

O-031808

**AN ORDINANCE TO ADOPT AMENDMENTS TO THE
2003 ZONING ORDINANCE, NEWTON COUNTY GEORGIA;
TO REPEAL CONFLICTING PROVISIONS;
AND FOR OTHER PURPOSES**

BE IT ORDAINED by the Board of Commissioners, Newton County, Georgia, and it is hereby ordained by the authority of the Constitution of Georgia (1983), Art. IX, Sec. II, Par. I, II and IV, as follows:

Section 1

Newton County does hereby amend the 2003 Zoning Ordinance, Newton County, Georgia as provided in Exhibit "A", attached hereto and incorporated herein by reference thereto.

Section 2

All ordinances or regulations or parts thereof in conflict herewith are hereby repealed.

Adopted and approved by the Board of Commissioners on the 18th day of March, 2008, after a public hearing on said date.



NEWTON COUNTY BOARD OF COMMISSIONERS

By: Aaron Varner
Aaron Varner, Chairman

Attest: Jackie Smith
Jackie Smith, Clerk

Recommended for approval and adoption by the Newton County Planning Commission on November 27, 2007 and February 26, 2008, after public hearings on said dates.

Glover Anderson
Glover Anderson, Chairman
Newton County Planning Commission

Exhibit "A"

SECTION I

Article 6, Section 620-070 is amended by deleting the section in its entirety and inserting in lieu thereof the following:

Sec. 620-070 CONDITIONAL REZONING

A. The Planning Commission may recommend, and the Board of Commissioners may approve a rezoning request or conditional use permit based upon the performance of certain conditions either prior to or in conjunction with the approval of a requested zoning change or conditional use permit. Such conditions shall be consistent with the purpose and intent of the district(s) involved and the goals and objectives of the Comprehensive Plan. All conditions shall be of sufficient specificity to allow lawful and consistent application and enforcement. Once imposed, conditions may be modified by future rezoning or modification as specified in B. Such conditions may include, but are not limited to, any of the following:

1. An increase in the minimum size of any dwelling to be constructed on the property to be rezoned;
2. Requirements for curbs and gutters;
3. The provision of recreational areas and facilities;
4. The construction of sidewalks or walkways;
5. The elimination of permitted land uses within the area to be rezoned;
6. The adoption of certain architectural standards;
7. The provision of screening or other measures to protect scenic values;
8. Minimum landscaping requirements;
9. The provision requiring a rezoning petition to be filed in order to change the approved use or original intent of a development deemed complex in nature. A complex development may include, but not be limited to, a large retail center, a development with multiple tenants and/or outparcels, a planned residential community, an industrial, office, or mixed use development, and
10. Any other reasonable condition which will ameliorate the impact of the land use change requested.

B. Once imposed, conditions shall become an integral part of the approved amendment or conditional use permit and shall be enforced as such.

1. Minor Modifications and Changes to Conditional Zoning Amendments

The Zoning Administrator shall have sole authority to approve minor changes to conditions attached to an approved zoning amendment or conditional use. Minor changes are those that implement only slight alterations to the approved conditions, made necessary by actual field conditions at the time of development, that do not alter the impact of the development on nearby properties nor the intent or integrity of the conditions as originally imposed. Any request for a minor change of conditions shall be made in written form to the Zoning Administrator. If an approved site plan exists, the request for minor change shall be accompanied by three (3) copies of the revised site plan.

2. Major Modifications and Changes to Conditional Zoning Amendments.

Any major change to conditions attached to an approved zoning amendment or conditional use shall require an application and hearing before the Board of Commissioners, unless otherwise imposed as stated in Sec. 620-070 A.9. Without limiting the meaning of the phrase, the following shall be deemed to constitute "major change" for purposes of interpreting this Section: (rev. 06/08/05)

- a. Change to use or density that will not significantly affect adjacent properties or change the intent or purpose of the original condition.
- b. The movement of any building or structure closer to the nearest exterior boundary line of the property;
- c. Any change in any buffer requirement(s) imposed in the original conditional zoning amendment;
- d. Any increase in the height of any building or structure; or
- e. Any change in the proportion of floor space devoted to different authorized uses.

3. Modifications and Changes to Conditions that may require Rezoning or Conditional Use Permits.

Any major change to conditions addressing land use, and density or intensity attached to an approved zoning amendment or conditional use may require an application and hearing before the Planning Commission and the Board of Commissioners, if the Director interprets the change as significantly altering the impact of the development on nearby properties or the intent or integrity of the conditions as originally imposed.

- C. If a modification request is denied by the Board of Commissioners, then the same request shall not be considered until at least six months has elapsed from the date of the decision.

SECTION II

Article 4, Part 2, amended to add the Murder Creek watershed and Section 420-100 through 425-120 is amended by deleting the sections in their entirety and inserting in lieu thereof the following:

PART TWO: SOUTH RIVER / YELLOW RIVER AND MURDER CREEK WATERSHED PROTECTION DISTRICT

Sec. 420-100 Purpose

In order to protect the vital resources of river water in this County; to preserve the quality of the water for future use; to protect the wildlife living in the area; and to preserve the aesthetic beauty of the river corridor, Newton County has adopted the following regulations.

