

Newton Town Land Use Ordinance



Title 11

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- 11-01-010 SHORT TITLE**
- 11-01-020 PURPOSE**
- 11-01-030 CONFLICT**
- 11-01-040 EFFECT ON PREVIOUS ORDINANCE AND MAP**
- 11-01-050 SEVERABILITY**

11-01-010 Short Title

This title shall be known as THE NEWTON TOWN LAND USE ORDINANCE (hereinafter “this title”).

11-01-020 Purpose

This title is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the town, including, amongst other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classifications of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, considering the possibility of the town’s commercial and industrial growth, and the protection of both residential and nonresidential development.

11-01-030 Conflict

This title shall not nullify the more restrictive provisions of covenants, agreements or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

11-01-040 Effect on Previous Ordinance and Map

The existing Zoning Ordinance of the town, including the maps which are on file in the city office, is hereby superseded and amended to read as set forth herein: provided however, that this title shall be deemed a continuation of the previous ordinance including all relevant and newly enacted ordinances.

11-01-050 Severability

If any section, provision, sentence, or clause of this title is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this title which shall remain in full force and effect.

11-02-010 PURPOSE

11-02-020 TERMS DEFINED

11-02-010 Purpose

Creation: The purpose of this chapter is to provide the definitions that will be used as part of this title.

11-02-020 Terms Defined

- A. Whenever any words or phrases used in this title are not defined herein, but are defined in related sections of the Utah code, subdivision ordinance, or the family of international building codes, such definitions are incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention. Words not defined in any code shall have their ordinarily accepted meanings within the context in which they are used.
- B. Words used in the present tense include the future; words in the singular number include the plural and the singular; words not included herein but defined in the building code shall be construed as defined therein. For the purpose of this title, certain words and terms are defined as follows:

ACCESS: The provision of vehicular, bicycle, or pedestrian ingress and egress to any building, structure, facility, or property.

ACCESSORY APARTMENT: An independent, subordinate dwelling unit contained within an existing single-family detached dwelling or its accessory detached garage. All accessory apartments shall comply with the requirements of section 11-07-020(D) of this Title.

ACCESSORY BUILDING: A detached subordinate structure, the use of which is incidental to that of the primary structure and located on the same lot therewith.

ACCESSORY USE: A use incidental to and associated with a specific primary use, located on the same parcel.

AGRICULTURE USE: The science and art or occupation concerned with cultivating land, raising crops, and feeding, breeding and raising domestic livestock and fowl; also farming and the production of crops, livestock or poultry, but excluding concentrated animal operations.

AGRICULTURE BUILDING: A structure used solely in conjunction with agriculture use, and not for human occupancy.

AGRICULTURE ENCLOSURE: Any structure, except fences, used to house animals, including fowl, or to restrict their habitation to a particular area.

ALLEY: A public thoroughfare twenty six feet (26') or less in width.

AUTOMOBILE REPAIR SHOP: Any building, structure, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire

service and sales, or installation of alarm or stereo equipment, but excludes dismantling or salvaging.

AUTOMOBILE SERVICE STATION: A building or structure where the primary purpose is the sale of gasoline and other petroleum products for motor vehicles.

BASEMENT: A story partly underground. A basement shall be counted as a story for purposes of height measurement if its height is one-half (1/2) or more above grade.

BERM: A man-made mound of earth, at least two feet tall, used to shield or buffer properties from adjoining uses, highways, or noise, or to control the direction of water flow.

BUILDING: Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

BUILDING, ACCESSORY: A detached, subordinate building clearly incidental to and located upon the same lot occupied by the main building.

BUILDING, HEIGHT OF: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between ridge and eaves of a gable, hip or gambrel roof.

BUILDING, MAIN: The principal building or one of the principal buildings upon a lot, or the building or one of the principal buildings housing the principal use upon a lot.

BUILDING, PUBLIC: A building owned and operated or owned and intended to be operated by a public agency of the United States of America, of the state of Utah or any of its subdivisions.

CARPORY: A private garage not completely enclosed by walls or doors. For the purposes of this title, a "carport" shall be subject to all of the regulations prescribed for a private garage.

CHILD NURSERY: An establishment for the care and/or instruction, whether or not for compensation, of six (6) or more children other than members of the family residing on the premises.

CLUB, PRIVATE: An organization, group or association supported by the members thereof, the sole purpose of which is to render a service customarily rendered for members and their guests but shall not include any service, the chief activity of which is customarily carried on as a business and does not include labor union organizations or similar labor or business organizations.

CONDITIONAL USE: A use of land for which a conditional use permit is required.

DAIRY: A commercial establishment for production, manufacture or processing of dairy products.

DISTRICT: A portion of the area of Newton, Utah, shown on a map attached to the ordinance codified herein, which is on file in the city office, and given a district name.

DWELLING: Any building or portion thereof, which is designed for use for residential purposes, except the following: hotels, apartment hotels, boarding houses, lodging houses, motels, apartment motels, fraternities, sororities, trailers, mobile homes, or dormitories.

DWELLING, SINGLE-FAMILY: A building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

DWELLING UNIT: One or more rooms in a dwelling, apartment hotel or apartment motel, designed for or occupied by one family for living or sleeping purposes and having kitchen facilities for the use of not more than one family (other than hot plates or other portable cooking units).

FAMILY: One individual, or two (2) or more persons related by blood, marriage, or adoption, living together in a single dwelling unit and maintaining a common household. A family may include four (4), but not more than four (4), nonrelated persons living with the residing family. The term "family" shall not be construed to mean a group of nonrelated individuals, a fraternity, club or institutional group.

FENCE: A structure, solid or otherwise, which is a barrier and used as a boundary or means of protection, confinement, or concealment.

FRONTAGE: All property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right of way, waterway, end of dead-end-street or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

GARAGE, PRIVATE: An accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory; provided, that on a lot occupied by a multiple dwelling, the private garage may be designed and used for the storage of two (2) times as many automobiles as there are dwelling units in the multiple dwelling. A garage shall be considered part of a dwelling if the garage and dwelling have a roof or wall in common.

GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor driven vehicles.

GRADE:

- A. For buildings adjoining one street only, the elevation of the sidewalk at the center of that wall adjoining the street.
- B. For buildings adjoining more than one street, the average of the elevations of the sidewalks at the centers of all walls adjoining the streets.
- C. For buildings having no wall adjoining the street, the average level of the ground (finished surface) adjacent to the exterior walls of the building. All walls approximately parallel to and not more than five feet (5') from a street line are to be considered as adjoining a street.

HOME BUSINESS: An occupation performed wholly within a residence or the yard and accessory building being a part of such residence. Such businesses shall be incidental to the residential use of the property and shall conform to the regulations of section 11-08-030 of this Title.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, concrete and or construction material and /or other debris; waste or junked, dismantled or wrecked automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

JUNKYARD: Any place, establishment or business maintained, used or operated for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term includes garbage and sanitary fills.

KENNEL: The keeping, harboring or maintaining on any given property, three (3) or more dogs regardless of ownership of either the dogs or the property on which the kennel is situated.

LIVESTOCK FEED YARD: A commercial operation on a parcel of land where livestock are kept in corrals or yards for extended periods of time at a density which permits little movement, and where all feed is provided for the purpose of fattening or maintaining the condition of livestock prior to their shipment to a stockyard for sale, etc.

LOT: A parcel of land occupied or to be occupied by a main building, or group of buildings (main and accessory), together with such yards, open spaces, lot width and lot area as are required by this title and having frontage upon a street. Except for group dwellings, not more than one dwelling structure shall occupy anyone lot.

