

“Club” means an association of persons for some common nonprofit purpose, but not including groups organized primarily to render a service which is customarily carried on as a business.

“Collection buildings” means buildings with a gross floor area of 225 square feet or less used for the deposit and storage of recyclables.

“College” means an educational institution offering advanced instruction in any academic field beyond the secondary level, but not including trade schools or business colleges.

“College, trade.” See “educational institutions.”

“Combining district” means any district in which the general district regulations are combined with those special districts defined in NCC [5.02.010](#) for the purpose of adding additional special regulations.

“Commercial office” means any administrative or clerical office maintained as a business and any office established by a public service over which this chapter has jurisdiction.

“Communications equipment building” means a building housing electrical and mechanical equipment necessary for the conduct of a public communication business, with or without personnel.

“Conditional use” means a use generally compatible with other uses in a zoning district which requires individual review of its location, design, configuration and density and intensity and may require imposition of conditions to ensure the appropriateness of the use at a particular location.

“Convalescent home.” See “rest homes or homes for the aged.”

“Court” means an open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two or more sides by such building or buildings.

“Coverage, lot or site” means the percentage of a site covered by a roof and any soffit, trellis, eave or overhang extending more than two and one-half feet from a wall, and/or by a deck more than 30 inches in height.

“Cultural resource” means improvements, buildings, structures, signs, features, sites, landscapes, trees or other objects of scientific, aesthetic, educational, cultural, architectural or historical significance to the citizens of the City, the Central Valley, the Northern California region, the State as a whole, or the Nation which may be eligible for designation or designated and determined to be appropriate for historic preservation by the Architectural Review Commission, or by the City Council on appeal, pursuant to the provisions of this chapter.

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

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

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

“Design Review Committee” means the Architectural Review Committee of the City.

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

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

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

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

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

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

“Duplex.” See “dwelling, two-family or duplex.”

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

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

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

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

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

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

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

“Dwelling unit” means one or more rooms, a kitchen, and a restroom designed for occupancy by one family for living and sleeping purposes.

“Educational institutions” means public or other nonprofit institutions conducting regular academic instruction at preschool, kindergarten, elementary, secondary and collegiate levels, and including graduate schools, universities, nonprofit research institutions and religious institutions. Such institutions must either offer general academic instruction equivalent to the standards prescribed by the State Board of Education, confer degrees as a college or university of undergraduate or graduate standing, conduct research, or give religious instruction. This definition does not include schools, academies or institutes, incorporated or otherwise, which operate for a profit, nor does it include commercial or trade schools.

“Emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

“Employee housing, large” means any housing that provides accommodations for no fewer than six (6) employees but no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household, located on property zoned for agricultural use.

“Employee housing, small” means any housing that provides accommodations for six or fewer employees. Use of a family dwelling for purposes of employee housing serving six or fewer persons shall not constitute a change of occupancy for purposes of the local building codes.

“Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a public roadway, street, sidewalk, right-of-way or floodplain which may impede or alter the flow capacity of a floodplain.

“Exterior (building or improvement)” means an arrangement and components of all of the outer surfaces of a building or improvement including, but not limited to, the kind, color and texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

“Family” means a reasonable number of persons occupying a dwelling, as determined by State housing code occupancy standards, living as a single housekeeping unit. A family shall be deemed to include live-in household support staff, if any.

“Fast food restaurant” means a food establishment at which customers order from a menu board and pay for food at time of order.

“Fence” means any structural device forming a physical barrier by means of hedge, wood, mesh, chain, brick, stake, plastic or other similar materials.

“Floor area, gross” means the total area of all floors in a building as measured to the outside surface of exterior walls or to the centerline of common walls. It excludes any crawl space, area used exclusively for vehicle parking or loading, breezeway, attic without floor, and any open porch, deck, balcony or terrace.

“Floor area, net” means the total area of all floors in a building as measured to the outside surface of exterior walls or to the centerline of common walls. It excludes any crawl space, area used exclusively for vehicle parking or loading, breezeway, attic without floor, and any open porch, deck, balcony or terrace. It also excludes any corridor, hallway, stairways, elevator shafts at each floor level, service and mechanical equipment rooms, and basement or attic areas having a height of more than seven feet, and, in industrial areas, storage sheds with less than 150 square feet of space, bunkers, electrical substations, smoking shelters, instrument shelters and similar enclosures.

“Floor area ratio (FAR)” means the ratio of the gross square footage of a building permitted on a lot to the net square footage of the lot.

“Freestanding pole sign” means a freestanding sign independently supported by one or more poles, columns, or uprights to be located immediately adjacent to the road right-of-way. The guideline for setback shall be 10 feet from the property line immediately abutting the road right-of-way.

“Frontage” means the property line of a site abutting on a street, other than the side line of a corner lot.

Frontage, Building. The frontage of a building is the maximum horizontal dimension of that side of a building abutting on or generally parallel to the front lot line or, in the case of a corner building, the combined maximum horizontal dimensions of the sides of the building abutting or generally parallel to the front lot line and the corner side line.

Frontage, Street. The “street frontage” is the length of the front lot line or, in the case of a corner lot, the front lot line plus the corner side lot line.

“Garage or carport” means accessible and usable covered space of not less than nine feet by 20 feet each for a storage of motor vehicles.

“Garage, repair” means a structure or part thereof, other than a private garage, where motor vehicles are repaired or painted.

“Garden structure” means an arbor, deck, fountain, lath house, pergola, raised planting bed, trellis or other similar structure intended specifically to enhance the appearance of the garden or which has a function relating to the use of outdoor space, but not including a house, garage, carport or storage building.

“General Plan” means the City of Newman General Plan, as amended.

“Grade, average” means the average level on the surface defined as the shortest distance between finished grade at the highest and lowest sides of a structure.

“Grade, existing” means the level of the ground or pavement at a stated location as it exists prior to disturbance in preparation for a project regulated by this title.

“Grade, finished” means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

“Grade, street” means the top of the curb, or the top of the edge of the pavement or traveled way where no curb exists.

“Guesthouse” means detached living quarters of a permanent type of construction and without kitchens or cooking facilities, and where no compensation in any form is received or paid.

“Hazardous waste” means any waste, or combination of wastes as specified in Title 22 of the California Code of Regulations, which because of its quantity, concentration, physical, chemical or infectious characteristics may either cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible illness, or pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of, or otherwise managed.

“Height” means the vertical dimension measured from finished grade, unless otherwise specified.

“Height of building” means the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof, excluding elevator equipment rooms, ventilating and air conditioning equipment.

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

“Highway-oriented use” means any professional, retail/commercial, or industrial use located on property within 200 feet of the State Highway 33 right-of-way.

“Historic district” means any area containing a concentration of improvements which have a special character, historical interest or aesthetic value, which possess integrity of location, design, setting, materials, workmanship, feeling and association, or which represent one or more architectural periods or styles typical of the history of the City, and that has been designated a historic district.

“Home occupation” means a use or activity in any R District that is incidental, secondary and in addition to the principal use of a lot or site as a residence, conducted on the site of such residence, and established in accordance with the provisions of Chapter [5.20](#) NCC.

“Hotel.” See “motel or hotel.”

“Household pets” means domestic animals ordinarily permitted in a place of residence, kept for company and pleasure, such as dogs, cats, domestic birds, guinea pigs, white rats, rabbits, mice and other similar animals generally considered by the public to be kept as pets, excluding fowl and not including animals maintained as part of a formal school or 4-H sponsored youth animal husbandry project. For one-family residences, three adult dogs maximum, three adult cats maximum, two adult rabbits maximum, domestic birds and other similar animals are permitted, where the total number of adult animals in one place of residence shall not exceed 10. For multiple-family residences, including mobile homes in mobile home parks, one adult dog maximum, one adult rabbit maximum, two adult cats maximum, domestic birds and other similar animals are permitted, where the total number of adult animals in one place of residence shall not exceed five. For purposes of this definition “adult” shall mean an animal that is weaned from its mother and more than six months of age.

“Illumination, direct” means illumination by means of light that travels directly from its source to the viewer’s eye.

“Illumination, indirect” means illumination by means only of light cast upon an opaque surface from a concealed source.

“Junk” means any old iron, brass, wire, copper, tin, lead, or any other scrap metals, and any rags, papers, trash, cardboard, bags, lumber, bottles, bones, and old parts of bicycles, tricycles, baby carriages, automobiles, other vehicles or machinery, or other scrap materials, and also bicycles, tricycles, baby carriages, automobiles, other vehicles or machinery, dismantled for salvage or “wrecked,” and similar personal property ordinarily classified as junk, all regardless of whether the same is being held for sale or storage.

