NEWTON ORDINANCE NO. 4939-17
NORTH NEWTON ORDINANCE NO. 611-17

A JOINT ORDINANCE OF THE CITIES OF NEWTON AND NORTH NEWTON AMENDING ARTICLE XI OF THE ZONING ORDINANCES OF THE CITIES OF NEWTON, KANSAS AND NORTH NEWTON, KANSAS, PERTAINING TO SIGN REGULATIONS.

BE IT ORDAINED BY THE GOVERNING BODIES OF THE CITIES OF NEWTON, KANSAS, AND NORTH NEWTON, KANSAS:

SECTION 1. Original Article XI of the Zoning Ordinances of the Cities of Newton, Kansas, and North Newton, Kansas, is hereby amended to read as follows:

ARTICLE XI. SIGN REGULATIONS

11.1 General Previsions

11.1-1 Statement of Purpose.

This Article provides standards relating to Signs located within the City of Newton, Kansas, and City of North Newton, Kansas, and governs the number, size, type, location, and physical aspects of Signs.

It is determined that the regulation of Signs is necessary to promote traffic safety by reducing hazards that may be caused or worsened by driver and pedestrian distractions, to preserve and enhance the aesthetic and environmental values of the community, to reduce excessive and confusing Sign displays, to provide for effective communication between people within the context of their environment and to protect the rights of free speech and expression.

11.1-2 Applicability.

The provisions of this Article shall apply to the erection, construction, reconstruction, remodeling, relocation, alteration, hanging, affixing or creation by painting, use, location and maintenance of all Signs located out-of-doors, to those Signs painted on any part of a Building, and to those Signs placed within a Building for the purpose of being visible from the exterior of the Building. The provisions herein contained shall be considered together with the Building, zoning, fire, and electrical codes of the Governing Bodies, and shall particularly regulate the size, height and type of Signs otherwise permitted.

11.1-3 Message Neutrality.

It is the policy and intent of the Governing Bodies to regulate Signs in a manner consistent with the United States Constitution and Kansas Constitution, and in a manner which is content-neutral as to protected non-commercial speech.

11.1-4 Substitution of Messages.

Subject to the landowner's consent, a non-commercial Message of any type may be substituted for any duly permitted or allowed Commercial Message or any duly permitted or allowed Non-Commercial Message, provided that the Sign is legal without consideration of Message content. This substitution of Message may be made without any additional approval or permitting. This provision does not create a right to increase the total amount of signage on a parcel or land use, nor does it affect the requirement that the structural device or mounting device be properly permitted.

This provision does not allow for the substitution of an Off-Site Commercial Message in place of an on-site Commercial Message.

The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular Non-Commercial Message over any other Non-Commercial Message.

11.1-5 Scope; Private Property.

As to Signs located on Private Property, this Article is regulatory; it does not abrogate, override, limit, modify or nullify any easements, covenants, leases or other existing private agreements that are more restrictive than this Article. This Article does not modify state or federal laws pertaining to the regulation or display of Signs.

11.1-6 Scope; Public Property.

Unless otherwise permitted in this Article, no Sign shall be placed within a public Street right-of-way, public park or other Public Property, or on a utility pole. Any Sign found within the public right-of-way shall be removed by the Sign Administrator or their designees, and may be destroyed without notice.

11.1-7 Distinction: On-Site & Off-Site.

Within this Article, the distinction between "on-site" and "off-site" Signs applies only in regard to Signs displaying commercial speech Messages. This distinction does not apply to Signs displaying non-commercial Messages.

11.1-8 Legal Nature of Sign Rights and Duties.

As to all Signs attached to real property, the signage rights, duties and obligations arising from this Article attach to and travel with the land or other property on which a Sign is mounted, installed or displayed. A Sign Permit is an official authorization of legal right to a certain use of a particular parcel of land; it is not a certificate of ownership. This Article does not modify or affect the law of fixtures, sign-related provisions in private leases (so long as they are not in conflict with this Article or other applicable law), or the ownership of Sign Structures. This Article does not apply to Hand-Held Signs, Commercial Mascots or visual images which are aspects of personal appearance.

11.1-9 Compliance Required.

Signs may be erected, installed or displayed only in compliance with this Article. Unless explicitly exempted from the permit requirement, Signs may be displayed only pursuant to a Sign Permit or other approval, and in compliance with all other applicable permit requirements. A Sign that is exempt from the Sign Permit requirement may still be subject to other permit requirements or legal approvals, including those required by other governmental or regulatory agencies.

11.1-10 Responsibility for Compliance.

The responsibility for compliance with this Article rests jointly and severally upon the Sign Owner, the Sign Operator, all parties holding the present right of possession and control of the property whereon a Sign is located, mounted or installed including the legal Owner of the lot or parcel.

11.1-11 Aesthetic Considerations.

All Permanent Signs shall be well constructed of permanent materials and shall be constructed with similar materials as used in other Buildings on the site. All Signs shall be well constructed of materials able to sustain the environmental conditions.

11.1-12 Maintenance.

All Signs together with all their supports, braces, guys and anchors, shall be kept in good repair and in a proper state of preservation.

11.1-13 Severability.

Should any of the clauses, sentences, paragraphs, words, sections or parts of this Article be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Article. All provisions of this Article are declared to be severable.

11.2 Definitions.

When used in this Article, the following terms shall be defined as follows:

-Advertising Sign (Billboard): *A permanent Structure sign in a fixed location, which meets any one or more of the following criteria: (1) it is intended to be used for, or is actually used for, the display of general advertising or general advertising for hire; (2) it is used for or intended to be used for the display of commercial advertising Messages which pertain to products and/or services which are offered at a different location, also known as Off-Site Commercial Messages; (3) it constitutes a separate principal use of the property , in contrast to an auxiliary, accessory or appurtenant use of the principal use of the property.*

-Applicant: *The Person or entity requesting Sign Permit approval from the City. Typically to obtain status of an Applicant, the Person must be the property Owner, tenant, or an authorized agent of the property Owner or tenant. The City may require documentation of a Person's authority to act as an Applicant before processing a request.*

-Awning: *Any Structure made of cloth or metal with a rigid frame attached to a Building and projecting over Public Property when so erected to permit its being lowered to a position over Public Property and to permit its being raised to a position flat against Building when not in use.*

-Awning Sign: *A Sign that is mounted on, painted on, or attached to an Awning.*

-Billboard: *See Advertising Sign.*

-Building: *Any Structure intended for shelter, occupancy, housing or enclosure for Persons, animals or chattel.*

-Canopy: *A roof-like Structure of a permanent nature which projects over a public way.*

-Canopy Sign: *Any Sign erected upon or against a Canopy.*

-City: *The City of Newton, Kansas or North Newton, Kansas.*

-City Administrator: *The person authorized by the governing body to administer and enforce the provisions of this Article.*