LOT, CORNER: A lot abutting on two (2) intersections or intercepting streets, where the interior angle or intersection or interception does not exceed one hundred thirty five degrees (135°).

LOT/PARCEL COVERAGE: The percentage of the area of a lot/parcel which is occupied by all buildings, other impervious surfaces, or other covered structures.

LOT, INTERIOR: A lot other than a corner lot.

MANUFACTURED HOME: A transportable factory built housing unit constructed on or after June 15, 1976, according to the HUD Code, in one or more sections, that:

- A. In the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet; and
- B. Is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

All manufactured homes shall conform to the regulations set forth in Utah State Code Section 10-9a-514.

NATURAL WATERWAYS: Those areas, varying in width, along streams, creeks, springs, gulleys, or washes which are natural drainage channels as determined by the building inspector, in which areas no buildings shall be constructed.

NONCONFORMING STRUCTURE: A building or structure or portion thereof, lawfully existing at the time the ordinance codified herein, or an amendment to it, became effective which does not conform to all the height, area and yard regulations herein prescribed in the zone in which it is located.

NONCONFORMING USE: A use which lawfully occupied a building or land at the time the ordinance codified herein, or an amendment to it, became effective and which does not conform to the use regulations of the zone in which it is located.

NONCONFORMING LOT: A parcel of land that was create that does not meet current standards as defined in the existing ordinance

NURSING HOME: An institution providing residence and care for the aged.

PARCEL: A legally described piece of land with its own separate tax identification number.

PARKING LOT: An open area, other than a street, used for the temporary parking of more than four (4) automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

PARKING SPACE: Space within a building, lot or parking lot for the parking or storage of one automobile.

RETAINING WALL: A manmade barrier constructed for the purpose of stabilizing soil, impeding erosion, or terracing a parcel or site.

ROOMER: One who occupies a hired room in another's house.

SETBACK: The minimum required distance between any structure and the boundary lines of the lot in which it is located. The front, rear, and side yard setbacks are illustrated in section 11-07-010 of this title and defined as follows:

Front Yard: The area of a lot or parcel of land extending across the front width and being the minimum horizontal distance between a street or road right of way line and the principal building or any projection thereof other than steps, unenclosed balconies and unenclosed porches. The front yard of a corner lot is the yard adjacent to the designated front lot line.

Rear Yard: The area of a lot or parcel of land extending across the rear width and being the minimum horizontal distance between the primary building, or any projection thereof other than steps, unenclosed balconies and unenclosed porches, and the rear lot line.

Side Yard: An area of a lot or parcel of land extending between the side lot line and the principal building or any projection thereof other than steps, unenclosed balconies and unenclosed porches.

SIGN: Any device used for visual communication to the general public and displayed out of doors, including signs painted on exterior walls, and interior illuminated signs to be viewed from out of doors, but not including any flag, badge or ensign of any governmental agency.

SIGN, ADVERTISING: A sign which directs attention to a use; product; commodity or service not related to the premises.

SIGN, BUSINESS: A sign which directs attention to a use conducted, product or commodity sold, or service performed upon the premises.

SIGN, IDENTIFICATION: A sign displayed to indicate the name or nature of buildings or uses other than commercial or industrial uses located upon the premises.

SIGN, NAMEPLATE: A sign indicating the name and/or occupation of a person or persons residing on the premises or legally occupying the premises, or indicating a home occupation legally existing on the premises.

SIGN, PROPERTY: A sign related to the property on which it is located and offering such property for sale or lease, or advertising contemplated improvements, or announcing the name of the builder, owner, designer or developer of the project, or warning against trespassing.

SIGN, PUBLIC INFORMATION: A sign erected by a public or nonprofit agency, service club, etc., giving information to direct the public to both public and private facilities and major uses.

SIGN, TEMPORARY: Temporary signs shall include any sign, banner, pennant or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only.

STABLE, PRIVATE: A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLE, PUBLIC: A stable other than a private stable.

STORY: The space within a building-included between the surface of any floor and the surface of the ceiling next above.

STORY, HALF: A story with at least two (2) of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor immediately below it.

STREET: A public thoroughfare which affords principal means of access to abutting property, and is more than twenty six feet (26') wide.

STRUCTURAL ALTERATIONS: Any change in supporting members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.

TRAILER CAMP OR MOBILE HOME PARK: Any area or tract of land used or designed to accommodate two (2) or more trailers, mobile homes or camping parties.

TRAILER, MOBILE HOME, OR CAMPER: A vehicle with or without motive power or wheels, designed to be used for human habitation.

USE, ACCESSORY: A subordinate use customarily incidental to and located upon the same lot occupied by a main use.

VETERINARY OR ANIMAL HOSPITAL: A building and runs where both large and small animals are kept and/or treated by a licensed veterinarian.

WIDTH OF LOT: The distance between the side lot lines at the distance back from the front lot line required for the depth of the front yard.

ZONE: A portion of the area of Newton Utah, shown on the zoning map attached to the ordinance codified herein, which is on file in the city office, and given a zone name; and may include one or more "districts", as defined and designated by this title.

- 11-03-010 PLANNING COMMISSION**
- 11-03-020 APPEAL AUTHORITY**
- 11-03-030 BUILDING INSPECTOR**
- 11-03-040 GENERAL PLAN, LAND USE, AND SUBDIVISION ORDINANCE AMENDMENTS**
- 11-03-050 ESTABLISHMENT OF LAND USE AUTHORITY**
- 11-03-060 VIOLATION AND PENALTY**
- 11-03-070 AREAS ANNEXED**

11-03-010 Planning Commission

- A. Creation: There is hereby created and established the Newton Town planning commission.
- B. Powers and Duties: The planning commission shall have all the powers and duties explicitly or impliedly given within Utah State Code Annotated section 10-9a-302, and within this chapter.
- C. Policies and Procedure: The planning commission shall adopt bylaws and rules of procedure establishing membership, the duties of officers and their selection, and for other purposes considered necessary for the functioning of the planning commission. These policies and procedures shall be approved by the town council.
- D. Membership and Appointments:
 - 1. The planning commission shall be composed of five (5) members plus one alternate member. Members of the planning commission shall be appointed by the Newton Town Council. The town council may remove any member of the planning commission for cause and after a public hearing, if one is requested.
 - 2. The terms of the planning commission shall be staggered. Each member of the planning commission shall serve for a term of five (5) years and until his successor is appointed; provided that the term of the first members shall be such that the term of one member shall expire each year. Terms of members of the planning commission shall begin on or before the first Monday in February of each year. Vacancies shall be promptly filled in the same manner as the original appointment for the remainder of the unexpired term.

11-03-020 Appeal Authority

- A. Appeal Authority Defined: The authority to hear requests for variances from the terms of the land use ordinances and appeals from decisions applying the land use ordinances shall be vested in the Newton Administrative Appeals Hearing Officer (also referred to as the Appeals Hearing Officer or Hearing Officer).
- B. Appointment of Newton Administrative Appeals Hearing Officer: The mayor shall appoint the Administrative Appeals Hearing Officer with the advice and consent of the Town Council. The Administrative Appeals Hearing Officer may serve until a replacement is appointed.
- C. Appealing Land Use Authority's Decision: An applicant, a board or officer of the Town, or any person adversely affected by the land use authority's decision applying a land use ordinance may, within the time period provided in this section, appeal that decision to the administrative appeals hearing officer by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the administration or

interpretation of the land use ordinance.