“Junkyard” means more than 100 square feet of the area of any lot used for the storage of junk, including scrap metals, salvage or other scrap materials, or for the dismantling or “wrecking” of automobiles or other vehicles or machinery, whether for sale or storage.

“Kennel” means any lot or premises on which four or more dogs and/or cats at least four months of age are kept, boarded or trained, whether in special buildings or runways or not. Also, it can be an establishment for the breeding of these animals.

“Kitchen” means any room or part of a room which is designed, built, used, or intended to be used for food preparation and dish washing; but not including a bar, butler’s pantry or similar room adjacent to or connected with a kitchen.

“Landscape” means to plant and maintain some combination of trees, ground cover, shrubs, vines, flowers or lawn. Required landscaping may include natural features such as existing or imported rock and structural features including fountains, pools, artwork, screens, walls, fences or benches. A landscaped area may also include a walkway or concrete plaza if it is an integral part of the elements of landscaping described above. Plants on rooftops, porches, or in boxes attached to buildings are not considered landscaping.

“Landscape area” means a maintained area comprised principally of live vegetative matter (plants, shrubs, ground cover, trees, etc.) with no more than 20 percent covered by nongrowing or nonvegetative matter (rocks, bark, concrete, etc.) after three years of growth.

“Landscaping” means the placement of materials such as grass, flowers, ground cover, shrubs, hedges, trees, decorative walls and fences, and berms within a designated area.

“Lodge” means an order or society of persons organized for some common nonprofit purpose, but not including groups organized primarily to render a service which is customarily carried on as a business.

“Logo” means a trademark or company name symbol.

“Lot” means a site or parcel of land.

“Lot area” means the horizontal area within the property lines excluding public-access corridors, vehicular easements, and areas to be included in future street rights-of-way as established by easement, dedication, or ordinance.

“Lot, average width” means the average horizontal distance between the side lot line measured at right angles to the lot depth, at the required front setback line.

“Lot depth” means the average horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

“Lot front” means the shortest dimension of a lot fronting on a street.

“Lot, interior” means a lot other than a corner lot.

“Lot line” means a line separating the front from a street; the side from a street or adjoining property.

“Lot rear” means the lot boundary opposite or approximately opposite the lot front; in the case of a triangular or gore-shaped lot, a line 10 feet in length, within the lot, parallel to and at the maximum distance from the front line of the lot.

“Lot side” means any lot boundary not a front or rear lot line.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Off-street loading facilities” means a site or portion of a site devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

“Off-street parking” means a parking area located off any public right-of-way, alley, or private street which shall be provided as required by this title.

“Off-street parking facility or lot” means a site or a portion of a site devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives and landscaped areas.

“Office” means a business establishment for rendering of service or administration, but excluding retail sales.

“Open space – usable” means any area within a lot or parcel which is not covered with a structure.

“Ordinary maintenance and repair” means any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.

“Outdoor advertising structure” means any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, located on a site other than the site on which the advertised product is produced.

“Outdoor storage” means storage outside of a building of material not intended for immediate sale or exhibition.

“Owner” means any person, copartnership, association, corporation, fiduciary, or other legal or business entity having legal or equitable title or any interest in any residential property.

“Parking district” means a government parking district maintained by the Federal, State, County or City government, or special district.

“Parking space” means an area for parking of a motor vehicle, plus those additional areas and facilities required to provide safe access to and from said space. The area set aside for a parking space must be usable and accessible for the type of parking need that must be satisfied within the context of this title.

“Patio Cover” means a shade structure with a solid roof that is usually attached or detached to the primary building and is unenclosed (i.e. without walls) on at least three (3) sides when attached and all four (4) sides when detached, except for required vertical/roof supports. Patio covers fall under the accessory building classification and shall comply with all respects with the requirements of this title applicable to accessory buildings.

“Permitted” means allowed without a requirement for approval of a conditional use permit or temporary use permit.

“Person” includes any individual, city, county or city and county; partnership, corporation, cooperative, association, trust or any other legal entity, including the State of California and the Federal Government.

“Planning Commission” means the Planning Commission of the City of Newman.

“Planning Department” means the Planning Department of the City of Newman.

“Planning Director” means the Planning Director of the City of Newman.

“Porch” means a covered platform, usually having a separate roof, at an entrance to a dwelling, or an open or enclosed gallery or room, which is not heated or cooled, that is attached to the outside of a building.

“Preexisting” means in existence prior to the effective date of the ordinance codified in this chapter.

“Preservation” means the act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form and vegetative cover of a site.

“Private open space” means an open area outside of a building adjoining and directly accessible to a dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.

“Processing facility” means a building or enclosed space used for the collection and processing of recyclable material, and/or used motor oil, by such means as flattening, mechanical sorting, compacting, baling, shredding, grinding, crushing and cleaning.

1. A light-processing facility occupies less than 45,000 square feet and includes equipment for baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials, except ferrous metals other than food and beverage containers, and repairing of reusable materials.
2. A heavy-processing facility is any processing facility other than a light-processing facility.

“Project” means any proposal for new or changed use, or for new construction, alteration, or enlargement of any structure, that is subject to the provisions of this chapter.

“Public utility service yard” means a site or portion of a site on which a public utility company may store, house and/or service equipment such as service trucks and other trucks and trailers, pumps, spools of wire, pipe, conduit, transformers, cross-arms, utility poles or any other material, tool or supply necessary for the normal maintenance of the utility facilities.

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

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

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

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

“Residential care facility, large” means any use, including supportive and transitional housing, of a residential unit serving seven (7) or more persons on a twenty-four (24) hour per day basis. Also includes “dwelling, group.” Also includes a State-authorized, certified or licensed family care home, foster home, or a group home serving seven (7) or more disabled persons or dependent and neglected children on a 24-hour-a-day basis.

~~“Residential care facility, small” means a structure or dwelling unit used for residential purposes as defined in State law that is licensed by the State of California for six or fewer residents and is exempt from local regulation under the licensing provisions of State law~~ *any use, including supportive and transitional housing, of a residential unit serving six or fewer persons on a twenty-four (24) hour per day basis. A small residential care facility is a state mandated residential use of the property. Also includes “Dwelling, group.” Also includes a State-authorized, certified or licensed family care home, foster home, or a group home serving six or fewer disabled persons or dependent and neglected children on a 24-hour-a-day basis.*

“Residential property” means any unimproved or improved real property or portion thereof situated in the City limits, designed or permitted to be used for dwelling purposes, and shall include any/all additional buildings and structures located on said real property. This includes any real property being offered for sale, trade, transfer, or exchange as residential, whether or not it is legally permitted and/or zoned for such use.

“Residential, single-family attached” means a building containing two (2) or more independent and attached residential units, without common property governed by a homeowner’s association. Also includes “Dwelling, two-family (halfplex). Also includes “Employee housing, small” and “Residential care facility, small.” Also includes “Manufactured home.”

“Residential, single-family detached” means a detached residential unit. Also includes “Employee housing, small and “Residential care facility, small.” Also includes “Manufactured home.”

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

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

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

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

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

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

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

“Rooming house.” See “boardinghouse.”

“School, elementary, middle or junior high or high” means public and other nonprofit institutions conducting regular academic instruction at kindergarten, elementary and secondary levels. Such institutions shall offer general academic instructions equivalent to the standards prescribed by the State Board of Education.

“School, private or parochial” means an institution conducting regular academic instruction at kindergarten, elementary or secondary levels, operated by a nongovernmental organization.

“Screening” means the provision of a minimum six-foot-high living or nonliving buffer designed to diffuse noise, glare and negative visual impacts. Living screening shall have a minimum depth of three feet.

“Secondary residential unit.” See “accessory residential unit.”

“Seller” means any person, company, partnership, association, corporation or fiduciary having legal or equitable title or any interest in the property or the designated representative of the seller.

“Service station” means an occupancy engaged in the retail sales of gasoline, diesel or liquefied petroleum gas fuels, oil, tires, batteries and new accessories, and which provides for the servicing of motor vehicles and operations incidental thereto, including automobile washing, incidental waxing and polishing, tire changing and repairing (but not including recapping), battery service, charging and replacement (but not including repair or rebuilding), radiator cleaning, flushing and repair, installation of minor accessories, lubrication of motor vehicles, rental of utility trailers, and the testing, adjustment and replacement of motor parts and accessories.