-Commercial Mascot: *A live Person or animal attired in commercial speech imagery, in public view, for the principal purpose of attracting attention to the commercial imagery.*

-Commercial Message: *A Message displayed on a Sign that concerns a business, commercial or economic interest, or which proposes an economic transaction.*

-Copy: *Words, letters, Logos, figures, symbols, illustrations, or patterns that form a Message or otherwise call attention to a business, product, service, activity, or to the Sign itself.*

-Day: *A calendar Day.*

-Digital Display Device: *A device which allows any image on a Sign to be changed by electronic control methods, such devices typically use light emitting diodes or their functional equivalent to create the visible image. Both slide show type and moving image type displays are within this definition.*

-Digital Sign: *A Sign which uses a Digital Display Device to present words, symbols, figures or images that can be changed, including any Sign that includes Animation, flashing light, intermittent light or moving light.*

-Directional Sign: *An on-site operational Sign of not more than five (5) square feet in area needed to control traffic, parking, access, etc. A Directional Sign may not include a Commercial Message.*

-Display Area: *The entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case passing through or between any adjacent elements of same. Such perimeter shall not include any structural elements lying outside the limits of such signs and which cannot form an integral part of the display.*

-Dissolve: *A mode of Message Transition on a Digital Sign accompanied by varying the light intensity or pattern, where the first Message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second Message.*

-Electronic Message Board: *See Digital Sign.*

-Fade: *A mode of Message Transition on a Digital Sign accomplished by varying the light intensity, where the first Message gradually reduces intensity to the point of not being legible and the subsequent Message gradually increases intensity to the point of legibility.*

-Flag: *Any Sign printed or painted on cloth, plastic, canvas or other like material attached to a pole or staff and anchored along only one edge or supported or anchored at only two corners.*

-Flashing Sign: *A Sign which changes light intensity at regular intervals, including repeated brightening or dimming of lights, change in contrast or hue, or turning on and off in a manner in which the duration of light is less than the duration of darkness.*

-Frame: *A complete, static display screen on a Digital Sign.*

-Ground Sign: *See Monument Sign*

-Hand-Held Signs: *Any Sign held by a Person.*

-Height of a Sign: *The distance from the average ground level immediately surrounding the base of the sign to the top of its highest element, including any structural or architectural element. Landscape mounding shall not be used to artificially alter the Height of a Sign.* ***-Historical Marker:*** *Plaque or Sign describing state or national designation as an historic site or Structure and/or containing narrative, not exceeding 12 square feet in area and subject to height and setback requirements for the zoning district in which the sign is placed.*

-Home Occupation Sign: *A Sign identifying services provided or advertising a home-business located on-site. Home Occupation Signs are limited to a total of six (6) square feet.*

-Identification Sign: *A Sign limited to two (2) square feet which is limited to the name, address and number of a Building, institution or Person and to the activity carried on in the Building or institution, or the occupancy of the Person.*

-Illuminated Sign: *Any Sign which emanates light.*

-Illumination: *A source of any artificial or reflected light, either directly from a source or light incorporated in, or indirectly from an artificial source.*

-Incidental Sign: *Any Sign, two square feet or less in surface area, of a non-commercial nature, intended primarily for the convenience of the public. Included are signs designating restrooms, address numbers, hours of operation, entrances to Buildings, directions, help wanted, public telephone, etc. Also included in this group of Signs are those designed to identify an area or place on the Premises of a business Building or development by means of a directory designating the applicable names and addresses of the businesses.*

-Inflatable Sign: *A Sign that is an air-inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or Structure.*

-Interactive Sign: *An electronic or animated sign that reacts to the behavior or electronic signals of the drivers of motor vehicles or pedestrians.*

-Interior Sign: *Any Sign located within a Building interior, an enclosed lobby, or Building courtyard, or signs located on the interior of a parcel that is not normally viewed from the public right-of-way (such as signs on stadium walls within ball parks); provided they meet the structural, electrical and material specification in this Code. Interior Sign does not include Window Signs as defined by this article.*

-Interstate Highway Sign: *A Sign (other than an Advertising Sign) which serves a retail establishment in an Interstate Highway Sign District established by the Governing Body for advertising by businesses catering to the Interstate highway motoring public.*

-Logo: *A symbol, emblem, or other graphical element that is easily recognized as representing a product, identity or service.*

-Marquee: *A permanent roof Structure projecting over the sidewalk and attached to and supported by a Building.*

-Marquee Sign: *A sign affixed to the visible surface of an attached or freestanding Marquee. May be internally or externally illuminated.*

-Memorial Sign: *A memorial plaque or tablet displayed on Private Property, including grave markers or other remembrances or Persons or events, which is not used for a Commercial Message.*

-Message: *Copy or a series of Copy displays that directly or indirectly names, advertises, or calls attention to a business, product, service or other activity.*

-Monument Sign: *Any sign placed upon, or supported by, the ground independent of the principal Building or Structure on the property and is constructed with permanent building materials. Also known as a Ground Sign.*

-Multiple-Building Complex: *is a group of Structures housing two or more retail, offices, or commercial uses sharing the same lot, access and/or parking facilities, or a coordinated site plan. For purposes of this section, each Multiple-Building Complex shall be considered a single use. "Multiple-tenant building" is a single Structure housing two or more retail, office, or commercial uses sharing the same lot, access and/or parking facilities, or a coordinated site plan. For purposes of this section, each Multiple-Building Complex shall be considered a single use.*

-Mural: *An artistic creation that contains no text and no commercial images, and is visible to the public from the public right-of-way.*

-Non-Commercial Sign: *Means a Sign that does not contain a Commercial Message nor identify, advertise or attract attention to a business, product or service, or propose an economic transaction. Typical examples include Signs whose Message addresses a topic of public concern or controversy including, but not limited to, politics, religion, philosophy, science, art or social commentary.*

-Non-Permanent Sign: *See also Temporary Sign.*

-Off-Site or Off-Premise Sign: *A Sign whose Message does not pertain or relate to the Premises upon which the sign Structure is mounted or constructed. The onsite/offsite distinction in this Article applies only to Commercial Messages.*

-On-Site or On-Premises Sign: *A Sign whose Message does pertain or relate to the Premises upon which the sign Structure is mounted or constructed. The onsite/offsite distinction in this Article applies only to Commercial Messages.*

-Owner: *A Person recorded as such on official records, a purchaser or any Person having a vested or contingent interest in the property in question.*

-Parking Lot Sign: *A sign placed or displayed on a parking lot to supply information to people using the lot, including liability, entry, exit and directional information, as necessary to facilitate the safe movement of vehicles and pedestrians.*

-Pennant: *See Flag.*

-Permanent Sign: *A non-temporary Sign designed and intended for long-term use.*

-Permittee: *A Person receiving a permit from the City pursuant to the provisions of this Article.*