1. **Time to Appeal:** Any appeal, pursuant to this section, must be filed in writing with the Town Recorder within ten calendar days of the issuance of the written decision applying the land use ordinance. When an appeal is taken from a decision of the Land Use Authority, the Town Recorder shall forthwith transmit to the Appeals Hearing Officer all papers, if any; constituting the record upon which the action appealed from was taken.
 2. **Time for Hearing Appeal; Notice:** The Administrative Appeals Hearing Officer should hear the appeal within 15 to 30 days of the date the appeal was filed. Public Notice of the time and place fixed for hearing any appeal shall be given in accordance with the Utah Open and Public Meetings Act, as well as notice to the parties in interest, by the Administrative Appeals Hearing Officer or the officer's designee.
 3. **Written Statement Setting Forth Theories of Relief Required:** The appellant shall deliver to the Administrative Appeals Hearing Officer and all other participants, five business days prior to the hearing, a written statement setting forth each and every theory of relief he intends to raise at the hearing, along with a brief statement of facts in support thereof.
 4. **Condition Precedent to Judicial Review:** No person, board or officer of the Town may seek judicial review of any decision applying the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the District Court unless it was timely and specifically presented to the Administrative Appeals Hearing Officer.
 5. **Standard of Review and Burden of Proof on Appeal:** The Administrative Appeals Hearing Officer shall, on appeal, presume that the decision applying the land use ordinance is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.
 6. **Due Process Rights:** The Administrative Appeals Hearing Officer shall respect the due process rights of each participant. Any party in interest may appear at such hearing in person, by agent, or by an attorney of his/her choice.
 7. **Stay on Appeal:** An appeal filed in accordance with this section stays all proceedings in the appeal action, unless the officer from whom the appeal is taken certifies to the Appeals Hearing Officer that by reason of facts stated in the certificate the stay would in his/her opinion cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Appeals Hearing Officer or by the District Court on application and notice and on due cause shown.
 8. **Direct Appeal to District Court:** Notwithstanding the foregoing, decisions of the Town Council relative to adopting or amending the general plan or any other land use ordinance may only be appealed directly to the District Court.
 9. **Conditional Use Permit Appeals:** The Town Council shall continue to hear and decide appeals from Planning Commission decisions regarding conditional use permits.
 10. **Decision on Appeal:** In exercising the above-mentioned powers, the Appeals Hearing Officer may affirm or reverse, wholly or partly, or may modify the order, requirement decision or determination of a Land Use Authority.
- D. **Variances:** Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he hold

some other beneficial interest may apply to the Administrative Appeals Hearing Officer for a variance from the terms of the ordinance.

1. The Administrative Appeals Hearing Officer may grant a variance only if:
 - a. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - e. The spirit of the land use ordinance is observed and substantial justice done.
 2. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (1)(a), the Administrative Appeals Hearing Office may not find an unreasonable hardship unless the alleged hardship;
 - a. Is located on or associated with the property for which the variance is sought; and
 - b. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Section (1)(a), the Administrative Appeals Hearing Officer may not find an unreasonable hardship if the hardship is self-imposed or economic.
 4. In determining whether or not there are special circumstances attached to the property under Subsection (1)(a), the Administrative Appeals Hearing Officer may find that special circumstances exist only if the special circumstances;
 - a. Relate to the hardship complained of; and
 - b. Deprive the property of privileges granted to other properties in the same zone.
 5. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
 6. Variances run with the land.
 7. The appeal authority may not grant a use variance.
 8. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - a. Mitigate any harmful effects of the variance; or
 - b. Serve the purpose of the standard or requirement that is waived or modified.
- E. Conflict of Law: To the extent any provision of this Ordinance conflicts with state law, state law shall prevail; and reference is made to the provisions of 10-9a-701 to 708, entitled Appeal Authority and Variances and to 10-9a-801 to 803 (both references are in *Utah Code Annotated, 1953*, as amended) entitled District Court Review, and as they might be amended hereafter. To the extent any provisions of said statutes are not included herein; said provisions of state law are incorporated herein by reference and shall govern the procedures therein provided by Newton Town.

11-03-030 Building Inspector

The building inspector, appointed under the provisions of the building code of the town, is hereby designated and authorized as the officer charged with the enforcement of this title, but the town council, by resolution or ordinance, may from time to time entrust such administration, in whole or in part, to any other office of the city without amendment to this title.

11-03-040 General Plan, Land Use, and Subdivision Ordinance Amendments

- A. General Plan: Amendments shall be made in accordance with this chapter and Utah Code Annotated (1953, as amended) section 10-9a, part 4.
- B. Land Use Ordinance: Amendments shall be made in accordance with this chapter and Utah Code Annotated (1953, as amended) section 10-9a, part 5.
- C. Subdivision Ordinance: Amendments shall be made in accordance with this chapter and Utah Code Annotated (1953, as amended) section 10-9a, part 6.

11-03-050 Establishment of Land Use Authority

- A. Purpose: The purpose of this section is to establish the land use authority for decisions applying to the land use ordinance.
- B. Authority to Hear and Act:
 - 1. Building Inspector: It shall be the duty of the building inspector to inspect or cause to be inspected all buildings in the course of construction or repair. He shall enforce all of the provisions of this title, entering actions in the court when necessary, and his failure to do so shall not legalize any violation of such provisions. The building inspector shall not approve any permit unless the plans of and for the proposed structure, construction, reconstruction, alteration and use fully conform to all zoning regulations then in effect.
 - 2. Planning Commission:
 - a. The Newton Town planning commission shall be the land use authority to hear and act on the following land use applications:
 - 1. Applications for permitted uses;
 - 2. Items delegated to the planning commission by the Newton Town Council;
 - 3. The planning commission shall be a recommending body to the Newton Town Council for all land use applications for which the town council is the land use authority;
 - 4. The planning commission shall have the powers and duties as assigned by this chapter and Utah Code Annotated (1953, as amended) section 10-9a-302.
 - 3. Newton Administrative Appeals Hearing Officer: The hearing office shall be the land use authority to hear and act on the following land use applications:
 - a. Variance requests; and
 - b. Determinations regarding the existence, expansion, or modification of nonconforming uses and lots, or noncomplying structures.
 - 4. Newton Town Council: The town council shall be the land use authority to hear and act on the following land use applications:
 - a. General plan approvals or amendments;
 - b. Land use ordinance amendments;
 - c. Amendments to the zoning map;
 - d. Subdivision ordinance amendments;
 - e. Zone change requests;

- f. Conditional use permits; and
- g. Requests for new subdivisions, phases of subdivisions, preliminary and final plat approval, and amendments to existing subdivisions.