“Setback line” means a line established by this title to govern the placement of buildings or structures with respect to lot lines, streets or alleys.

Shall. “Shall” is mandatory; “may” and “should” are permissive.

“Shared open space” means an open area within a residential development reserved for the exclusive use of residents of the development and their guests.

“Shopping center” means a unified group of retail businesses and service uses on a single site with common parking facilities. A “shopping center” may include pads for future buildings.

Side and Front of Corner Lots. For the purpose of this title the narrowest frontage of a corner lot facing the street is the “front,” and the longest frontage facing the intersecting street is the “side,” irrespective of the direction in which the dwelling faces.

“Sign approval” means an approval issued by the Planning Department to any person or entity authorized by this chapter to erect a sign, except as exempted. A building permit issued by the Building Department may also be required prior to a sign being lawfully erected.

“Sign area” means the entire face of a sign, including the surface and any framing, projections or molding, but not including the support structure. Where a sign consists of letters individually attached to or painted on the wall of a building or structure where there is no distinguishable frame or border, the sign area will be considered that area around all words and symbols enclosed by no more than eight lines.

Sign Types.

1. **Business Identification Sign.** A sign that serves to identify only the name and address of the premises, business, building or portion of building upon which it is located and includes no other advertising such as product lists, phone numbers and hours of operation. Such a sign may include a logo or business symbol.
2. **Construction Sign.** Signs located on a site during construction, which informs of new buildings, opening dates, leasing opportunities, and/or identifies the architects, engineers, contractors, and financiers.
3. **Directional Sign.** Any sign erected for the sole purpose of providing direction to the general public. Directional signs include, but are not limited to, signs that: denote the route to any city, community facility, historic place, or hospital; signs directing and regulating traffic; signs directing visitors to any tourist-oriented business; notices of any utility or transmission company necessary for the direction or safety of the public; and signs, notices or symbols as to the time and place of civic meetings.
4. **Freestanding or Ground Sign.** Any sign supported by structures or supports, placed or anchored in the ground and that is independent from any building or other structure.
5. **Grand Opening Sign.** A sign used by newly established businesses to inform the public of their location and services.
6. **Ground Sign.** A ground sign is a freestanding sign six feet or less in height.
7. **Incidental Sign.** A small sign pertaining to goods, products, services or facilities that are available on the premises where the sign occurs and intended primarily for the convenience of the public.
8. **Nameplate Sign.** A sign attached to a building that designates the name and/or address of a business, and/or the words “entrance” or “exit.”
9. **Marquee.** A permanent roofed structure attached to and supported by a building and projecting over public property.
10. **Monument Sign.** A specific type of ground sign supported from grade to the bottom of the sign with the appearance of having a solid base. These signs are generally located at the primary entry points to a project, and identify the name of a center or group of buildings rather than that of an individual tenant.
11. **Off-Site Advertising on Billboard.** Any sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or offered at the property on which the sign is located.
12. **Open House Sign.** A temporary sign that identifies a building for sale or lease which is open and available for inspection, and sets forth no other advertisement.
13. **Portable Sign.** Any sign not permanently attached to the ground or other permanent structure, or uses that depend on frequently changing events.
14. **Projecting Sign.** Any sign permanently attached to a building and projecting at not more than four feet over a sidewalk or other pedestrianway. A projecting sign shall be a single perpendicular plane located not less than eight feet or more than 12 feet above a sidewalk or pedestrian walkway. Projecting signs shall be made of wood or wood-like material and shall not be directly illuminated. Each sign area is limited to six square feet per face.

15. Reader Board. A sign constructed so that individual letters or other advertising material can easily be changed, used only by businesses, activities or uses that depend on frequently changing events.

16. Special Events Sign. A temporary sign advertising or pertaining to any civic, patriotic, or special event of a general public interest taking place within the County.

17. Subdivision Directional Sign. A sign providing direction to a land development project within the City.

18. Temporary Sign. Nonilluminated signs which are designed to be displayed for a short period of time; are not permanently affixed to a building or property; and/or are constructed of lightweight materials such as paper, cloth, cardboard, wallboard, etc.

19. Window Sign. Any sign that is painted, applied or attached to a window or located in such a manner that it can be seen from the exterior of the structure.

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

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

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

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

“Storage containers” shall mean any container (metal or otherwise) previously used as a shipping/cargo container, including but not limited to: all trailers and/or shipping containers manufactured with or without axles and wheels; boxcars; box vans that have been disconnected from a chassis; busses; cargo containers; mobile storage trailers; passenger coaches; “portable on-demand storage structures (PODS)”; semi-truck trailers; storage structures or cargo boxes designed or once serving as commercial shipping or truck trailers or boxes; shed-like containers; streetcar bodies or similar enclosures and rolling stock; temporary storage units; tents; trains; truck/tractor trailers; the parking of tractor-trailers or separate tractors or cargo boxes and/or any and all other portable structure that can be or is used for the storage of personal property of any kind or other similar use as determined by the Community Development Department.

“Story” means the portion of a building included between the upper surface of a floor and the upper surface of the floor next above. The topmost story is that portion of a building included between the upper surface of the topmost floor and the ceiling of the roof above.

“Story, half” means any story in which the floor area covers less than half of the building footprint. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such usable or unused under-floor space shall be considered a story.

“Street” means a public thoroughfare which affords principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an “alley” as defined herein.

“Street line” means the boundary between a street right-of-way and property.

“Structural alterations” means any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

“Structure” means anything constructed or erected, the use of which requires location on or in the ground, or attachment to something having location on the ground, excluding swimming pools,

driveways, patios, parking spaces or nonpermanent structures such as tool sheds, hot tubs, spas and similar movable structures.

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

“Swimming pools, fish ponds and hot tubs” means water-filled enclosures having a depth of 18 inches or more used for swimming or recreation or as a landscape feature.

“Trailer court” means land or premises used or intended to be used, let or rented for occupancy by one or more trailers, camp cars or movable dwellings, rooms or sleeping quarters of any kind, including trailer parks and mobile home parks.

“Trailer sales lot” means an open area where trailers are sold, leased or rented, and where no repairs, repainting or remodeling are done.

“Trailer, utility” means a vehicle with or without motive power, designed and constructed to travel on the public thoroughfares in accordance with the provisions of the State Vehicle Code, and to be used only for carrying property.

“Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

“Transmission line” means an electric power line bringing power to a receiving or distribution substation.

“Travel trailer” means a vehicle with or without motive power, designed and constructed to travel on the public thoroughfares in accordance with provisions of the State Vehicle Code, designed for human habitation, with no footing or foundation other than wheels and temporary stabilizing units, with exterior dimensions less than eight feet in width and less than 40 feet in length. The terms “camper” and “motor home” are included within the meaning of the term “travel trailer.”

“Travel trailer parks” means a parcel, or contiguous parcels of land under single ownership, designed or intended to be used to accommodate travel trailers on a transient basis (one month continuous occupancy or less).

“Use” means the purpose for which land or a building is designed, arranged or intended or for which either land or building is or may be occupied or maintained.

“Use, accessory” means a use incidental or subordinate to and devoted exclusively to the main use of a lot or a building located on the same lot.

“Use, conditional” means a use which is listed as a conditional use in any given district in this title. Conditional uses may be required to meet certain requirements as a condition precedent to the granting of a use permit which will allow the establishing of a conditional use in any given district.

“Use, permitted” means a use which is listed as a permitted use in any given district in this title. Permitted uses need not meet special requirements as a condition precedent to be allowed to establish in a given district.

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

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

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

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

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

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

Yard Types.

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

“Zoning Ordinance” means the Zoning Ordinance of the City of Newman, as amended. (*Ord. 2016- , 07-12-2016*; *Ord. 2010-2 § 1, 2-9-2010*; *Ord. 2009-8 § 1, 7-28-2009*; *Ord. 2000-1 §§ 1, 2, 3, 5-23-2000*; *Ord. 97-17, 10-28-1997*)

Section 4.