-Person: *Any human individual, firm, partnership, association, corporation, company or organization of any kind, and its agents, representatives, or employees. For purposes of determining liability for actions taken in violation of this Article, the term Person shall include the Owner, lessor, lessee, and tenant of the property upon which the sign is located.*

-Pole Sign: *An elevated Sign supported by poles or pylons independent of any other Structure.*

-Political Sign: *Sign advertising a candidate or candidates for public elective office, or a political party, or sign urging a particular vote on a public issue decided by ballot.*

-Portable Sign: *A Sign designed to be transported or moved and not attached to the ground or a Structure. Portable Signs differ from Temporary Signs in the limitations made upon their display. Portable Signs include A-frame signs, Sandwich Boards and mobile signs.*

-Premises: *A lot together with the Structures and other improvements located thereon.*

-Private Property: *All property not included in the definition of "Public Property" including but not limited to, vacant land or to any land, Building or other Structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any Structure appurtenant thereto.*

-Professional and Occupation Sign: *A Sign with Sign Area of no greater than (6) square feet displayed On-Site that displays the name and profession of the occupant.*

-Projecting Sign: *A Sign, other than a Wall Sign, suspended or supported by a Structure or Building that projects more than one foot from the Building wall.*

-Public Property: *All property owned, operated or controlled by a government agency, including but not limited to Streets, sidewalks, parks, playgrounds, parking lots, schools, libraries, rightof-ways, post offices and other public lands and Buildings.*

-Public Regulatory Signs: *Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warning at railroad crossings and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.*

- Real Estate Signs: *Any on-site sign pertaining to the sale, lease or rental of land or Buildings. (See Temporary Signs)*

-Roof Sign: *Any Sign erected, constructed or maintained upon or over the roof of any Building.* ***- Sandwich Board:*** *Also known as an "A-Frame" Sign. A Sandwich Board is a freestanding Temporary sign, made up of two flat faces, with no moving parts or lights, usually connected at the top to form an "A" shape. See Portable Sign.*

-Scroll: *A mode of message transition on a Digital Sign in which the message appears to move vertically or diagonally across the display surface.*

-Sign: *Any device or Structure for displaying visual images, graphics, symbols, and/or written Copy for the primary purpose of communicating with the public, when such image is visible from any public right-of-way. "Sign" shall include any moving part, lighting, sound equipment, framework, background material, structural support, or other part thereof. A display, device, or thing need not contain lettering to be a Sign. Signs shall include both Permanent Signs and Temporary Signs. For the purposes of this Article, Signs held or worn by Persons including Hand-Held Signs, Sandwich Boards, Commercial Mascots, costumes and clothing are not subject to regulation.*

-Sign Administrator: *The officer appointed by the City Administrator with the authority to enforce this Article. The term also includes any Person designated to act on behalf of the Sign Administrator.*

-Sign Area. *The gross surface area of a Sign shall be the sum of all surface areas of all the Sign faces, except that Signs designed as double-faced signs, with both faces parallel and when the distance between the faces does not exceed three feet, then only one face of the Sign shall be considered in determining the Sign area.*

-Sign Height. *Sign Height of Sign.*

-Sign Operator: *Any Person exercising lawful control over a Sign.*

-Sign Owner: *Includes the property Owner of record, manager, lessee, designated agent, or any Person exercising control over the Sign.*

-Sign Permit: *A revocable license issued by the Sign Administrator that allows the holder to Erect, construct, reconstruct, remodel, relocate, hang or display a Sign.*

-Street: *A public roadway, or a private roadway that has been approved by the City for common use, which provides frontage for an vehicular access to lots or which may carry through traffic, whether designated as a highway, Street, avenue, road, drive, place, court, way, lane, or circle.*

-Structure: *Anything built that requires a permanent location. This term includes a Building.*

-Temporary Sign: *A Sign not permanently attached to the ground, wall or Building and which is intended for use for a limited period of time. Temporary Signs are typically constructed of cloth, paper, canvas, cardboard or other light materials. Temporary Signs include, but are not limited to garage sale Signs, ideological Signs, Real Estate Signs, Home Occupation Signs, Construction Signs, grand opening displays and Political Signs. Temporary Signs are also known as NonPermanent Signs and do not require a permit.*

-Transition: *A visual effect used on a Digital Sign to change from one Message to another.*

-Travel: *A mode of message transition on a Digital Sign in which the message appears to move horizontally or diagonally across the display surface.*

-Unlawful Sign: *A Sign which contravenes this Article or which the Sign Administrator may declare as unlawful if it becomes dangerous to public safety by reason of dilapidation or abandonment or a Non-Conforming Sign or a Sign not specifically allowed by this Article or for which a permit required under a previous ordinance was not obtained.*

-Unprotected Speech: *Any Message or image which is outside the protection of the First Amendment to the U.S. Constitution and/or the corollary provisions of the Kansas Constitution is prohibited. Examples include material which meets the legal definition of obscenity, misleading or deceptive Commercial Messages and Messages which promote illegal products or services.*

-Wall Sign: *A Sign attached to the wall of a Building or structure or painted onto the wall of a Building or structure with the exposed Sign face parallel to the wall.*

-Window Sign: *A Sign installed inside a window for purposes of viewing from outside the Premises. This term does not include merchandise located in a window.*

11.3 Sign Administrator.

The City Manager shall appoint a Sign Administrator to administer and enforce the terms and conditions of this Article and all other provisions of law relating to Signs.

11.3-1 Duties of Sign Administrator.

The duties of the Sign Administrator shall include not only the issuance of Permits as set forth in this Ordinance, but also the responsibility to ensure that all Signs are in compliance with this Ordinance and other applicable laws. It is the Sign Administrator's responsibility that all Signs for which a permit is required, do in fact have a Permit. The Sign Administrator shall make such inspections as may be necessary and initiate appropriate action to bring about compliance with this Ordinance and other applicable law. The Sign Administrator shall investigate thoroughly any complaints of alleged violations of this Article.

11.3-2 Interpretations.

The Sign Administrator in consultation with the City Attorney, shall interpret this Article as the need for interpretation arises, including for application to specific issues and proposed Signs. Such interpretations may be appealed first to the Planning Commission and then to the Governmental Body. All interpretations are to be made in light of the overarching policy, purposes and intent of this Article.

11.3-3 Discretionary Approvals.