11-03-060 Violation and Penalty

- A. Permits to Comply: The building inspector shall not approve a permit for the construction or alteration of any building or structure or the moving of a building or structure onto a lot, if such building or structure would be in violation of any of the provisions of this title, nor shall any town officer grant any permit or license for the use of any building or land if such use would be in violation of this title.
- B. Penalty: Any person, firm or corporation whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of the provisions of this title, including the provisions of a validly issued conditional use permit, shall be guilty of a class C misdemeanor, subject to penalty as provided in section 11-03-070 of this code, and such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this title is committed, continues or permitted by such person, firm or corporation.
- C. Violation; Notice and Order:
 - 1. Upon inspection and discovery that any provision of this title is being violated, the town clerk in conjunction with the town council shall provide a written notice of violation and order to the property owner and to any other party who may be responsible for the violation.
 - a. The written notice and order shall:
 - b. Indicate the nature of the violation;
 - c. Order the action necessary to correct the violation;
 - d. Give information regarding the established warning period for the violation; and
 - e. State the action the town council intends to take if the violation is not corrected within the warning period.
 - 2. The written notice shall be served upon the property owner and/or the violator in the same manner as service of a summons pursuant to the Utah rules of civil procedure. Actual notice shall be required.
 - 3. The written notice shall commence a twenty eight (28) day warning period beginning with the receipt of notice. If the violation remains unresolved after the expiration of the warning period, a final notice of violation and order shall be served, and ten (10) days after receipt of that final notice the imposition of daily penalties shall commence.
 - 4. In cases where the town council determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this title, the town clerk, upon approval from the town council may seek immediate enforcement without prior written notice by instituting any of the remedies, other than civil penalties, authorized by section 11-03-070 of this chapter.

11-03-070 Civil Penalties:

- A. Civil Penalties: Violations of the provisions of this title shall result in civil penalties of fifty dollars (\$50.00) per day for violations pertaining to conditional use without a permit, prohibited uses, violation of the terms of a permit or approval, etc. However, the non-

approved subdivision of land shall be subject to a one time penalty of five hundred dollars (\$500.00) per division.

- B. Daily Violations: Each day a violation is continued or maintained after receipt of notice shall give rise to a separate civil penalty for each day of violation.
- C. Collection of Civil Penalties: If the penalty amounts to more than one thousand dollars (\$1,000.00) in amount, there shall be additional penalty imposed in the amount of reasonable attorney fees and costs incurred in enforcement of this chapter and collecting the civil penalties herein imposed.

11-03-080 Areas Annexed

New areas annexed into the town shall automatically be zoned Agriculture until such classification is changed by approval from the town council and in accordance with State law.

- 11-04-010 USES**
- 11-04-020 PROHIBITED USES**
- 11-04-030 APPLICATION REQUIRED**
- 11-04-040 PERMITTED USES**
- 11-04-050 STANDARDS AND CRITERIA FOR PERMITTED USE**
- 11-04-060 CONDITIONAL USES**
- 11-04-070 STANDARDS AND CRITERIA FOR CONDITIONAL USE**
- 11-04-080 REVOCATION OR MODIFICATION OF A CONDITIONAL USE PERMIT**
- 11-04-090 CONDITIONAL USE PERMITS TO RUN WITH THE LAND**

11-04-010 Uses

All Uses allowed by this title shall be identified as:

- A. Permitted use;
- B. Conditional use;
- C. Temporary use; and
- D. Nonconforming use.

11-04-020 Prohibited Uses

Any use which is not identified by this title as a permitted use, a conditional use, or a temporary use is hereby determined to be a prohibited use. A prohibited use shall not be allowed or authorized within the Newton municipal limits.

11-04-030 Application Required

All requests for a permitted use, a conditional use, or a temporary use shall be made on an application form provided by the town clerk.

11-04-040 Permitted Uses

As required by the town building codes, all requests for a permitted use shall also provide an application for a building permit and/or application for a business license, as applicable. No permitted use shall become effective until a zoning clearance is received from the planning commission and a building permit and/or business license, as required, is issued by the building inspector and/or town clerk. The planning commission is also authorized to impose such other reasonable conditions as provided in section 11-04-050 of this chapter.

11-04-050 Standards and Criteria for Permitted Use

All applications for a permitted use are required to comply with the requirements of this title, the town building codes, and the town business license code as adopted and as applicable. A permitted use application shall be reviewed in accordance with the following process:

- A. The land use authority shall review the permitted use request and determine if the request meets the following requirements:
 - 1. The use is identified as a permitted use within the zoning district as identified in Chapter 11-06 "Schedule of Zoning Uses", of this title.

2. The use complies with the requirements for the zoning district with respect to minimum area, setback requirements, height, buffer and landscape standards, maximum coverage, parking, and all other requirements applicable to the district.
 3. The use does not have an adverse effect on any sensitive areas, as defined by this title.
 4. The use complies with all road dedication requirements of the town and provides necessary infrastructure as required and recommended by the town and/or Utah department of transportation.
 5. The use meets all requirements of the Bear River Health Department and other State departments as required and applicable.
- B. Upon finding that the proposed use, building or structure complies with the standards and requirements of this title, the land use authority shall issue a zoning clearance. With the receipt of a zoning clearance, the proposed building or structure shall be reviewed for compliance with the town building codes, as adopted. If the request for a permitted use complies with the requirements of this title, the county building codes, as adopted, and the requirements of the Bear River Health Department and other State departments, as applicable, the permitted use shall be authorized.

11-04-060 Conditional Uses

- A. The purpose of the issuance of a conditional use permit is to allow the proper integration into the town of those uses which may be suitable in specific locations or if such uses are designed, arranged or conducted on the site in a particular manner.
- B. Conditional use permits may be approved by the planning commission as provided by this title and in section 10-9a-507 Utah Code Annotated, for any of the uses for which a conditional use permit is required as identified in chapter 11-06, "Schedule of Zoning Uses", of this title. The land use authority is also authorized to impose such other reasonable conditions as provided in section 11-04-070 of this chapter.

11-04-070 Standards and Criteria for Conditional Use

An approved conditional use permit shall be required for all conditional uses listed in this title.

- A. A Conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. No building permit or other permit or license shall be issued for a conditional use by any officer or employee of the town unless a conditional use permit shall have been approved.
- B. The land use authority shall review a conditional use request with the following general standards and criteria:
1. Application: Application for a conditional use permit shall be made at the office of the planning commission on forms provided for that purpose.
 2. Development Plan: The applicant for a conditional use permit shall prepare a site plan of the proposed conditional use, drawn to scale and showing all existing and proposed buildings, fences, landscaping, automobile parking and loading areas, and any other information the planning commission may deem necessary.
 3. Hearing: All conditional use permits shall be decided upon at a public meeting. A public hearing need not be held; however, a public hearing may be held when the planning commission shall deem it necessary to serve the public interest.

4. Action: The land use authority may approve, modify and approve, or deny the conditional use application. In approving any conditional use, the planning commission shall impose regulations and conditions as are necessary to protect the public welfare. In approving a conditional use, the planning commission shall find that:
 - a. The proposed use is necessary or desirable and will contribute to the general well being of the community;
 - b. The use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
 - c. The proposed use will comply with the regulations of this title; and is in harmony with the intent of the general plan;
 - d. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation; and
 - e. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.
5. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the planning commission may deny the request for a conditional use permit.
6. In approving a conditional use permit, the planning commission may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, flood control, time limits, and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

11-04-080 Revocation or Modification of a Conditional Use Permit

- A. A conditional use permit shall be null and void one year after approval unless substantial work has been accomplished toward its completion and/or operation. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. One (1) extension may be granted and the maximum extension shall be six (6) months.
- B. If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall schedule the item for consideration at a regular meeting. A minimum notice of fourteen (14) days prior to the meeting shall be provided to the owner and the operator of the approved conditional use permit.
- C. A conditional use permit may be modified or revoked by the planning commission if the planning commission finds that one or more of the following conditions exist:
 1. The conditional use permit was obtained in a fraudulent manner;
 2. The use for which the conditional use permit was granted has now ceased for at least twelve (12) consecutive calendar months;
 3. The nature of the use for which the conditional use permit was granted has changed or the intensity of use has increased beyond that originally approved;
 4. The use constitutes a nuisance; or

5. One or more of the conditions of the conditional use permit have not been met.

11-04-090 Conditional Use Permits to Run with the Land

All conditional use permits authorized and approved as required by this title are determined to run with the land.