Title 5 (Zoning), Chapter 5.03 (Single-Family Residential District), Section 5.03.020 (Permitted uses) of the Newman City Code is amended as follows:

5.03.020 Permitted uses.

Unless otherwise governed by this title, the following uses shall be permitted in R-1 Single-Family Residential Districts:

- A. ~~Single family dwelling~~ *Residential, single family detached.*
- B. Fenced or enclosed swimming pools for either individual, family use on an exclusive noncommercial basis; provided, that no swimming pool shall be located within a utility easement.
- C. Accessory structures and uses located on the same site with a permitted use, if constructed concurrently with or subsequently to the main use.
- D. A “small family day care home” as defined by the State Health and Safety Code, which provides family day care to six or fewer children, including children who reside in the home.
- E. ~~A State authorized, certified or licensed family care home, foster home or group home serving six or fewer mentally disabled, or otherwise handicapped persons, or dependent and neglected children.~~
Residential care facility, small
- F. The keeping of household animals (pets) shall be as follows: for one-family residences, three dogs maximum, three cats maximum, two rabbits, domestic birds and other small caged animals, excluding fowl, are permitted where the total number of animals in one place of residence shall not exceed 10. (*Ord. 2016-XX, 07-12-2016;_Ord. 97-17, 10-28-1997*)

Section 5.

Title 5 (Zoning), Chapter 5.04 (R-2/R-2S Duplex/Medium Density Single-Family Residential District), Sections 5.04.020 (R-2 permitted uses) and 5.04.021 (R-2S permitted uses) of the Newman City Code are amended as follows:

5.04.020 R-2 permitted uses.

Unless otherwise governed by this title, the following uses shall be permitted in the R-2 Zoning District:

A. Accessory buildings.

B. Animals. The keeping of household animals (pets) shall be as follows: for one-family residences, three dogs maximum, three cats maximum, two rabbits, domestic birds and other small caged animals, excluding fowl, are permitted where the total number of animals in one place of residence shall not exceed five.

C. ~~Duplexes and halfplexes.~~

D. ~~Single family dwellings Residential, single family attached.~~

E. *Residential, single family detached.* (*Ord. 2016-XX, 07-12-2016*; Ord. 2011-3, 5-24-2011; Ord. 97-17, 10-28-1997)

5.04.021 R-2S permitted uses.

Unless otherwise governed by this title, the following uses shall be permitted in the R-2S Zoning District:

A. Accessory buildings.

B. Animals. The keeping of household animals (pets) shall be as follows: for one-family residences, three dogs maximum, three cats maximum, two rabbits, domestic birds and other small caged animals, excluding fowl, are permitted where the total number of animals in one place of residence shall not exceed five.

C. ~~Single family dwellings Residential, single family detached.~~ (*Ord. 2016-*, *07-12-2016*;_Ord. 2011-3, 5-24-2011)

Section 6.

Title 5 (Zoning), Chapter 5.05 (R-3 Multiple-Residential District District), Sections 5.05.020 (Permitted Uses) and 5.05.060 (Special Use Property Development Standards) of the Newman City Code are amended as follows:

5.05.020 Permitted uses.

Unless otherwise governed by this title, the following uses ~~shall be permitted~~ *are allowed by right (i.e., no discretionary permit is required that would constitute a "project" for the purposes of complying with the California Environmental Quality Act)* in the R-3 Zoning District:

A. Accessory buildings.

B. Animals. For multiple-family residences, including mobile homes in mobile home parks, one dog maximum, one rabbit maximum, two cats maximum, domestic birds and other small caged animals are permitted where the total number of animals in one place of residence shall not exceed five.

C. Apartments.

D. ~~Duplexes and halfplexes.~~

E. ~~Single family dwellings Residential, single family attached.~~

F. *Residential, single family detached.*

G. Triplexes. (*Ord. 2016-XX, 07-12-2016*;_Ord. 97-17, 10-28-1997)

5.05.060 Special use property development standards.

In addition to, and in supplement of other provisions of this chapter, the following special property development standards shall be applied as follows:

A. Single-family dwellings and halfplexes are subject to the regulations set forth in the R-2 District.

B. Duplexes, triplexes, apartments or dwelling group:

1. Minimum building site required: 6,000 square feet for interior lots and 6,500 square feet for corner lots for each dwelling.
2. Minimum average lot width: 60 feet for interior lots and 65 feet for corner lots.
3. Minimum Street Frontage. The City Planning Commission shall be responsible for determining the minimum street frontage based on the buildable area of the lot, access requirements and good design. However, in no case shall the Planning Commission approve lots having less than 35 feet of street frontage.
4. Minimum lot area per unit: 1,500 square feet of lot per dwelling unit.
5. Minimum front yard setback: 15 feet from property line.
6. Minimum rear yard setback: 15 feet from property line.
7. Minimum side yard setbacks: Five feet from property line. However, a corner lot shall have a side yard abutting a street of not less than 10 feet from the property line.
8. Maximum lot coverage: 80 percent of the total lot area. Lot coverage shall specifically include all buildings and structures and paved parking areas.
9. Maximum building height: 35 feet.

C. Rooming and boardinghouse, lodge, club, rest home and nonresidential uses (use permit required):

1. Minimum building site required: 7,500 square feet for interior and/or corner lots.
2. Minimum average lot width: 60 feet for interior lots and 65 feet for corner lots.
3. Minimum Street Frontage. The City Planning Commission shall be responsible for determining the minimum street frontage based on the buildable area of the lot, access requirements and good design. However, in no case shall the Planning Commission approve lots having less than 35 feet of street frontage.
4. Minimum front yard setback: 15 feet from property line.
5. Minimum rear yard setback: 15 feet from property line.
6. Minimum side yard setbacks: Five feet from property line. However, a corner lot shall have a side yard abutting a street of not less than 10 feet from the property line.
7. Maximum lot coverage: 80 percent of the total lot area. Lot coverage shall specifically include all buildings and structures and parking areas.
8. Maximum building height: 35 feet.

D. Affordable Housing Sites, which are herein defined as sites re-zoned to R-3 for the purpose of implementing a housing program contained the General Plan Housing Element, must comply with Government Code §65583.2(h) and (i). The following regulations apply to Affordable Housing Sites:

1. Owner-occupied and rental multifamily residential use is allowed by right (i.e., no discretionary permit is required that would constitute a “project” for the purposes of complying with the California Environmental Quality Act).

2. The minimum allowable development density is 20 units per acre. (Ord. 2016-XX, 07-12-2016; Ord. 97-17, 10-28-1997)

Section 7.

Title 5 (Zoning), Chapter 5.06 (C-1 Retail Business District), Section 5.06.040 (Conditional uses – Commission approval required) of the Newman City Code is amended as follows:

5.06.040 Conditional uses – Commission approval required.

Any principal permitted use which is not conducted entirely within a building shall be required to obtain a conditional use permit. In addition, the following uses, and uses determined to be similar, may be permitted in the Retail Commercial (C-1) Zoning District subject to approval of a conditional use permit:

Auto repair, auto body shop and/or auto paint shop.

Automobile sales and related service not entirely contained within a building.

Automotive parts and accessories, sales and service.

Bars, taverns, nightclubs, and cocktail lounges.

Bowling alleys and skating rinks.

Car and truck rentals.

Car washes, automatic and self-service.

Card, pool and billiard rooms and arcades.

Churches and other religious institutions.

Convenience food stores and markets, with gasoline filling stations.

Electronic or mechanical game centers.

Equipment or party rental with outdoor storage.

Fast food restaurants and restaurants with drive-through service.

Gasoline filling stations, with or without auto service.

Hotels and motels.

Mini-storage facilities.

Motorcycle sales and service, new and used.

Off-street parking lots, when not serving a use located on the site.

Parking lots, and/or garages.

Pet clinic (or animal hospital) with no overnight boarding.

Print shops.

Private clubs, lodge halls and meeting facilities.

Secondhand shops.

Warehousing.

Wholesale operations primarily serving the local community.

Residential care facility, small located in buildings previously used for residential purposes or in the rear of buildings or above the ground floor.

Residential uses which are compatible with the Retail Commercial District such as residential uses in buildings previously used for residential purposes, owner-occupied residential uses located in the rear of buildings or above the ground floor. (Ord. 2016-XX, 07-12-2016; Ord. 97-17, 10-28-1997)

Section 8.

Title 5 (Zoning), Chapter 5.09 (M Light Industrial/Business Park District), Section 5.09.020 (Permitted Uses) of the Newman City Code is amended as follows:

5.09.020 Permitted uses.

The following uses, and uses determined to be similar, shall generally be permitted in the Light Industrial/Business Park (M) Zoning District when conducted entirely within a building or entirely screened with a solid fence or wall, with the exception of motor vehicle and mobile home sales lots and commercial and industrial truck parking areas. *Emergency shelters are allowed by right (i.e., no discretionary permit is required that would constitute a "project" for the purposes of complying with the California Environmental Quality Act).*

Administrative, business and professional offices.

Agricultural cultivation as a temporary use.