Whenever any Sign Permit, variance, special use permit, or other sign-related decision is made by any exercise of official discretion, such discretion should be limited to the noncommunicative aspects of the Sign as defined herein. Discretion may not be exercised as to the Message Content of the subject Sign. When discretion is authorized, it may be exercised to the following factors as applicable:

Style or character of existing improvements upon the site and lots adjacent to the site;

A. Constructive material and details of structural design;

B. The letter size, type and style;

C. The number and spacing of Signs in the area;

D. The Display Area, height and location of the Sign in relation to its proposed use;

E. The Sign considering the context of nearby Signs;

F. How the Sign utilizes lighting;

G. Other elements of Street and site furniture and adjacent Structures; form, proportion, and scale;

H. Potential effect of the proposed Sign on driver and pedestrian safety;

I. Potential blocking of view of historical, cultural or architectural significance;

J. Potential obstruction of views of users of adjacent Buildings to side yards, front yards, open space, or parks;

K. Potential negative impact on visual quality of public spaces.

11.3-4 Inspection.

As soon as a Sign that requires a permit has been erected, the Permittee shall notify the Sign Administrator who shall inspect such Sign and approve the same if it is in compliance with the provisions of this Article. The Sign Administrator may initiate an inspection of any Sign regulated by this Article at any time for the purpose of ascertaining whether the same is secure or insecure or whether it is in need of removal or repair.

11.3-5 Enforcement.

The Sign Administrator may authorize an agent or agents to enforce and administer this Article.

11.4 Sign Permits and Application.

All Signs which require a Permit, must be properly permitted by the Sign Administrator prior to being displayed, erected or altered.

11.4-1 Scope.

This section applies to all Signs which may be erected, maintained or displayed only by a Sign Permit. The internal review and appeal procedures also apply to any other sign-related decision made by the City, including but not limited to removal orders, revocation of permits, orders to abate, etc.

11.4-2 Permit Generally Required.

Except as provided herein, or as may be provided by other ordinances or resolutions, it shall be unlawful for any Person to erect, construct, maintain, install, alter, move or replace any new or existing Sign without first obtaining a permit and making payment of the Sign Permit fee. This rule does not apply to Signs which are exempted from the permit requirement by an explicit provision of this Article. A permit is not required for ordinary maintenance and repair of a Sign, nor is a permit or fee required to post a Temporary Sign or other exempt Sign.

11.4-3 Application.

Application for Sign Permits required under this Article shall be made on forms provided by the Sign Administrator and accompanied by the following, if required by the Sign Administrator, or if required by the provisions hereof:

A. Name, address and telephone number of the Applicant;

B. Location of the Building, Structure, or lot to which or upon which the Sign is to be attached or erected;

C. Position of the Sign in relation to nearby Building or Structures, Streets and sidewalks;

D. An illustration of the proposed Sign including specifications describing the Sign;

E. Length of time that the proposed Sign will be displayed;

F. The application should include the written consent to of the Owner of the Building, Structure or land to which or on which the Sign is to be erected; and

G. Such other information as the Sign Administrator shall require to show full compliance with this Article and all other laws and ordinances of the City.

H. For any Sign installed or erected over Public Property, the Applicant must provide a certificate of Accident Public Liability Insurance issued to the Applicant providing coverage of $50,000 per Person, $100,000 per accident and $25,000 towards property damage.

11.4-4 Permit Fees.

Before being granted a permit hereunder, every Applicant shall pay to the City a permit fee of $1.50 per square foot for each such Permanent Sign or other Sign requiring a permit and regulated by this Article. Temporary Signs shall be exempt from permit fees.

11.4-5 Approval of Application.

Upon the filing of an application for a Sign Permit, it shall be the duty of the Sign Administrator to review the application and to conduct such other investigation as is necessary to determine the accuracy and comprehensiveness of the application. If it shall appear that the Applicant has provided the information requested in the application and that said information is accurate and that the proposed Sign when placed will comply with all applicable law, the Sign Administrator shall issue a Sign Permit.

11.4-6 Timely Review.

The Sign Administrator shall promptly review the application upon the receipt of a complete permit application and payment of the permit fee by the Applicant. The Sign Administrator shall grant or deny the permit application within fourteen (14) Days from the date the complete application, including all required documentation filed and permit fees paid in full. If the Sign Administrator fails to approve the application within fourteen (14) Days, the application will be considered denied.

11.4-7 Denial of Application.

If the Sign Administrator determines that the proposed Sign is not in compliance with all requirements of this Article or any other laws and ordinances of the City, the Sign Administrator shall not issue the requested permit and shall advise the Applicant of the right to appeal this decision. If a Sign Permit application is rejected, the Sign Administrator must provide a list of the reasons for the rejection in writing.

11.4-8 Revocation or Cancellation.

All rights and privileges acquired under the provisions of this Article or any amendments thereto, are mere licenses revocable at any time. All such permits shall contain this provision.

11.5 Prohibitions and Restrictions.

11.5-1 Prohibited Signs.

All Signs not expressly permitted within this Article or exempted herein are prohibited. Such prohibited Signs include, but are not limited to:

A. **Unprotected Speech:** Any Sign containing a Message or image which is outside the protection of the First Amendment to the U.S. Constitution and/or the corollary provisions of the Kansas Constitution is prohibited. Examples include material which meets the legal definition of obscenity, misleading or deceptive Commercial Messages and Messages which promote illegal products or services.

B. **Unlawful Sign**s: Any Sign which contravenes this Article or which the Sign Administrator may declare as unlawful if it becomes dangerous to public safety by reason of dilapidation or abandonment.

C. **Hazardous Signs:** Any Sign erected in any manner which would create a hazardous condition to pedestrians or traffic, either by obstructing the free use of exits, Buildings or sites, or by creating visual distractions by using color, sound or glare.

D. **Vandalized Signs:** Any Sign damaged, defaced or painted by acts of vandalism must be repaired and restored, or removed within seven (7) Days unless an extension is granted by the Sign Administrator.

E. **Damaged or Unmaintained Signs:** Any Sign damaged by natural acts must be repaired and restored, or removed within seven (7) Days unless an extension is granted by the Sign Administrator. Any Sign damaged to the extent that it has become a public hazard must be repaired immediately.

F. **Inflatable Signs:** Any Sign in the form of air-inflated objects of various shapes that are made of flexible fabric and placed on the ground or a Structure. By changing the rate of air being blown into the object, the Inflatable Sign can appear to be moving increasing the likelihood of the Sign becoming an unreasonable distraction.

G. **Destruction of Nature:** Signs tacked, posted, cut, burnt, painted or otherwise affixed on trees, fields, vegetation, rocks, or other natural features.

H. **Fluorescent Signs:** Signs containing fluorescent or day-glow colors as all or part of their Copy.

I. **Rotating Signs:** Signs that turn on an axis, allowing different faces or images to be viewed from a single location.

J. **Utility Pole Signs:** Signs attached to any utility pole, except warning Signs issued and properly posted by that utility company or a government agency.

K. **Fence Signs:** Signs attached to any fence, except warning Signs properly posted by the Owner.

L. **Flashing Signs:** Flashing, blinking, chasing, moving or any artificial light which is not constant in intensity and color at all times. Exception: Digital Signs.