11-05-010 GENERAL

11-05-020 ZONING DISTRICTS ESTABLISHED

11-05-030 BOUNDARIES OF ZONES

11-05-040 PURPOSE OF ESTABLISHED ZONING DISTRICTS

11-05-010 General

This chapter establishes the base zoning districts of Newton. It includes a list of base districts and a brief explanation of each district's purpose. The provisions of this chapter are supplemented by other regulations of the zoning ordinance that apply to particular uses and development types and to development within certain zoning districts.

11-05-020 Zoning Districts Established

The following zones are created to be applied as necessary to regulate the development of the land in the town:

- Agriculture Zone (A-1)
- Single Family Residential Zone (R-1)
- Public Facilities/Commercial Zone (C-1)

11-05-030 Boundaries of Zones

The boundaries of each zoning district are hereby established as shown on the map entitled zoning map of Newton Town, Utah, which map is attached to the ordinance codified herein, which is on file in the town office, and all boundaries, notations and other data shown thereon are made by this reference as much a part of this title as if fully described and detailed herein.

11-05-040 Purpose of Established Zoning Districts

The following provide the purpose(s) of each of Newton Town's established zoning districts:

- A. Agriculture Zone (A-1):
 - 1. To preserve appropriate areas of the town for permanent agricultural use.
 - 2. Uses normally and necessarily related to agriculture are permitted and uses inimical to the continuance of agricultural activity are not allowed.
- B. Single Family Residential Zone (R-1):
 - 1. Provide appropriate locations where low density residential neighborhoods may be established, maintained and protected.
 - 2. The regulations permit the establishment of, with proper controls, the public and semipublic uses such as churches, schools, libraries, parks and playgrounds, which serve the requirements of families. The regulations are intended to prohibit those uses that would be harmful to a single-family neighborhood.
- C. Public Facilities/Commercial Zone (C-1)
 - 1. Provide areas for community retail and service activities in locations to conveniently serve the residents.

11-06-010 PURPOSE

11-06-020 PERMITTED AND PROHIBITED USES BY ZONE

11-06-030 SCHEDULE OF USES BY ZONING DISTRICT

11-06-010 Purpose

The purpose of this chapter is to define the types of uses permitted by right, conditionally permitted, and prohibited within all zoning districts.

11-06-020 Permitted and Prohibited Uses by Zone

Table 11-06-030 of this chapter lists the primary uses permitted within all Newton Town zoning districts. All of the use categories listed in the table are defined in chapter 11-02 of this title.

A. Uses Permitted By Right:

1. A "P" indicates that a use type is allowed in the respective zoning district.

B. Conditional Uses:

1. A "C" indicates that a use type is allowed only if reviewed and approved as a conditional use, in accordance with the conditional use review procedures of chapter 11-04 of this title.

C. Uses Not Allowed:

1. A "X" indicates that a use type is not allowed in the respective zoning district, unless it is otherwise expressly allowed by other regulations of the zoning ordinance.
2. Any uses not specifically permitted by right, conditionally permitted, or permitted as a small business are prohibited.

D. Additional Compliance: All uses must comply with all applicable local, state, and federal requirements and licensing and must provide evidence or documentation compliance to the appropriate land use authority.

11-06-030 Schedule of Uses by Zoning District

The following abbreviations apply to each zoning district:

A-1	Agriculture Zone
R-1	Single Family Residential Zone
C-1	Public Facilities/Commercial Zone

Table 11-06-030 Schedule of Uses by Zoning District

USE	Zone		
	A-1	R-1	C-1
Accessory Apartment	C	C	C
Accessory buildings and uses (0 to 200 square feet) ¹	P	P	P
Accessory buildings and uses (greater than 200 square feet)	P	P	P
Agriculture	P	P	X

USE	Zone		
	A-1	R-1	C-1
Airport	C	X	X
Animals	P	P	X
Automobile Repair Shop	C	C	P
Automobile Service Station	X	X	C
Bowling Alley	X	X	C
Carpenter Shop	X	X	C
Cemetery	C	X	X
Chicken Coop (up to 20 chickens)	P	P	X
Chicken Coop (21 chickens or more)	P	C	X
Church	X	C	C
Coal and Fuel Sales	X	X	C
Concentrated Animal Feeding Operation	C	X	X
Sportsman's Club	C	X	C
Dairy	P	X	X
Dance Hall	X	X	C
Dog Kennel	C	C	X
Dwelling, Single Family	P	P	X
Electrical/Plumbing/Heating & Air Conditioning Shop	X	X	C
Fences taller than six feet (6')	C	X	C
Fur Farm	C	X	X
Furniture Upholstering Shop	C	C	C
Home Business	C	C	X
Household Pets	P	P	X
Livestock and Poultry	P	P	X
Livestock Feed Yard/Corral	C	C	X
Mortuary	X	X	C
Parking Lot for permitted use	X	C	X
Printing/Publishing	X	X	C
Public Art Museum and or Library	X	X	C
Public Building	X	X	C
Public Park/Playground	P	P	P
Public Riding Stable	C	X	X

USE	Zone		
	A-1	R-1	C-1
Public School	C	C	C
Public Utility	C	C	C
Rear Yard Accessory Building	C	C	C
Retail Business	X	X	P
Sale of Produce on Premises	C	C	P
Silage Pit	C	X	X

¹ Structures less than 200 square feet shall require a zoning clearance but are exempt from building permit requirements.

CHAPTER 11-07 SITE DEVELOPMENT STANDARDS

11-07-010 SITE DEVELOPMENT STANDARDS

11-07-020 SUPPLEMENTAL SITE DEVELOPMENT STANDARDS

11-07-030 HOME BUSINESS DEVELOPMENT STANDARDS

11-07-010 Site Development Standards

Table 11-07-010 of this section lists the site development standards that apply within all zoning districts. These are "base" standards, not entitlements. Other regulations of the zoning ordinance; the subdivision ordinance; other applicable municipal ordinances and policies; requirements imposed as conditions of permitting; or requirements from other local, state, and federal agencies may impose other development standards.

Table 11-07-010 Site Development Standards

	Development Standard	Zoning Districts		
		A-1	R-1	C-1
Primary Use	Front Yard Setback	20'	20'	20'
	Lots with multiple street frontage other than a declared "front"	20'	20'	20'
	Side Yard Setback	15' ¹	15'	1' ⁴
	Rear Yard Setback	10'	10'	0' ⁴
	Distance between primary and secondary structures on the same lot	10'	10'	10'
	Maximum Height (all structures)	40'	35'	35'
	Distance between any structure and/or fence and an irrigation delivery system	5'	5'	5'
	Accessory Use	Front Yard Setback	30'	30'
Lots with multiple street frontage other than a declared "front"		20'	20'	20'
Side Yard Setback ²		10' ¹	10' ¹	10' ⁴
Rear Yard Setback		10'	10' ³	10' ⁴
Distance between two structures on the same lot		10'	10'	10'
Distance between any structure and/or fence an irrigation delivery system		5'	5'	5'
Lot Dimensions	Minimum Lot Size	1 Acre	0.5 Acre	0.5 Acre
	Maximum Residential Density	1Unit/Acre	2 Units/acre	X
	Maximum Lot Coverage	50%	50%	70%
	Minimum Lot Frontage	148'	148'	148'

Notes:

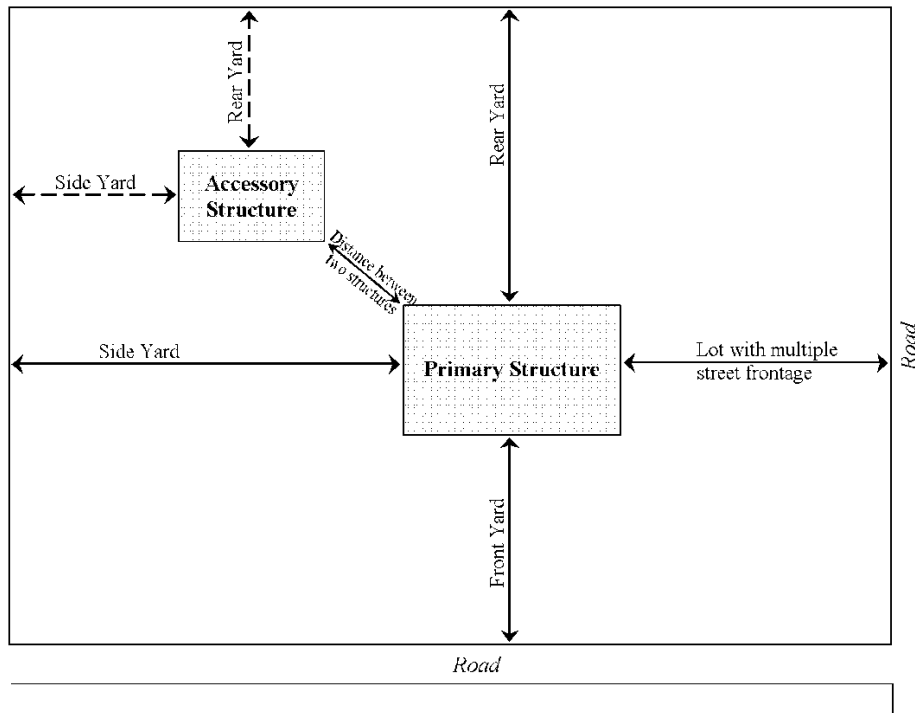
¹ The total of the two side yard setback shall not be less than 30'.

(Notes continued on next page.)

² Accessory buildings located not less than 50 feet from the front property line may be allowed a side yard setback of 1 foot.

³ Accessory structures located not less than 10 feet behind the back edge of the main building may be allowed a rear yard setback of 1 foot.

⁴ Where a property in the C-1 Zone is adjacent to a property in the R-1 Zone the side and rear yard setbacks shall be 10 feet.



11-07-020 Supplemental Site Development Standards

A. **General Development Standards:** The following site development standards shall be complied with in all zoning districts:

1. Parking Standards:
 - a. Parking for each use shall conform to Chapter 11-10 of this title.
 - b. No required parking shall be permitted in any required setback area.
2. Animal Confinement:
 - a. All animal enclosures and buildings used for animal confinement shall be set back fifty feet (50') from any natural waterway.
 - b. All animal enclosures and buildings used for animal confinement shall be set back twenty feet (20') from a dwelling unit on the same lot and fifty feet (50') from any dwelling unit on an adjacent lot.

B. **Public Facilities/Commercial Zone:** The following site development standards shall apply to all commercial uses in the Public Facilities/Commercial Zoning District (C-1):

1. Business shall be conducted wholly within an enclosed building except for the parking of automobiles and service to persons in automobiles.
2. All products, whether primary or incidental, shall be sold at retail on the premises; no entertainment except music shall be permitted on cafes, confectioneries or refreshment stands.

3. All uses shall be free from objections because of odor, dust, smoke, noise, vibration or other causes.
- C. **Landscaping:** The following landscaping requirements shall apply to all commercial, and industrial developments:
1. Trees, shrubs, fences, walls and other landscape features depicted on plans approved by the planning commission shall be considered as elements of the project in the same manner as parking, building materials and other details are elements of the plan. The land owner, heirs, successors in interest, lessees, or agent, shall be jointly and severally responsible for installation, maintenance, and upkeep as specified in this Title. A minimum of 10 % of landscaping should be added to lots.
 2. All landscaping shall be maintained free from disease, pests, weeds and litter.
 3. Continuous maintenance of the site as a whole. That shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance as needed and in accordance with acceptable horticultural practices.
 4. Landscape may be required by the planning commission to mitigate effects of development.
- D. **Accessory Apartments:** The following requirements shall apply to all accessory apartments.
1. No accessory apartment shall be constructed on a lot prior to the construction of a single family dwelling;
 2. The apartment shall be attached to or within an existing single family dwelling or the garage associated with the existing single family dwelling;
 3. The apartment must be subordinate in size to the single family dwelling; and
 4. The accessory apartment and the single family dwelling shall share an appropriately sized septic system.
 5. Commercial Zone: Accessory apartments in the commercial zone shall be attached or within an existing, approved commercial business.
- E. **Adult Oriented Businesses:** All adult oriented businesses shall conform to the following standards
1. No adult oriented business may be located within 500 feet of any:
 - a. School, day care facility, cemetery, public park, library, or religious institution;
 - b. Residential Zone;
 - c. Liquor store; or
 - d. Other adult oriented business
 2. For the purposes of this section, distance is measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the adult-oriented business is located and:
 - a. The nearest property line of any school, day care facility, cemetery, public park, library, religious institution, or residential zone; and
 - b. The closest exterior wall of another adult oriented business.

11-07-030 Home Business Development Standards

A. Permitted Home Businesses

1. Activities where the conduct of business does not require clientele to come to the home for services.
2. Activities where the conduct of business requires clientele to come to the home for services and which comply with Section 11-07-030(C).

3. Activities where the entire operation of the business is conducted off the premises with the exception of record keeping and telephone use.
4. Stands for the sale of produce grown on the premises.
5. Professional childcare facilities with no more than five (5) children other than members of the family.

B. Prohibited Home Businesses

1. Any business that does not meet the above requirements or is not specifically listed as permitted as a home business is prohibited.

C. General Regulations

1. Only three individuals not living in the residence are allowed to be present at the home business at any one time with the exception of professional childcare facilities.
2. Clients or customers are permitted at the home business from 7:00 a.m. to 10:00 p.m.
3. Additional individuals may be employed by or associated with the home business, so long as they do not report to work at the home.
4. The exterior of the home will not be modified in any way to accommodate the home occupation (i.e. loading ramps, loading doors, etc.).
5. To minimize hazards related to increased traffic and on-street parking, all patrons of a home based business shall be by appointment only.
6. If on-street parking is not available the use shall comply with Chapter 11-10 Parking and Loading Space.
7. No use of utilities or community facilities, including the material and volume of trash disposal, beyond that normal to the use of the property for residential purposes is allowed.
8. Issuance of a home business permit under this chapter shall not relieve the applicant from operating in full conformity with fire, health, building, electrical and plumbing codes, and all state and city laws and ordinances.
9. One sign will be permitted on the property. The sign must be approved by the city council. The city council may review the sign in reaction to neighbor's complaints and require its removal or modification if evidence warrants this action.
10. The building inspector or designated town council member may visit and inspect the site of a home business permitted in this chapter periodically to ensure compliance with all regulations and conditions to which the permit is subject, during normal business hours, and upon giving reasonable notice.