Assembly of the following:

Electrical equipment, such as radio, stereo, video and related electronic equipment.

Small electrical appliances, optical goods, precision equipment.

Automobile, truck, farm equipment, motorcycle and trailer accessories and parts manufacture and assembly, including sales, repairing and painting of same.

Bakeries, wholesale and distribution.

Banks and savings and loan offices.

Bottling plants.

Box factories and cooperage.

Brick, tile and clay products manufacture.

Building maintenance services.

Building materials manufacture and assembly, including composition wall boards, partitions, panels and prefabricated structures.

Building supply and/or hardware sales.

Business support services.

Cabinet or woodworking shop and furniture manufacture.

Can, bottle, glass and container manufacture.

Canvas products manufacture.

Ceramics products manufacture, using only previously pulverized clay.

Cold storage plants.

Communication services.

Dry-cleaning plants and commercial laundries.

Electroplating.

Emergency shelter.

Equipment rental agencies.

Food and food products manufacture.

Frozen food distributors.

Heating, plumbing, ventilation and air conditioning shops.

Laboratories, including commercial, testing, research and testing labs.

Light manufacturing, assembly, and packaging facilities or uses which have no objectionable noise, odor, or nuisance factors.

Lumber and building material yards.

Machine shop and machine tool manufacture, including metal lathes, metal stamping machines and woodworking machines.

Machinery manufacture, including heavy electrical, agricultural and construction machinery.

Manufacture, repair and assembly of the following:

Business machines.

Cutlery.

Electrical supplies and motors.

Hand tools.

Hardware.

Optical goods.

Precision instruments.

Scientific, medical and dental instruments.

Sheet metal products.

Signs.

Tool and die.

Toys and musical instruments.

Mini-storage and public storage facilities.

Moving agencies and storage warehouses.

Off-street parking lots and garages.

Paper products manufacture.

Parcel delivery terminals and offices.

Printing and publishing plants, printing, lithography and engraving services.

Product distribution centers.

Public buildings, facilities and uses.

Public utility uses and facilities.

Research and development offices and laboratories.

Tattoo parlors.

Service stations and car washes.

Warehouses and warehousing.

Wholesaling operations, which primarily serve the local community.

Other uses which, in the judgment of the Planning Commission, are similar to and no more objectionable than any of the uses set forth in this section. (*Ord. 2016-XX, 07-12-2016; Ord. 98-4 § 1, 8-25-1998; Ord. 97-17, 10-28-1997*)

Section 9.

Title 5 (Zoning), Chapter 5.14 DBO Density Bonus Overlay, of the Newman City Code shall be amended and replaced in its entirety with the following:

Chapter 5.14 ***RESIDENTIAL DENSITY BONUS PROVISIONS***

Sections:

5.14.010 Intent and Purpose.

5.14.020 Definitions

5.14.030 Types of Bonuses and Incentives Allowed.

5.14.040 Additional Density Bonus for Donations of Land.

5.14.050 General Provisions Governing Density Bonus Calculations.

5.14.060 Incentives and Concessions for Affordable Housing.

5.14.070 Waivers and Modifications of Development Standards.

5.14.080 Parking Incentives.

5.14.090 Standards for Density Bonus Housing Developments.

- 5.14.100 *Application Requirements.*
- 5.14.110 *Application Review.*
- 5.14.120 *Developer Affordable Housing Agreement.*

5.14.010 Intent and purpose.

This Chapter is being enacted: a) to provide incentives for the production of housing for very low income, low income, moderate income and senior citizen households; b) to provide incentives for the creation of rental housing serving lower and moderate income households; and c) to implement sections 65915, 65915.5, and 65917 of the California Government Code as required by section 65915(a). In enacting this Chapter, the city also intends to implement the goals, objectives, and policies of the city's general plan housing element to encourage the construction of affordable housing in the city. It is also the city's intent to encourage the development of rental housing to serve an economically diverse community. Accordingly, the city desires to provide a density bonus upon the request of an applicant when the applicant includes affordable or senior citizen restricted units in a project. This Chapter implements the laws for density bonuses and other incentive and concessions available to qualified applicants under Government Code sections 65915 through 65918. In the event these Government Code sections are amended, those amended provisions shall be incorporated into this Chapter as if fully set forth herein.

5.14.020 Definitions.

For purposes of this Chapter, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this Chapter its most reasonable interpretation.

A. "Affordable ownership cost" means the average annual housing costs, including mortgage payments, property taxes, homeowner's insurance, and homeowners' association dues, if any, which do not exceed the following:

- 1. Very low income households: 50 percent of area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent.*
- 2. Lower income households: 70 percent of area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent.*
- 3. Moderate income households: 110 percent of area median income, adjusted for assumed household size based on unit size, multiplied by 35 percent.*

B. "Affordable rent" means the annual rent, including utilities and all fees for housing services, which does not exceed the following:

- 1. Very low income households: 50 percent of area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent.*
- 2. Lower income households: 60 percent of area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent.*

C. "Affordable units" means dwelling units that are affordable to very low, lower, or moderate income households as defined by this Chapter or by any federal or state housing program and are subject to rental, sale, or resale restrictions to maintain affordability.

D. "Applicant:" means a developer or organization applying for a density bonus who seeks and agrees to construct a qualified housing development on or after the effective date of this Chapter pursuant to Section 65915, subdivision (b), of the California Government Code.

E. "Area median income" means the median income for Stanislaus County as published by the State of California pursuant to California Code of Regulations, Title 25, Section 6932, or a successor provision.

F. "Assumed Household Size Based on Unit Size" means a household of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

G. "Common interest development" means as defined in Section 1351 of the California Civil Code a common interest development may include a community apartment project, a condominium project, a planned development, or a stock cooperative.

H. "Density Bonus" means a density increase over the otherwise allowable zoning maximum residential density on a site as of the date of application by the applicant to the city, granted pursuant to Chapter 5.14.

I. "Density bonus units" means dwelling units granted pursuant to Chapter 5.14 which exceed the otherwise allowable zoning maximum residential density for a housing development.

J. "Household income" means the combined adjusted gross household income for all adult persons living in a dwelling unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor provision.

K. "Very low income household" means as defined in California Health & Safety Code Section 50105, very low income persons and families are those whose incomes do not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 which is 50 percent of area median income, adjusted for family size and revised annually.

L. "Lower income household" means as defined in California Health & Safety Code Section 50079.5 lower income persons and families are those whose incomes do not exceed the qualifying limits for low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 which is 70 percent of area median income, adjusted for family size and revised annually.

M. "Moderate income household" means persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

N. "Housing development" means one or more groups of projects to construct dwelling units in the planned development of the city. Housing development also includes a subdivision or common interest development, as defined in Section 1351 of the California Civil Code, approved by the city and consisting of dwelling units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available dwelling units. For the purpose of calculating a density bonus, the dwelling units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.

O. "Incentive and concessions" means regulatory concessions as listed in Section 5.14.060 of this Chapter.

P. "Market rate unit" means a dwelling unit which is not an affordable unit or an inclusionary unit.

Q. "Maximum residential density" means the maximum number of dwelling units permitted by the Zoning Code and Land Use element of the general plan or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and community development element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the community development element of the general plan, the general plan density shall prevail. The maximum allowable density is based on the date an application for a housing development is deemed complete. This definition is used to calculate a density bonus pursuant to this Chapter.

R. "Senior citizen housing development" means senior citizen housing as defined in Section 51.3 (a housing development developed, substantially rehabilitated, or substantially renovated for senior citizens that has at least 35 dwelling units) and Section 51.12 of the California Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

S. "Specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete. Mere inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

5.14.030 Types of bonuses and incentives allowed.

A. *Very low and lower income housing and senior citizen housing.* Upon written request to the city, an applicant for a housing development is eligible for one density bonus of twenty percent (20%) over the maximum residential density (except in the case of senior citizen housing, as provided below), provided that the applicant agrees to construct the housing development in accordance with one of the following criteria:

1. *Very Low Income Households.* Five percent (5%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to very low income households; or
2. *Lower Income Households.* Ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to lower income households; or
3. *Senior Citizen Housing Development.* For senior citizen housing developments, the density bonus shall be twenty percent (20%) of the number of senior housing units provided.