Sec. 420-110 Scope

All land within the South River watershed and all land within the Yellow River watershed (excepting land otherwise protected by Division 415), is contained within the South River / Yellow River Watershed Protection District. All land within the Murder Creek watershed (excepting land otherwise protected by Division 415), is contained within the Murder Creek Watershed Protection District. The respective watersheds are defined by the ridgelines of the watersheds (excepting the areas protected by Division 415), and the boundaries of the South River / Yellow River Watershed Protection District and the Murder Creek Watershed Protection District are indicated on the Newton Watershed Protection Overlay Map available for inspection during office hours in the Newton County Planning Department.

Sec. 420-115 DEVELOPMENT STANDARDS

Within these Districts, disturbance of any of the following types of lands is prohibited, except for perpendicular crossing of roadways, drainage ways, trails, paths and utility easements, as approved by the Planning Director based on a site plan conforming to the standards of the Newton County Development Regulations.

- A. Riparian buffers as described in Section 105-020 and Section 050;
- B. Wetlands as determined from field delineation without a permit authorized by Section 404 of the Federal Clean Water Act;
- C. Filling in areas within the 100 year floodplain,
 1. Appeals shall be pursuant to Sec. 600-050, Variance Procedures, in the Water Resources Ordinance.

- D. Areas not located in a designated Development Node¹ which have a natural slope in excess of 15% percent for residential and 25% percent for non-residential shall abide by the following:
1. A slope study shall be required with preliminary plats or site plans (for non-residential) for property with slopes greater than 15% percent.
 2. Residential lots which have a natural, pre-developed slope of 15 to 25% shall be limited to buildings with basements. Said lots shall be labeled as basement lots on the Preliminary Plat, Construction Plans and the Final Plat, or
 3. Residential building lots where the natural, pre-developed slope is between 15% and 25%, the basement lot restriction may be appealed to the Board of Zoning Appeals per Sec. 605-020. Following the procedure as specified in Section 415-080, House Location and Drainage Plan, submit a plan, prepared by a professional engineer, for suitable structure placement, drainage, and environmental controls supporting a multi-level, crawl space or slab foundation, including design and placement of sub-wall structures. The soil and/or subgrade must also be tested and verified by a qualified engineer as suitable for residential construction.
- E. Residential and Non-residential projects where the natural, pre-developed slope is greater than 25% percent, may be appealed to the Board of Zoning Appeals per Sec. 605-020. If the appeal is granted the following three conditions must be employed:
1. Following the procedure as specified in Section 415-080, House Location and Drainage Plan, submit a plan, prepared by a professional engineer, for suitable structure placement, drainage, and environmental controls supporting a multi-level, crawl space or slab foundation, including design and placement of sub-wall structures. The soil and/or sub-grade must also be tested and verified by a qualified engineer as suitable for residential construction.
 2. Additional fees shall be paid for additional erosion control inspections. Fees shall be as adopted by the Board of Commissioners. In addition, for individual residential lots, a fee of \$25/week shall be paid for projects not completed (stabilized or C.O.'d) within 90 days of initial land disturbance. For residential subdivisions, multi-family developments, and for non-residential developments, a fee of \$50/week shall be paid for projects which have expired, pursuant to Sec. 425-010.
 3. All areas of disturbance on slopes greater than 25% percent as indicated on the Site Plan/HLDP must be bonded at a rate of \$3,000/acre, rounded up to the nearest acre. The bond shall be released once the site is properly stabilized or a Certificate of Occupancy is granted.

- F. Soils with severe limitations according to the United States Department of Agriculture, Natural Resources Conservation Service "Soil Survey for Newton and Rockdale Counties, Georgia, 1999", unless a Design Professional certifies that the proposed work will not create erosion problems.

Sec. 420-120 Riparian Buffers

- A. All development and disturbance of land within these Districts not located in a designated Development Node² shall preserve a natural and undisturbed riparian buffer of 100 feet in width along the shorelines of lakes and banks of rivers or perennial streams identified on the U.S. Geological Survey 7.5 minute quadrangle map.
- B. All development and disturbance of land located within a designated Development Node within these Districts shall preserve a natural and undisturbed riparian buffer of 50 feet in width along the shorelines of lakes and banks of rivers or perennial streams identified on the U.S. Geological Survey 7.5 minute quadrangle map. An additional 50 feet shall be a buffer that may be minimally disturbed by natural trails (no imperviously surfaced trails permitted), or naturally landscaped and replanted areas (no sod or grass permitted).
- C. All impervious surfaces, structures, septic tanks, and septic tank drain fields shall be set back a minimum of 150 feet from the shorelines of lakes and banks of rivers or perennial streams identified on the U.S. Geological Survey 7.5 minute quadrangle map.
- D. Roadways, drainage ways, paths, trails, and utility easements are allowed to cross riparian buffers in a perpendicular manner, subject to the approval of the County Engineer, and the natural vegetative buffer shall be restored as quickly as possible following any land-disturbing activity within the buffer area.

² For purposes of Division 420, Part Two only, the term "Development Node" shall refer to those areas designated as Development Nodes on the Newton County Future Land Use Map.

SECTION III

Article 1, Section 105-020 is amended by adding the following:

Sec. 105-020 SPECIFIC DEFINITIONS

Natural Slope, Building Lots

The average slope of a building lot in any direction prior to any land disturbance. This is to be measured from the edges of the total area requiring land disturbance for the placement of all structures but not less than the structure pad area plus twenty feet on all sides of the structure pad area.