CHAPTER 11-08 SUPPLEMENTARY AND QUALIFYING REGULATIONS

- 11-08-010 EFFECT OF CHAPTER**
- 11-08-020 LOTS IN SEPARATE OWNERSHIP**
- 11-08-030 SETBACK SPACE FOR ONE BUILDING ONLY**
- 11-08-040 EVERY SINGLE-FAMILY DWELLING TO BE ON A LOT**
- 11-08-050 WALL, FENCE, OR HEDGE HEIGHT**
- 11-08-060 LOT COVERAGE OF ACCESSORY BUILDINGS**
- 11-08-070 EXCEPTIONS TO HEIGHT LIMITATIONS**
- 11-08-080 MINIMUM HEIGHT OF MAIN BUILDINGS**
- 11-08-090 CLEAR VIEW OF INTERSECTING STREETS**
- 11-08-100 RESTRICTED LOTS**
- 11-08-110 SALE OR LEASE OF REQUIRED SPACE**
- 11-08-120 ACCESS**
- 11-08-130 WATER AND SEWAGE REQUIREMENTS**
- 11-08-140 REFUSE SITING STANDARDS**

11-08-010 Effect of Chapter

The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this title.

11-08-020 Lots in Separate Ownership

A lot or parcel which was a legally divided lot held in separate ownership at the time these requirements became first effective as of December 1, 1977, and which has access to a dedicated street, may be used for a single-family dwelling. The town clerk shall make a determination as to whether a lot is conforming based on documentation submitted by the property owner. Section 11-03-020 of this title provides the method for appeal of such determinations.

11-08-030 Setback Space for One Building Only

No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this title, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established. This section shall be construed to mean only one main building may be permitted on one lot, unless otherwise hereinafter provided.

11-08-040 Every Single-Family Dwelling to be on a Lot

Every dwelling shall be located and maintained on an approved lot, as defined in section 11-02-020 of this title.

11-08-050 Wall, Fence, or Hedge Height

- A. No fence or wall or other similar structure shall be erected in any required front, rear or side yard to a height in excess of six feet (6'), except for accessory buildings and structures permitted herein, and as allowed by a conditional use permit. Where there is a difference in the grade of the properties on either side of a fence or wall; the height of the fence or wall shall be measured from the average elevation of finished grades of the adjoining properties in

question at the fence line, except that no fence need be less than forty two inches (42") in height.

- B. A retaining wall may be topped by a fence, wall or hedge of the same height. No fence should be over six feet (6') if on a retaining wall two feet (2') high. If a retaining wall is higher than 36 inches it will require a conditional use permit.

11-08-060 Lot Coverage of Accessory Buildings

No accessory building or group of accessory buildings in any residential zone shall cover more than twenty five percent (25%) of the rear yard, except as allowed by a conditional use permit.

11-08-070 Exceptions to Height Limitations

Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and parapet walls, skylights, towers, steeples, flagpoles, chimneys, smoke stacks, water tanks, wireless or television masts, theater lofts, silos, or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space. The height limit for these structures shall be one hundred (100) feet.

11-08-080 Minimum Height of Main Buildings

No dwelling shall be erected to a height less than one story above grade.

11-08-090 Clear View of Intersecting Streets

- A. A clear view at the intersection of two (2) streets shall be maintained within a triangular area formed by a diagonal line connecting lines at the edge of the right-of-way forty feet (40') from the projected intersection of such lines. To maintain this clear view, the following standards shall apply:
 - 1. No solid type fence or other visual obstructions two feet (2') in height from the street elevation (measured from the edge of the right of way) shall be allowed;
 - 2. Open type fences or other obstructions, such as chain-link or barbwire, may be allowed to a height of six feet (6'), though they must be maintained to permit clear and unobstructed view; and
 - 3. Pruning is required for trees with an overhang less than seven feet (7') above the street elevation (measured for the edge of the right of way) in the clear view area.

11-08-100 Restricted Lots

- A. No permits or licenses will be issued for a use on any restricted lot.
- B. A restricted lot which meets all the requirements of this title for a lot, but the creation of which has caused any adjacent lot from which it was severed to be insufficient in frontage, yard or other requirements may be considered legal by adding sufficient area to the adjacent lot to meet all of the requirements of this title for a lot in its zone. The added area must be duly platted and evidenced in the public records by a deed showing a single legal description in the office of the county recorder.

11-08-110 Sale or Lease of Required Space

Space needed to meet the width, setback, area, coverage, parking, or other requirements of this title for a lot/parcel or building shall not be sold or leased away from such lot/parcel or building.

CHAPTER 11-09 NONCONFORMING USES AND NONCOMPLYING STRUCTURES

- 11-09-010 CONTINUATION OF USE**
- 11-09-020 OCCUPATION WITHIN ONE YEAR**
- 11-09-030 MAINTENANCE PERMITTED**
- 11-09-040 REPAIRS AND ALTERATIONS PERMITTED**
- 11-09-050 EXPANSION OF USE**
- 11-09-060 ADDITIONS, ENLARGEMENTS, MOVING, AND RECONSTRUCTION**
- 11-09-070 NONCONFORMING USE OF LAND**
- 11-09-080 RESTORATION OF DAMAGED STRUCTURE**
- 11-09-090 ABANDONMENT OR ONE-YEAR VACANCY**
- 11-09-100 APPLICATION TO HAVE A STRUCTURE DECLARED NONCOMPLYING**

11-09-010 Continuation of Use

The occupancy of a noncomplying structure or of a building or structure by a nonconforming use, existing at the time this title became effective, may be continued, provided that the use has not been abandoned or the building left vacant as provided in Section 11-09-090.

11-09-020 Occupation within One Year

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became nonconforming.

11-09-030 Maintenance Permitted

A noncomplying structure may be maintained.

11-09-040 Repairs and Alterations Permitted

Repairs and structural alterations may be made to a noncomplying structure or to a structure housing a nonconforming use. Any remodel or structural alteration that requires the demolition of an outside wall of a noncomplying structure shall only be allowed upon approval of the board of adjustment, unless the new construction complies with the zoning ordinance. The board of adjustment decision regarding applications for the removal and replacement of outside walls of a noncomplying structure shall be based upon the criteria outlined in Section 11-09-060(B).

11-09-050 Expansion of Use

A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.

11-09-060 Additions, Enlargements, Moving, and Reconstruction

- A. A noncomplying structure or building occupied by a nonconforming use shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.
- B. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the

lot upon a permit authorized by the board of adjustment, provided that the board of adjustment shall find:

1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in Section 11-01-020 of this title, and is in keeping with the intent of this title;
2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

11-09-070 Nonconforming Use of Land

The nonconforming use of land, existing at the time this title became effective, may be continued provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provision of this title.

11-09-080 Restoration of Damaged Structure

A noncomplying structure or a structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy and not the result of the intentional or reckless disregard of the owners or occupants, may be restored and the occupancy or use of such structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of one year and is diligently prosecuted to completion.

11-09-090 Abandonment or One-Year Vacancy

A structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. If the use has not applied to the premises for a consecutive period of sixty days during any twelve-month period, the use shall be deemed abandoned.

11-09-100 Application to Have a Structure Declared Noncomplying

Whenever a structure is in violation of the height or setback provisions of this title, the owner may file an application with the town recorder to have the structure declared noncomplying. The planning commission shall approve the application when the evidence clearly establishes the following:

- A. The structure has existed at its current location, with the same size, height and setbacks for at least ten years;
- B. The structure is found by the building official or designee to pose no threat to the health or safety of persons in or around the structure, and;
- C. Newton Town has not taken enforcement action for the violation for a period exceeding five consecutive years during which the violation existed.