B. *Moderate income housing.* Upon written request to the city, an applicant for a housing development is eligible for one density bonus of five percent (5%) over the maximum residential density if the applicant agrees to construct the housing development in accordance with all of the following criteria:

1. *At least ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable ownership costs to moderate income households; and*
2. *The housing development is a common interest project as defined by section 1351 of the California Civil Code; and*
3. *All of the dwelling units in the housing development are offered for sale to the public.*

C. *Higher density bonus for greater contribution of affordable units:* Upon written request to the city, an applicant for a housing development that is eligible for a density bonus based upon the contribution of affordable units, may receive a higher amount of density bonus if the percentage of very low, lower, and moderate income housing units exceeds the base percentage established in subsection A or B of this section, as follows:

1. *Very low income units.* For each one percent (1%) increase above five percent (5%) in affordable units for very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty-five percent (35%), as follows:

Table 1: Very Low Income Units

Percentage of Very Low Income Units	Percentage of Density Bonus
5	20.0
6	22.5
7	25.0
8	27.5
9	30.0
10	32.5
11	35.0

2. *Lower income units.* For each one percent (1%) increase above ten percent (10%) in the affordable units for lower income households, the density bonus shall be increased by one and one-half percent (1.5%) up to a maximum of thirty-five percent (35%), as shown in Table 2:

Table 2: Lower Income Units

Percentage of Very Low Income Units	Percentage of Density Bonus
10	20.0
11	21.5

12	23.0
13	24.5
14	26.0
15	27.5
16	29.0
17	30.5
18	32.0
19	33.5
20	35.0

3. *Moderate income units. For each one percent (1%) increase above ten percent (10%) in affordable units offered for sale to moderate income households, the density bonus shall be increased by one percent (1%) up to maximum thirty-five percent (35%), as shown in Table*

Table 3: Moderate Income Units

Percentage of Very Low Income Units	Percentage of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32

<i>Percentage of Very Low Income Units</i>	<i>Percentage of Density Bonus</i>
38	33
39	34
40	35

D. Continued affordability. Affordable units qualifying a housing development for a density bonus shall remain affordable as follows:

1. Very low income and low income household units shall remain affordable to the designated income group for a minimum of thirty (30) years, or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the dwelling units.

2. Moderate income household units shall remain affordable for a minimum of thirty (30) years, or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program applicable to the dwelling units.

3. Notwithstanding the foregoing, very low, low, and moderate income units in housing developments qualified for a density bonus that are located in or found by the redevelopment agency to benefit a redevelopment project area shall remain at an affordable level for a period of not less than forty five (45) years for owner occupied units, and not less than fifty five (55) years for rental units, in accordance with applicable provisions of the California community redevelopment law (Health and Safety Code section 33000 et seq.). Upon resale, the city shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The equity sharing agreement shall include the following provisions:

a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The city shall recapture any initial subsidy as defined in subsection (4)(c)2 of this section, and its proportionate share of appreciation, as defined in subsection (4)(c)3 of this section, which amount shall be used within five (5) years for any of the purposes described in Health and Safety Code section 33334.2(e).

b. The city's initial subsidy shall be equal to the fair market value of the home at the time of the initial sale minus the initial sale price to the moderate income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

c. The city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.

E. Specification of basis for density bonus. Each applicant who requests a density bonus pursuant to this section, shall elect whether the bonus will be awarded on the basis of subsection (1)(a), (1)(b), (1)(c) or (2) of this section. Each housing development is entitled to only one density bonus, which may be selected based on the percentage of either very low income affordable housing units, lower income affordable housing units or moderate income affordable housing units, or the development's status as a senior citizen housing development. Density bonuses from more than one of these categories may not be combined.

5.14.040 Additional density bonus for donations of land.

A. Land suitability. Upon written request, when an applicant for a tentative map, subdivision map, parcel map, or other residential development approval qualified for a density bonus pursuant to section 5.14.030 of this Chapter also donates land to the city in accordance with this section, the applicant shall be entitled to an additional density bonus. Applicants donating land to the city shall be eligible for an additional fifteen percent (15%) density bonus at the site of the housing development if the donated land is suitable for the construction of very low income units equaling at least ten percent (10%) of the market rate units being constructed for the project. The density bonus provided pursuant to this section shall be

in addition to any density bonus granted pursuant to section 5.14.030 of this Chapter, up to a maximum combined density bonus of thirty-five percent (35%).

B. Qualification criteria. To qualify for the additional density bonus described in subsection 1 of this section, the donation of land must meet all of the following criteria:

1. The tentative map, subdivision map, parcel map, or other residential development must otherwise be subject to a density bonus pursuant to section 5.14.030 of this Chapter; and
2. The land must be transferred no later than the date of the approval of the final subdivision map, parcel map, or housing development application; and
3. The developable acreage and zoning classification of the land being transferred must be sufficient to permit construction of dwelling units affordable to very low income households in an amount not less than ten percent (10%) of the total number of market rate dwelling units in the proposed development (i.e., the proposed development before the addition of any density bonus); and
4. The donated land is at least one acre in size or is large enough to permit development of at least forty (40) units, has the appropriate general plan land use designation, has the appropriate zoning and development standards for affordable housing and, at the time of project approval is, or at the time of construction will be, served by adequate public facilities and infrastructure; and
5. No later than the date of approval of the final map, parcel map, or other development application for the housing development, the donated land must have all of the applicable permits and approvals (other than building permits) necessary for the development of the very low income housing units on the donated land, except that the city may subject the proposed housing development to subsequent design review to the extent authorized by California Government Code section 65583.2 subsection (i) if the design is not reviewed by the city prior to the time of transfer; and
6. The donated land is subject to a deed restriction ensuring continued affordability of the very low income units consistent with subsection 5.14.030 subsection (4) of this Chapter, which deed restriction shall be recorded upon the donated property at the time of its transfer; and
7. The land will be transferred to the city, or to a housing developer approved by the city. The city reserves the right to require the applicant to identify a developer and to require that the land be transferred to that developer; and
8. The land is within the boundary of the proposed housing development or within one-fourth (1/4) mile of the boundary of the proposed housing development; and
9. No later than the date of approval of the final map, parcel map, or other development application for the housing development, a proposed source of funding for the construction of the very low income units shall be identified.

C. Additional density bonus based on greater suitability of land for very low income housing. For each one percent (1%) increase above the minimum ten percent (10%) in the number of very low income housing units that can be accommodated on the donated land, the maximum density bonus shall be increased by one percent (1%), up to a maximum of thirty-five percent (35%), as follows:

Table 4: Land Donation

Percentage of Very Low Income Units That Can Be Accommodated On Donated Land	Percentage of Additional Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22

18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

5.14.050 General provisions governing density bonus calculations.

A. For the purposes of any provisions in this Chapter, an applicant may elect to accept a lesser percentage of density bonus than that to which the housing development is eligible.

B. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded up to the next larger whole number.

C. For the purpose of calculating a density bonus, the dwelling units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the affordable units are located.

D. For the purposes of this Chapter, the “total units” or “total dwelling units” in a housing development does not include those units added by any density bonus.

Table 5: Density Bonus Summary

Types of Affordable Units Providing Eligibility for A Density Bonus	Minimum Percent	Bonus Granted	Additional Bonus for Each 1% Increase in Affordable Units	Percent of Affordable Units Required for Maximum 35% Bonus
<i>Very Low Income</i>	5%	20%	2.5%	11%
<i>Lower Income</i>	10%	20%	1.5%	20%
<i>Moderate Income</i>	10%	5%	1%	40%
<i>Senior Citizen Housing</i>	<i>Qualified development</i>	<i>20% of the units</i>	-	-
<i>Land Donation for Very Low Income Housing</i>	<i>Land donated can accommodate 10% of market rate units, plus housing development qualified for density bonus as an affordable or senior project.</i>	15%	1%	<i>30% of market rate units (assuming housing development provides 5% very low income units)</i>

5.14.060 Incentives and concessions for affordable housing.

A. Definition of a qualified incentive or concession. A qualifying project shall be entitled to at least one but no more than three of the following incentives identified by state law:

1. A reduction in the parcel development standards (e.g. coverage, setback, zero lot line and/or reduced parcel sizes, architectural design requirements and/or parking requirements).

Development standard means any ordinance, general plan element, specific plan, condition, law, policy, resolution, or regulation. In no case may the city apply a development standard that will have the effect of precluding the construction of affordable units. A waiver or modification to development standards may be requested by the applicant, and shall be approved unless such waiver or modification creates an adverse impact as described in subsection (3), below.

2. Approval of mixed use zoning in conjunction with the housing project if nonresidential land uses will reduce the cost of the housing project, and the nonresidential land uses are compatible with the housing project and existing or planned development in the area where the proposed development will be located.