M. **Sound, Smoke or Odor Emitting Signs:** Any Sign that emits sound, smoke, odor or visible matter.

N. **Interactive Signs**

11.5-2 Restrictions.

See Table 11.9. No Sign shall extend onto or across a public right-of-way unless otherwise permitted.

11.5-3 Historic Districts.

A. Residential Historic Districts – Illumination of Signs is prohibited with the exception of external Illumination.

B. Commercial Historic Districts – All Signs must first be approved by the Historic Preservation Commission with the exception of Temporary Signs and Portable Signs.

11.6 Exempt Signs.

The following Signs shall be exempt from requiring a Permit, but remain subject to regulation:

A. **Temporary Signs**

B. **Public Regulatory Signs**

C. **Required Signs:** Signs required by federal, state or local law.

D. **Governmental Signs:** Signs necessary to promote health, safety and welfare, and other regulatory, statutory, traffic control or Directional Signs installed by employees or officials of the Governing Bodies, state agencies or federal agencies in the course of governmental duties and bearing no Commercial Message.

E. **Directional Signs**

F. **Window Display Signs:** Non-illuminated display Signs affixed to the inside of windows in Commercial and Industrial districts and limited in size to no greater than 30% of the total window area.

G. **Interior Signs**

H. **Court Orders:** Signs required by an order of a court of competent jurisdiction.

I. **Legal Notices**

J. **Public Utility Signs:** Signs installed by public utilities in their rights-of-way or on their facilities and bearing no Commercial Message other than such Message as necessary to identify the public utility and the use.

K. **Equipment Signs:** Signs incorporated into machinery or equipment by a manufacturer or distributor.

L. **Vehicle Sale Signs:** Signs displayed on vehicles stating terms of sale and contact information.

M. **Commemorative plaques:** Including Historical Markers that are mounted on the face of a Building indicating the name of the Building, the date of its date of erection or other commemorative information.

N. **Informational Warning Signs:** Signs which do not exceed three square feet in surface area including "no trespassing", "no dumping", "no parking", "private" and other informational warning Signs.

O. **Professional and Occupation Signs**

P. **Memorial Signs**

Q. **Vehicle Signs:** Signs on a bus, trailer or other vehicle.

R. **Incidental Signs**

S. **Murals**

T. **Identification Signs**

U. **Parking Lot Signs**

11.7 Unsafe and Unlawful Signs

11.7-1 On-Site Inspection.

The Sign Administrator may enter, for the purposes of inspecting and investigating Signs, any Building, Structure or other Premises or property during normal business hours. In cases of emergency where hazards are known to exist that may involve imminent injury to Persons, loss of life or severe property damage, and where the Owner, agent or tenant in charge of the property is not available after the Sign Administrator has made a good faith effort to locate same, the Sign Administrator may enter the aforementioned Structures and Premises at any time upon presentation of proper identification to any Person on the Premises.

11.7-2 Unlawful Signs.

If the Sign Administrator finds that any Sign regulated herein has been constructed or erected, or has been maintained in violation of the provisions of this Article, the Sign Administrator shall provide written notice to the Owner of the Structure, lot, or parcel upon which the Sign is installed. If the Permittee fails to remove or alter the Sign so as to comply with the standards herein set forth within seven (7) Days after such notice, such Sign may be removed or altered to comply by the Sign Administrator at the expense of the Permittee or Owner of the property upon which it is located, and the permit shall be revoked. The Sign Administrator shall refuse to issue a permit to any Permittee or Owner who refuses to pay costs so assessed.

11.7-3 Unsafe Signs.

The Sign Administrator or an agent of the Sign Administrator may immediately remove any Sign without notice if said Sign is unsafe or insecure, or is a menace to the public and deemed to be an immediate peril to Persons or property. The costs associated with the removal of any unsafe Sign shall be assessed to the Permittee or Owner of the property upon which the unsafe Sign was located, and the Permit shall be revoked. The Sign Administrator shall refuse to issue a Permit to any Permittee or Owner who has failed to pay the costs assessed.

11.7-4 Construction and Stability.

Permanent Signs shall be constructed to withstand a wind pressure of at least eighty (80) MPH and shall be structurally safe and securely anchored so that they will not be a menace to Person or property, and rigidly mounted so as not to swing. Building mounted Signs shall be adequately ground where exposed to lightning. Any metal Sign that can be touched by a passerby or that is placed on a metal mounting pole shall have a ground fault electrical connection or an assured grounding means. Wooden supporting members shall be treated to prevent decomposition wherever they contact the ground. All Signs and the Premises surrounding them shall be maintained and be kept free of noxious weeds and rubbish.

11.7-5 Obstruction to Doors, Windows or Fire Escapes.

No Sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No Sign of any kind shall be attached to any fire escape.

11.7-6 Signs Not to Constitute Traffic Hazard.

No Sign or other advertising Structure as regulated by this Article shall be erected near any Street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic Sign, signal or device. No Sign shall make use of the words "Stop". "Look", "Drive-In" or any other work, phrase, symbol or character in such a manner as to interfere with traffic or to mislead or confuse motorists.

11.8 Sign Standards.

The following standards are based on Sign type. If a Sign is determined to fit under multiple Sign types, it is subject to each of the applicable set of regulations and restrictions. The allowable Sign area for each type is based on linear Building frontage, linear Street frontage, or a set maximum as herein specified.

11.8-1 Awning, Canopy and Marquee Signs.

Awning Signs, Canopy Signs and Marquee Signs when permitted by Table 11.9, shall meet the following conditions:

A. Such Signs are allowed one (1) per face area of the supporting Structure with the maximum size being no greater than 50% of the Structure face area.

B. Signs attached to Awnings, canopies and Marquees shall not extend above or beyond the end of the Structure that they are attached to.

C. Such Signs must have a minimum clearance of eight (8) feet and must have a minimum setback of two (2) feet from the curb-line.

D. Illumination is permitted.

11.8-2 Monument Signs.

Monument Signs when permitted by Table 11.9, shall meet the following conditions:

A. The top edge of the Monument Sign shall not exceed ten (10) feet above grade from its base.

B. The base of the Monument Sign shall be no less than 50% of the Sign width.

C. The surface Display Area of any face of a Monument Sign shall not exceed one (1) square foot per linear foot of Street frontage to a maximum of 150 square feet.

D. No Monument Sign shall be located closer than five (5) feet from any property line.

E. No Monument Sign shall be placed within fifty (50) feet of any other Pole Sign or Monument Sign located on the same property.

F. Illumination is permitted.

11.8-3 Pole Signs.

Pole Signs when permitted by Table 11.9 shall meet the following conditions:

A. The height of Pole Signs shall not exceed twenty-five (25) feet above grade from its base.

B. The surface Display Area of any face of a Pole Sign shall not exceed one square foot per linear foot of Street frontage to a maximum of two hundred and fifty (250) square feet.