11-10-010 OFF-STREET PARKING REQUIRED

11-10-020 PARKING SPACE FOR DWELLINGS

11-10-030 LOCATION OF PARKING SPACE

11-10-040 PARKING LOT STANDARDS

11-10-050 OFF-STREET TRUCK LOADING SPACE

11-10-060 PARKING SPACE FOR BUILDINGS AND USES OTHER THAN DWELLINGS

11-10-010 Off-Street Parking Required

There shall be provided at the time of erection of any building or at the time any main building is enlarged or increased in capacity, minimum off-street parking space with adequate provisions of ingress and egress by standard sized automobiles as hereinafter provided.

11-10-020 Parking Space for Dwellings

In all zones there shall be provided a private garage, or an area properly located for off-street parking.

11-10-030 Location of Parking Space

Parking space as required above shall be on the same lot with the main building or, in the case of buildings other than dwellings, may be located not farther than five hundred feet (500') there from.

11-10-040 Parking Lot Standards

Every parcel of land hereafter used as a parking lot shall be paved with a surfacing material of oil, asphalt or concrete composition and shall have appropriate bumper guards where needed as determined by the building inspector. Any lights used to illuminate the lot shall be so arranged as to reflect the light away from adjoining premises in any residential zone.

11-10-050 Off-Street Truck Loading Space

On the same premises with every building, structure or part thereof, erected and occupied or increased in capacity after the effective date hereof, for manufacturing, storage, warehouse, goods display, department store, grocery, hotel, hospital, mortuary, laundry, dry' cleaning or other use similarly involving the receipt or distribution by vehicle of materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of streets, or alleys.

11-10-060 Parking Space for Buildings and Uses other than Dwellings

For a new building, or for any enlargement or increase in seating capacity, floor area or guest rooms of any existing main building, there shall be at least one permanently maintained parking space of not less than one hundred eighty (180) square feet net area (9' x 20') as follows:

- A. For church, school, college and university auditoriums and theaters, general auditoriums stadiums and other similar places of assembly, at least one parking space for every five (5) fixed seats provided in said buildings or structures.
- B. For hospitals, at least one parking space for each two (2) beds, including infants cribs and children's beds. For medical and dental clinics, at least fifteen (15) parking

spaces; provided, that three (3) additional parking spaces shall be provided for each doctor or dentist having offices in such clinic in excess of three (3) doctors or dentists.

- C. For tourists courts and apartment motels, at least one parking space for each individual Sleeping or living unit; for hotels and apartment hotels, at least one parking space for each two (2) sleeping rooms up to and including the first twenty (20) sleeping rooms, and one parking space for each three (3) sleeping rooms over twenty (20) sleeping rooms.
- D. For restaurants or establishments that serve meals, lunches or drinks to patrons either in their cars or in the building, for retail stores selling directly to the public, and recreational places of assembly, at least one space for each one hundred (100) square feet of floor space in the building, and one space for each two (2) employees working the highest employment shift, or five (5) parking spaces, whichever requirement is the greater.
- E. For mortuaries, at least thirty (30) parking spaces; for liquor stores, at least twenty (20) parking spaces.
- F. For all business or industrial uses not listed above, not providing customer services on the premises, one parking space for each two (2) employees working on the highest employment shift.
- G. Adequate lighting will be designed into the parking lot plan

11-11-010 BUSINESSES REQUIRING ACCESS

11-11-020 ROADWAYS AND CURBS

11-11-030 LOCATION OF GASOLINE PUMPS

11-11-010 Businesses Requiring Access

Service stations, roadside stands, public parking lots, and all other businesses requiring motor vehicles access shall meet the requirements as hereinafter provided or as prescribed in the Utah department of transportation manual entitled "Manual for the Accommodation of Utilities and the Control and Protection of State Highway Rights of Way" (whichever requirements are greater). Access to state highways is controlled and regulated by Utah department of transportation regulations.

11-11-020 Roadways and Curbs

Access to the station or other structure or parking lot shall be controlled as follows:

- A. Access shall be by not more than three (3) roadways for each one hundred feet (100') or fraction thereof of frontage on any street, and in no event shall such roadways exceed in width seventy percent (70%) of the entire street frontage.
- B. No two (2) of said roadways shall be closer to each other than twelve feet (12'), and no roadway shall be closer to a side property line than one and one-half feet (1'6").
- C. Each roadway shall not be more than thirty six feet (36') in width, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right of way.
- D. No roadway shall be closer than ten feet (10') to the point of intersection of two (2) property lines at any corner as measured along the property line, and no roadway shall extend across such extended property line.
- E. In all cases where there is an existing curb and gutter or sidewalk on the street, the applicant for a permit shall provide a safety island along the entire frontage of the property, except for the permitted roadways. On the two (2) ends and street side of each such island shall be constructed a concrete curb, the height, location and structural specifications of which shall be approved by the town engineer. Maximum and minimum curb return radii permitted and minimum roadway approach angles to the center line of the street are required as shown in the manual and made by this reference as much a part of this title as if fully described and detailed herein.
- F. Where there is no existing curb and gutter or sidewalk, the applicant may at his option install such safety island and curb or, in place thereof, shall construct along the entire length of the property line, except in front of the permitted roadways, a curb, fence or pipe rail not exceeding two feet (2') or less than eight inches (8") in height.

11-11-030 Location of Gasoline Pumps

Gasoline pumps shall be set back not less than eighteen feet (18') from any street line to which the pump island is vertical and twelve feet (12') from any street line to which the pump island is parallel, and not less than ten feet (10') from any residential or zone boundary line. If the pump island is set at an angle on the property, it shall be so located that automobiles stopped for service will not extend over the property line.

- 11-12-010 SIGNS ALLOWED**
- 11-12-020 ANIMATED, FLASHING, INTERMITTENT SIGNS**
- 11-12-030 CONSTRUCTION**
- 11-12-040 ILLUMINATION**
- 11-12-050 LOCATION OF SIGNS**
- 11-12-060 ROOF AND FREE STANDING SIGNS**

11-12-010 Signs Allowed

The following described signs shall be allowed as indicated in table 11-12-010. All signs on state highways must conform to Utah Department of Transportation regulations.

Table 11-12-010

Type of Sign	Maximum Size In Feet	Maximum Height In Feet	Zone Permitted Use	Zone Conditional Use	Type Of Illumination
Commercial sign	40-60 sq feet	6 feet	All zones		
Building Sign	10 % of façade	Top of wall	All zones		Indirect, flood, neon
Nameplate	1 x 2	4' -8' on building	All zones		Indirect
Property sale or lease, trespass	2 x 3	3 feet	All zones		None
The distance from the top of the sign to the ground supporting it.					

11-12-020 Animated, Flashing, Intermittent Signs

Animated, flashing or intermittent signs are not allowed in any of the zones in this title.

11-12-030 Construction

All signs in commercial zones shall be well maintained. All signs shall require a building permit prior to construction.

11-12-040 Illumination

All signs, except business signs, shall be illuminated by indirect lighting, the source of which shall not be visible from the street. In no case shall direct rays of light be permitted to penetrate a property in a residential zone or used for residential purposes.

11-12-050 Location of Signs

All signs shall maintain a clear view of intersecting streets as provided in this title. In any zone requiring a front yard, all ground signs in that zone shall adhere to the front yard requirements.

11-12-060 Roof and Free Standing Signs

Roof signs shall be permitted only in the C-1 zone. Free-standing signs shall not project above the roof line of the highest building located on the same premises.