3. Other regulatory incentives or concessions proposed by the applicant or the city that will result in identifiable, financially sufficient and actual cost reductions.

B. Number of incentives or concessions. The number of incentives shall be based on the percentage of affordable units in the project:

1. One (1) incentive or concession shall be entitled for projects where at least five percent (5%) of the total units are for very low income households, ten percent (10%) of the total units are for lower income households, or ten percent (10%) of the total units in a common interest development are sold to moderate income households.

2. Two (2) incentives or concessions shall be entitled for projects where at least ten percent (10%) of the total units are for very low income households, twenty percent (20%) of the total units are for lower income households, or at least twenty percent (20%) of the total units in a common interest development are sold to moderate income households.

3. Three (3) incentives or concessions shall be entitled for projects where at least fifteen percent (15%) of the total units are for very low income households, thirty percent (30%) of the total units are for lower income households, or thirty percent (30%) of the total units in a common interest development are sold to moderate income households.

Table 6: Incentives and Concessions Summary

Affordable Units or Category	Percent of Affordable Units		
<i>Affordable Housing Types:</i>			
<i>Very Low Income</i>	5%	10%	15%
<i>Low Income</i>	10%	20%	30%
<i>Moderate Income</i>	10%	20%	30%
<i>Maximum incentive(s)/concession(s)^{1, 2, 3}</i>	1	2	3

Notes:

¹ An incentive or concession may be requested only if an application is also made for a density bonus.

² Incentives or concessions may be selected from only 1 category (very low, lower, or moderate).

³ No incentives or concessions are available for land donation.

C. Findings to deny incentive or concession. The city shall grant the incentive or concession requested by the applicant unless the city makes a written finding based upon substantial evidence of any of the following:

1. The incentive or concession is not required in order to provide for affordable housing costs or for affordable rents for the restricted units; or

2. The concession or incentive would have a specific adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse without rendering the development unaffordable to low and moderate-income households. A specific adverse impact means a significant, unavoidable impact, as provided in written standards, policies, or conditions; or

3. *The incentive or concession would be contrary to state or federal law.*

D. Exceptions. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city or the waiver of fees or dedication requirements. Nor does any provision of this section require the city to grant an incentive or concession found to have a specific adverse impact.

E. Amendment, zone change. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

5.14.070 Waivers and modifications of development standards.

A. Applicants granted a density bonus pursuant to section 5.14.030 of this Chapter may, by written proposal, seek a waiver, modification or reduction of development standards that would otherwise have the effect of physically precluding the construction of the housing development at the densities or with the concessions or incentives permitted pursuant to this Chapter. The applicant may also request a meeting with the city to discuss such request for waiver and modifications.

B. In order to obtain a waiver or modification of development standards, the applicant shall show that the development standards will have the effect of precluding the construction of a housing development meeting the criteria of section 5.14.030 of this Chapter, at the densities or with the concessions or incentives permitted by this Chapter.

C. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to section 5.14.060 of this Chapter.

D. The city may deny a request for any waiver, modification or reduction of development standards if the waiver, modification or reduction would have a specific adverse impact.

5.14.080 Parking incentives.

A. Upon the written request of the applicant for a housing development meeting the criteria for a density bonus under section 5.14.030 of this Chapter, the city shall not require a vehicular parking ratio that exceeds the following:

1. Zero to one bedroom units: One onsite parking space.

2. Two (2) to three (3) bedroom units: Two (2) onsite parking spaces.

3. Four (4) and more bedroom units: Two and one-half (2 1/2) parking spaces.

B. Guest parking and handicapped parking shall be included within the maximum number of spaces that may be required. If the total number of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a housing development may provide onsite parking through tandem parking or uncovered parking, but not through on street parking. For purposes of this Chapter, the parking ratios set forth in this section shall be deemed a concession or incentive available to the applicant under section 5.14.060 of this Chapter.

5.14.090 Standards for density bonus housing developments.

A. Affordable units qualifying a housing development for a density bonus shall be reasonably dispersed throughout the housing development and compatible with the design of market rate units in terms of appearance, materials, and finished quality. The applicant may reduce the interior amenities and square footage of inclusionary units, provided all units conform to all other requirements of this city code.

B. For developments with multiple market rate units containing differing numbers of bedrooms, affordable units qualifying a housing development for a density bonus shall be representative of the market rate unit mix.

C. All building permits for affordable units qualifying a housing development for a density bonus shall be issued concurrently with, or prior to, issuance of building permits for the market rate units, and the affordable units shall be constructed concurrently with, or prior to, construction of the market rate units. Occupancy permits and final inspections for affordable units qualifying a housing development for a

density bonus shall be approved concurrently with, or prior to, approval of occupancy permits and final inspections for the market rate units.

5.14.100 Application requirements.

A. An application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this section shall be submitted with the first approval of the housing development and processed concurrently with all other applications required for the housing development.

B. For affordable units qualifying the housing development for a density bonus, the application shall include the following information:

1. A site plan identifying the base project without the density bonus, number and location of all inclusionary units, affordable units qualifying for the project for a density bonus, and proposed density bonus units; and

2. Proposed category(ies) qualifying the housing development for a density bonus; and

3. Level of affordability of all affordable and inclusionary units and proposals for ensuring affordability, if applicable; and

4. A description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards.

5. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in section 5.14.040 of this Chapter can be made.

C. Upon submission of the application to the city, the Planning Director or designee shall determine if the application is complete and conforms to the provisions of this Chapter. No application for a first approval for a housing development requesting a density bonus, incentives, concessions, or waivers may be deemed complete unless an affordable housing plan is submitted conforming to the provisions of this Chapter.

D. A request for a minor modification of an approved application may be granted by the City Manager or designee if the modification is substantially in compliance with the original application and the conditions of approval. Other modifications to the affordable

1. Housing plan shall be processed in the same manner as the original application.

5.14.110 Application review.

A. An application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this Chapter shall be reviewed as part of the first approval of the housing development by the approval body with authority to approve the housing development, unless additional review by the Planning Commission or City Council is required. An applicant proposing a housing development pursuant to this Chapter, may submit a preliminary application prior to the submittal of any formal request for approval of a housing development.

B. Within ninety (90) days of receipt of the preliminary application the city shall provide to an applicant, a letter which identifies project issues of concern (the maximum financial assistance that the Planning Director can support when making a recommendation to the City Council), and the procedures for compliance with this Chapter. The Planning Director shall inform the applicant that the requested additional incentives shall be recommended for consideration with the proposed housing development, or that alternative or modified additional incentives pursuant to section 5.14.060 of this Chapter shall be recommended for consideration in lieu of the requested incentives. If alternative or modified incentives are recommended by the Planning Director, the recommendation shall establish how the alternative or modified incentives can be expected to have an equivalent affordability effect as the requested incentives.

C. Before approving an application for a density bonus, incentive, concession, waiver, or modification, the approval body shall make the following findings:

1. The housing development is: a) eligible for a density bonus, and/or b) any concessions, incentives, waivers, modifications, or reduced parking standards requested conform to all requirements of this Chapter, and c) supported by a financing mechanism for all implementation and monitoring costs.

2. If the density bonus is based all or in part on dedication of land, the application meets the qualifications and findings stated in section 5.14.040 of this Chapter.

3. If a waiver or modification is requested, the applicant has shown that the waiver, modification or reduction of development standards meets the qualifications and findings stated in section 5.14.070 of this Chapter.

D. If the findings stated in subsection (3) of this section can be made, and a request for an incentive or concession is otherwise consistent with this Chapter, the approval body may deny a concession or incentive based upon written findings of any of the factors stated in section 5.14.060 of this Chapter for the denial or disqualification of a concession or incentive. (5) If the required findings stated in subsection (3) of this section can be made, and a request for a waiver or modification is otherwise consistent with this Chapter, the approval body may deny the requested waiver or modification based upon written findings of any of the factors stated in section 5.14.070 of this Chapter for the denial or disqualification of a waiver or modification.

E. Nothing in this section shall be interpreted to require the city to grant an incentive or concession or to waive or reduce development standards if that incentive, concession, waiver, or reduction has a specific adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

F. Any decision regarding a density bonus, incentive, concession, waiver, modification, or revised parking standard may be appealed pursuant to Section 5.27.030 (Appeals) of Chapter 5.27 (Interpretation, Administration, and Enforcement) the Newman City Code. In accordance with state law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

5.14.120 Developer affordable housing agreement.

A. Applications requesting a density bonus shall agree to enter into a density bonus housing agreement with the city. The terms of the draft agreement shall be reviewed and revised as appropriate by the Planning Director, who shall formulate a recommendation to the planning commission for final approval. A density bonus housing agreement shall be made a condition of the discretionary planning permits for all housing developments pursuant to this Chapter and shall be recorded as a restriction on any parcels on which the affordable units or density bonus units will be constructed.