C. The minimum clearance above grade shall be not less than eight (8) feet.

D. No Pole Sign shall be placed within fifty (50) feet of any other Pole Sign or Monument Sign located on the same property.

E. Illumination is permitted.

11.8-4 Projecting Signs.

Projecting Signs when permitted by Table 11.9, shall meet the following conditions:

A. The surface Display Area of any face of a Projecting Sign shall not exceed one (1) square foot per linear foot of Building frontage to a maximum of one hundred and fifty (150) square feet.

B. The maximum projection of a Projecting Sign shall be seven (7) feet horizontal and it shall not project above the attaching wall.

C. The minimum clearance above grade to the bottom of a Projecting Sign shall be ten (10) feet.

D. Illumination is permitted.

11.8-5 Roof Signs.

Roof Signs when permitted by Table 11.9, shall meet the following conditions:

A. The surface Display Area of any face of a Roof Sign shall not exceed two (2) square feet per linear foot of Building frontage.

B. Roof Signs shall not project above or beyond the limits of the attaching roof.

11.8-6 Wall Signs.

Wall Signs when permitted by Table 11.9, shall meet the following conditions:

A. The surface Display Area of the face of a Wall Sign shall not exceed two (2) square feet per linear foot of Building frontage.

B. Wall Signs shall not project more than twelve (12) inches from the Building face.

C. Wall Signs consisting of individually fixed letters shall be sized by multiplying the letter height by the Message length.

D. Wall Signs may protrude not more than eight (8) inches into a public Street rightof-way if the Sign is nine (9) feet or more above the sidewalk or the grade abutting said wall.

E. Illumination is permitted.

11.8-7 Temporary Signs.

A. **Purpose and Findings.** Temporary Signs left completely unregulated can become a threat to public safety as a traffic hazard, and a detriment to property values as an aesthetic nuisance. By implementing these regulations, the Governing Bodies intend to:

1) Protect the rights of individuals to convey Messages through Temporary Signs while also implementing a policy against the unrestricted proliferation of Temporary Signs;

2) Protect the public health, safety and welfare;

3) Reduce traffic and pedestrian hazards; and

4) Ensure the fair and consistent enforcement of Temporary Sign regulations.

B. **Regulations.** Temporary Signs may be posted on property in all zoning districts, subject to the following requirements:

1) The total square footage for Temporary Signs in any zoning district, in the aggregate, shall not exceed forty-eight (48) square feet per lot, with no individual Temporary Sign exceeding ten and one half (10.5) square feet in any residential zoning district. The total square footage of a Temporary Sign is measured to include all of the visible Display Area of only one side of the Sign and only the area of one side of a double sided Sign is included in the aggregate calculation.

2) The maximum Height of Sign for Temporary Signs shall not exceed four (4) feet in any residential zoning district.

3) Temporary Signs shall be constructed of materials and installed in a manner capable of withstanding the forces of wind, rain and other atmospheric conditions.

4) Temporary Signs which become damaged, tattered or unreadable may be removed by the Sign Administrator.

5) No Temporary Sign shall obstruct or impair access to a public sidewalk, public Street or driveway, traffic control Sign, bus stop, fire hydrant, or any type of Street furniture, or otherwise create a hazard, including a trip hazard.

6) No Temporary Sign shall be illuminated or painted with light-reflecting paint.

7) A Temporary Sign may be posted for a period of up to ninety (90) Days, at which time the Temporary Sign shall be removed or replaced.

8) Temporary Signs shall not be posted on trees, utility poles, or other similar Structures.

9) Temporary Signs shall not be placed upon the Public Right of Way.

11.8-8 Portable Signs.

Portable Signs when permitted by Table 11.9, shall meet the following conditions:

A. One (1) Portable Sign may be placed on each Street frontage on property zoned for commercial or industrial purposes.

B. Portable Signs shall not exceed sixteen (16) square feet in area.

C. Portable Signs may be placed in the public right-of-way only in the C-3 districts, but shall not impede pedestrian movement.

D. Portable Signs shall not be placed within twenty (20) feet of any other Monument Sign or any other Portable Sign.

E. Portable Signs shall be of rigid construction and anchored or weighted to prevent movement and overturning by the wind.

F. Commercial multiple occupancy centers are to be allowed one Portable Sign per Street frontage for the entire center.

G. Portable Signs shall not be illuminated.

11.8-9 Digital Signs.

Digital Signs are subject to the following requirements:

A. **Operational Limitations:** Such displays shall be limited to static displays, messages that appear or disappear from the display through dissolve, fade, or similar transitions (excluding Travel and Scroll) and frame effects that have text, animated graphics or images that appear to move or change in size, or be revealed sequentially rather than all at once. No message may flash or strobe.

B. **Brightness:** All Digital Signs are subject to the following brightness limits:

1) Each Sign must have a light sensing device that will automatically adjust the brightness of the display as the natural ambient light conditions change to comply with these regulations.

2) Each Sign shall have automatic dimming software or solar sensors to control brightness for nighttime viewing.

3) Documentation shall be required from the Sign manufacturer which verifies compliance with automatic dimming and brightness requirements.

4) The maximum brightness levels for Digital Signs shall not exceed .3 (three-tenths) foot-candles over ambient light levels measured within 150 (one hundred fifty) feet of the source.

5) Certification must be provided to the City demonstrating that the Sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the City in its reasonable discretion, at the Sign Owner's expense, to ensure that the specified brightness levels are maintained at all times.

11.9 Table of Permitted Signs.

The following table is attached to and made part of this Article. Signs shall conform to the limitations of types as set forth in the table, and as limited by the Sign Standards. Exempted Signs as permitted in this Article are allowed in all zoning districts.

Table 11.9 (A) Newton
Permitted Signs

SIGN TYPE	ZONING DISTRICT				
	AG, R-S, R-1, R-2, R-3, M-H, M-P	C-T, PO	C-1, C-2	C-3	I-1, I-2
Advertising Sign	Permitted only in Districts established under Sec. 11.10				
Awning, Canopy or Marquee Sign	No	Yes	Yes	Yes	Yes
Banners	No	Yes	Yes	Yes	Yes
Monument Sign	SUP	Yes	Yes	Yes	Yes
Interstate Highway Sign	Permitted only in Districts established under Sec. 11.10				
Pole Sign	No	No	Yes	Yes	Yes

Projecting Sign	No	Yes	Yes	Yes	Yes
Roof Sign	No	No	Yes	Yes	Yes
Portable Sign	No	Yes	Yes	Yes	Yes
Wall Sign	SUP	Yes	Yes	Yes	Yes
Digital Sign	No	Yes	Yes	Yes	Yes
Temporary Signs	Yes	Yes	Yes	Yes	Yes

Table 11.9 (B) North Newton
Permitted Signs

Please see Addendum I following this ordinance for Table 11.9 (B) and additional details for Conditional Use Permits specific to signage in North Newton.