B. The density bonus housing agreement shall be recorded prior to final or parcel map approval, or, where the housing development does not include a map, prior to issuance of a building permit for any structure in the housing development. The density bonus housing agreement shall run with the land and bind future owners and successors in interest.

Section 10.

Title 5 (Zoning), Chapter 5.16 (Development Regulations), Section 5.16.020 (Availability of essential services) of the Newman City Code shall be amended as follows:

5.16.020 Availability of essential services.

Unless otherwise addressed by other approval processes (i.e., major subdivisions, conditional use permits), all development shall comply with the following:

A. All projects that require the additional use of or new facilities for essential services (including, but not limited to, sanitary sewers, water lines, storm drains, fire hydrants, public streets, street lighting and similar services, such as police and fire facilities, schools and/or other capital facilities) shall obtain preliminary approval as required by the agency providing such service prior to issuance of a building permit, or final land use permit if no building permit is required.

B. The non-availability of essential services may be grounds for denying permits for additional development until such services are available. *During any period of threatened or actual shortage of*

essential services that are provided by the city, the city shall have the right to apportion its available capacity among consumers in such manner as appears most equitable under the circumstances then prevailing and with due regard to public health and safety. Such apportionment shall grant priority to housing with units affordable to lower income housing.

C. The City is not obligated to extend or supply essential services if capacity is not available, obligated or reserved. If capacity is available, the extension of services shall be made by, and at the cost of, the developer.

D. All service extensions shall be designed and installed in full conformance with City standards or the standards of the providing agency, as appropriate.

E. All service extensions shall be subject to review, permit and inspection as required by other policies or ordinances of the City or the service provider.

All development proposals shall be reviewed to assure consistency with the circulation policies and standards contained in the General Plan. (*Ord. 2016-XX, 07-12-2016; Ord. 97-17, 10-28-1997*)

Section 11.

Title 5 (Zoning), Chapter 5.23 (General Regulations, Conditions, and Exceptions), Section 5.23.030 (Accessory buildings), of Title 5 (Zoning) of the Newman City Code shall be amended as follows:

5.23.030 Accessory buildings.

A. An accessory building may be erected as an integral part of a principal building, connected by a breezeway or similar structure, or detached from the principal building.

1. Where an accessory building is attached to the main building, it shall be made structurally part of and have a common roof with the main building, and shall comply with all respects with the requirements of this title applicable to the main building.

B. An accessory building must be constructed subsequent to, or concurrently with, the construction of the principal building on the site.

C. No more than two accessory buildings, including a detached garage or carport, may be erected on a residentially zoned lot.

D. No accessory building shall be permitted to be erected within the required front yard.

E. A detached accessory building shall be located on the rear one-half of the lot and at least six feet from any dwelling/building existing or under construction on the same lot or any adjacent lot.

1. *In the case of a detached patio cover, no minimum separation from the primary dwelling shall be required unless otherwise stipulated by Building or Fire Codes.*

F. In the case of a corner lot abutting upon two streets, no accessory building shall be erected or altered so as to project beyond the front yard required on any adjacent lot, nor shall it be located closer to either street line than is permitted for the main building on the lot.

G. An accessory building shall not exceed 12 feet in height.

H. Detached accessory buildings shall be placed no closer than five feet from a side or rear lot line.

I. Accessory buildings exceeding 120 square feet shall require approval of the Building Official prior to their placement or construction on a lot.

J. Except in the case of a single-family dwelling, any garage or carport required by provisions of Chapters [5.03](#), [5.04](#) and [5.05](#) NCC, or required by the conditions of any use permit or variance, shall be constructed so that no entrance or open side faces or opens onto a street line of any lot or parcel, unless such entrance or open side can be closed by means of a door, or doors, or similar device. (*Ord. 2016- , 07-12-2016; Ord. 97-17, 10-28-1997*)

Section 12.

Title 5 (Zoning), Chapter 5.23 (General Regulations, Conditions, and Exceptions), Section 5.23.040 (Accessory Residential Units), of Title 5 (Zoning) of the Newman City Code shall be amended as follows:

5.23.040 Accessory residential units.

A. The purpose of this section is to allow for accessory residential units within under-utilized single-family dwelling units and lots, but at the same time preserve the existing residential neighborhood character.

B. One accessory residential unit shall be permitted within, attached to, or detached from a detached single-family residence upon the issuance of a conditional use permit by the ~~Planning Commission Building Official~~ of all permits required for compliance with the California Building Standards Code as adopted and amended by the City and provided that all of the following requirements are met:

1. Zoning Districts. The lot containing the detached single-family unit shall be located within a residential zoning district.
2. Lot Size. The minimum lot size on which an accessory residential unit may be developed shall be 6,000 square feet.
3. Occupancy. The owner of the property shall reside within either the principal dwelling unit or the accessory residential unit, and the other unit may be occupied by a family member and/or offered as a rental unit. Occupancy of the accessory unit shall be limited to no more than two individuals.
4. Garage Entrances. Residential garage entrances opening on any front or side lot line shall be located not less than 20 feet from said lot line.
5. Parking Setbacks. A garage, carport or other parking space required herein shall not be located within five feet of an alley or within three feet of any meter, hydrant or similar facility; except no setback from any alley is required for garages without access or other openings to a public street and directly adjacent to and accessible to an alley. This exemption shall not apply to lots abutting any C, I or M District.
6. Off-Street Parking. In addition to the off-street parking required for the principal dwelling unit, one additional off-street parking space shall be provided for the accessory unit.
7. Placement of Additional Space. The additional parking space for the accessory unit shall not be placed within the required front yard setback unless the Planning Director finds that:
 - a. There is no other reasonable place on the property for the additional parking space to be located;
 - b. Appropriate landscaping and/or berming is provided to mitigate any possible adverse visual impacts;
 - c. Notification of property owners within 300 feet of the site has not resulted in any significant objections.
8. Size of Accessory Unit. The accessory residential unit shall not exceed 640 square feet in floor area or 40 percent of the floor area of the principal dwelling unit, whichever is the smallest.
 - a. The garage or carport area of the principal dwelling shall not be counted when determining floor area.
9. Minimum Floor Area. The minimum floor area requirements specified by this title for a residential dwelling shall apply to the principal residence. The principal residence shall retain at least one bedroom.
10. Accessory Residence. The accessory residence may consist of a studio or a one-bedroom unit and shall comply with the minimum floor area requirements of this title and the Uniform Building Code.
11. ~~Architectural Style and Site Plan Review~~. *The architectural style, building material types, and color schemes of the second unit shall be the same as principal residence.* ~~Architectural Review Committee shall perform design and site plan review as part of the conditional use permit process.~~

12. Property Development Standards. All of the property development standards for the applicable zoning district, such as lot coverage, usable open space, building height and setbacks shall be maintained unless specifically provided for herein.

13. Utility Meters. A separate utility meter shall be installed for an accessory residential unit.

14. Outside Stairways. No outside stairway shall be permitted to access the principal dwelling or an accessory residential unit.

15. Water Supply and Sewage Treatment Capacity. Adequate water supply and sewage treatment capacity shall be available to serve the accessory residential unit prior to approval of a building permit.

C. The Planning Director may conduct an annual compliance review to ascertain that the occupancy requirements of this section are being complied with.

D. Accessory residential units constructed without City approval, prior to adoption of these provisions, may be made legal through the ~~conditional-use building permit process as set forth for new accessory residential units by the Building Official.~~ Applications shall be evaluated for compliance with the adopted standards. ~~The Planning Commission may impose conditions upon the use to bring it into compliance with these provisions. In an effort to legalize the use and encourage provision of affordable housing, an amnesty period is created to end on January 1, 1999. (Ord. 2016- , 07-12-2016; Ord. 97-17, 10-28-1997)~~

Section 13.

All other sections and provisions of Titles 1 and 5 shall remain in full force and effect.

Section 14.

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

Section 15.

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

Section 16.

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

Introduced at a regular meeting of the City Council of the City of Newman held on the 28th day of June, 2016 by Council Member _____, and adopted at a regular meeting of said City Council held on the 12th day of July, 2016 by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor

City Clerk