11.10 Interstate Highway Signs and Advertising Signs; Districts; Establishment.

The governing body of the City may from time to time establish one or more districts wherein the location of Interstate Highway Signs and/or Advertising Signs may be permitted. No Interstate Highway Signs or Advertising Signs shall be permitted except in such a designated district (unless the Sign is specifically allowed under some other provision of the Sign Ordinance). Interstate Highway Sign and Advertising Sign districts shall be established under the following procedure:

A. The governing body or the planning commission may cause the preparation of a district proposal, or may accept for consideration a proposal submitted by others (along with any options thereto as the governing body or planning commission may direct). Any such proposal shall identify with reasonable specificity the area proposed to be included in the district, and shall specify each of the standards and requirements to which such Signs are proposed to be subject.

B. If the governing body or the planning commission decides to proceed with the consideration of any such proposal or proposals, the planning commission shall establish a date and time for the conduct of a public hearing, allowing sufficient time for notice to be given.

C. Notice shall be given by publication in the same manner as notice is given for the consideration of text amendments to zoning regulations. The governing body or the planning commission may provide for such further notice of the proceedings as they deem appropriate.

D. A copy of the proposal or proposals shall be maintained by the city clerk of the City in which such district is proposed to be located, and the city clerk shall

provide a copy thereof at no cost to any member of the general public requesting the same.

E. At the hearing thereon, a presentation shall be made summarizing the features of the proposal or proposals, and then the matter shall be open for public comment, all pursuant to such reasonable rules regarding the conduct of public hearings as may be established from time to time by the planning commission.

F. Following the close of the public hearing, the planning commission shall determine and convey to the governing body of the City in which such proposed district would be located a recommendation regarding the proposal. Such recommendation shall then be considered by the governing body in the same manner as recommendations regarding text amendments to the zoning regulations.

H. Following receipt and consideration of the planning commission's recommendations, the governing body may establish an Interstate Highway Sign and/or Advertising Sign district by ordinance, which ordinance shall include a description of the boundaries of the district and shall set forth all standards and regulations regarding the permitted Interstate Highway Signs therein. The details of such ordinance may be different in any respect to those contained in the original proposal or in the planning commission's recommendation, except that the governing body may not increase the area of the district beyond that which was described in the published notice of hearing. The governing body may suspend the proceedings for the purpose of directing the publication of a new notice and the conduct of a public hearing by the planning commission as to any expansion of the proposed area of the district.

11.11 Interstate Highway Sign Districts.

Interstate highway sign districts are hereby established in the following areas, subject to the rules and regulations set forth in Section 11.12 and subject to any other applicable rules, regulations and standards provided under Article XI of the Zoning Ordinances of the City of Newton, Kansas such interstate highway sign districts being as follows:

A. **Outlet Mall Commercial Area Sign District:** All of the property zoned C-2 (General Business District) adjacent to and on either side of Southwest 36th Street between South Kansas Avenue and Interstate 135 highway.

B. **Spencer Road Commercial Area Sign District:** All the property located within the contiguous C-2 (General Business District) zoning classification located east

and west of Interstate 135 highway and south of East Broadway, extending south to and beyond East 1st Street.

11.12 Rules and Regulations for Interstate Highway Sign Districts.

The interstate highway sign districts established in Section 11.11 shall be subject to the following rules and regulations:

A. No Interstate Highway Sign may be closer than 50 feet to any other Interstate Highway Sign or to any Monument Sign or Pole Sign, and may not be closer than 100 feet to any Advertising (Billboard) Sign.

B. Interstate Highway Signs may be located anywhere within the designated district which is not within 175 feet of any property located within the city and zoned either R-S (Single-family Suburban District), R-1 (Single-family Dwelling District), R-2 (Two-family Dwelling District) or R-3 (Multi-family Dwelling District) at the time of the establishment of any such sign; provided, however, that no such distance limitation shall be applicable as to any property within any such zoning district which is being utilized as a cemetery.

C. Interstate Highway Signs may not exceed 70 feet in height.

D. The surface display area of an Interstate Highway Sign shall not exceed fivehundred (500) square feet, and must have not less than a 20-foot clearance from the ground.

11.13 Advertising (Billboard) Sign Districts.

Advertising (Billboard) Sign Districts are hereby established in the following areas, subject to the rules and regulations set forth in Section 11.13-1 and subject to any other applicable rules, regulations and standards provided under Article XI of the Zoning Ordinances of the City of Newton, Kansas, such Advertising (Billboard) Sign Districts being as follows, towit:

A. All property zoned C-1 (Neighborhood Business District), C-2 (General Business District), I-1 (Light Industrial District), and I-2 (General Industrial District) which lies within 300 feet of the main right-of-way of Interstate 135 highway and US Highway 50, such line of measurement being from the main right-of-way line as extended through areas of highway entrances and exits, with the portions of the entrances and exits beyond such extended line being excluded; provided, however, that this shall not include any such described area which is east of

Interstate 135 highway and which is north of East First Street and south of East Broadway.

11.13-1 Same; Rules and Regulations.

The Advertising (Billboard) Sign Districts established in this Ordinance shall be subject to the following rules and regulations:

A. No Advertising (Billboard) Sign may be closer than 500 feet to any other Advertising (Billboard) Sign, nor closer than 100 feet to any Interstate Highway Sign, Monument Sign, or Pole sign.

B. Advertising (Billboard) Signs may be located anywhere within the designated district which is not within 200 feet of any property located within the city and zoned either R-S (Single-family Suburban District), R-1 (Single-family Dwelling District), R-2 (Two-family Dwelling District) or R-3 (Multi-family Dwelling District) at the time of establishment of any such sign.

C. Advertising (Billboard) Signs may not exceed 35 feet in height above the grade at its base or above the roadway base of the interstate or state highway at its closest point, provided that in any event such signs may not exceed 50 feet in height.

D. The surface area of any Advertising (Billboard) Sign shall not exceed fivehundred (500) square feet.

11.14 Sign Illumination.

Where Illumination of Signs is permitted, the following standards shall apply:

A. Any light source intended to illuminate a Sign shall be so shaded, shielded or directed so that the light intensity or brightness shall not adversely affect surrounding or facing Premises, nor adversely affect safe visibility for pedestrians or operators of vehicles moving on public or private Streets, driveways or parking areas.

B. The light source, whether internal to the Sign or external, shall be shielded from view. This requirement is not intended to preclude the use of diffused exposed neon.

C. Sign Illumination for externally Illuminated Signs shall utilize focused light fixtures that do not allow light or glare to shine above the horizontal plane of the top of the Sign or onto any public right-of-way or adjoining property.

D. No Sign may be brighter than is necessary for clear and adequate visibility.

E. No Sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic Sign or distracts the attention of motorists.

11.15 Frontage.

11.15-1 Linear Street Frontage.

Where gross Sign area is allocated based on linear Street frontage and the tract or parcel is adjacent to more than one Street, the linear Street frontage shall be determined to be the Street with the greatest linear Street frontage, but shall not combine linear Street frontage of multiple Streets.

11.15-2 Linear Building Frontage.

Where gross Sign area is based on linear Building frontage, each exterior Building face shall be considered frontage.

11.16 Non-conforming Signs.

Every Sign lawfully in existence on the adoption of this Article shall not be altered or moved unless it is brought into greater conformance with the provisions of this Article. Face changes, painting and general maintenance are not considered alterations.

11.17 Public Nuisance.

Any Sign erected or maintained in violation of this Article is a public nuisance, and the City Attorney shall commence an action for the abatement thereof in the manner approved by law. The City may take proceedings for the abatement of the nuisance and make the cost of abatement a lien. In addition, the cost of abatement shall be a personal obligation of the property Owner.

SECTION 2. Original Article XI of the Zoning Ordinances of the Cities of Newton, Kansas, and North Newton, Kansas, is hereby repealed.

SECTION 3. This Ordinance shall not be effective unless it is duly adopted by the governing bodies of both the City of Newton, Kansas, and the City of North Newton, Kansas; and, upon such adoption, this ordinance shall take effect and be in force from and after its publication in THE NEWTON KANSAN, the official newspaper of said Cities.

PASSED AND ADOPTED by the governing body of the City of Newton, Kansas, this 27th day of June, 2017.

Barth A. Hague, Mayor

ATTEST:

Denise R. Duerksen, City Clerk

PASSED AND ADOPTED by the governing body of the City of North Newton, Kansas, this 12th day of June, 2017.

Ronald D. Braun, Mayor

ATTEST:

Pat Redding, City Clerk

CITY OF NORTH NEWTON CORPORATE SEAL NORTH NEWTON, KANSAS

SPECIAL SUPPLEMENTAL PROCEDURE FOR CONDITIONAL USE PERMITS FOR DIGITAL SIGNS FOR THE CITY OF NORTH NEWTON, KANSAS.

North Newton Special Table 11.9
Permitted Signs for City of North Newton

SIGN TYPE	ZONING DISTRICT				
	AG-R-S, R-1, R-2, R-3, M-H, M-P	**C-T, P-O**	**C-1, C-2**	**C-3**	**I-1, I-2**
Advertising Sign	Permitted only in Districts established under Sec. 11.10				
Awning, Canopy or Marquee Sign	N	Y	Y	Y	Y
Banners	N	Y	Y	Y	Y
Monument Sign	N*	Y	Y	Y	Y
Interstate Highway Sign	Permitted only in Districts established under Sec. 11.10				
Pole Sign	N	N	Y	Y	Y
Projecting Sign	N	Y	Y	Y	Y
Roof Sign	N	N	Y	Y	Y
Portable Sign	N	Y	Y	Y	Y
Wall Sign	N*	Y	Y	Y	Y
Digital Sign	N	CUP	CUP	CUP	CUP
Temporary Signs	Y	Y	Y	Y	Y

SECTION I. GENERAL CONSIDERATIONS. Delegation of Power: Because of the unique residential nature of the City of North Newton, Kansas the Governing Body of North Newton, Kansas, herein after referred to as "North Newton" or the "City" is hereby authorized to decide whether conditional use permits shall be granted subject to the general and specific standards contained herein; to grant conditional use permits with such conditions or restrictions as are appropriate to protect the public interest and to secure compliance with this Ordinance; and to deny requests which fail to satisfy the standards and requirements contained herein and which are not in harmony with the purposes and interest of this Ordinance and the health, safety, and welfare of the community.

In no event shall a conditional use permit be granted where the proposed use is not authorized by the terms herein.

SECTION II. CONDITIONS AND GUARANTEES. Prior to the granting of any conditional use permit the City may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional permit use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and conditions herein. In all cases in which a conditional use permit is granted, the City may recommend or may require such evidence and guarantees as may be deemed necessary to insure that the conditions stipulated are being and will be fully complied with.

SECTION III: PROCEDURES.

1. APPLICATION: A written application for a conditional use permit shall be filed with the City and shall include a statement indicating the grounds upon which it is requested, and sufficient evidence to show that the use will conform to the standards set forth below. The application shall be accompanied by an area map and a site plan of the subject property.

2. FEES: Every application for a conditional use permit shall be subject to a filing fee of three hundred ($300.00) dollars.

3. SITE PLAN: All applicants for a conditional use permit shall submit with their application ten (10) copies of a development plan for the property which shall include the following:

    a. A site plan showing:

        i. Approximate size and locations of all buildings.

        ii. Landscaped areas.

iii. Description and drawing of the proposed sign.

    b. Location map showing development and zoning of adjacent property within one hundred (100) feet.

    c. A description of the general character of all buildings.

SECTION IV. HEARING.

1. Upon receipt of the formal application and all accompanying material, the City shall call a public hearing for the next scheduled meeting of the City Council, provided, however, that notice must be published in a newspaper of general circulation at least five (5) days prior to the date set for hearing. The City shall make a decision as to wether to grant or deny the application within 30 days of the close of the public hearing.

SECTION V. REQUIRED CONDITIONS, STANDARDS AND DISCRETIONARY APPROVAL CONSIDERATIONS FOR ISSUANCE OF CONDITIONAL USE PERMITS FOR DIGITAL SIGNS:

1. STATEMENT OF PURPOSE. To regulate the installation, maintenance, and placement of digital signs to ensure the health, safety, and welfare of motorists and pedestrians along local streets and highways while promoting an aesthetically pleasing landscape consistent with the residential nature of the City of North Newton.

   a. Whenever an application for a Conditional Use Permit is made for a digital sign, official discretion should be limited to the non-communicative aspects of the Sign. Discretion may not be exercised as to the Message Content of the subject Sign. When discretion is authorized, it may be exercised to the following factors as applicable.

   b. Such displays shall be limited to static displays, messages that appear or disappear from the display through dissolve, fade, or similar transitions (excluding Travel and Scroll) and frame effects that have text, animated graphics or images that appear to move or change in size, or be revealed sequentially rather than all at once. No message may flash or strobe.

   c. Except as modified by these required considerations, there shall be compliance with other regulations set forth herein.

   e. Size of the sign and set back requirements must conform with the other regulations and requirements set forth herein.

   f. There is allowed one digital sign per lot.

g. No sign shall resemble or simulate any official traffic control device, sign, signal, or light.

h. Signs shall be equipped to freeze the sign to static mode if a malfunction occurs to prevent flashing.

i. Each Sign must have a light sensing device that will automatically adjust the brightness of the display as the natural ambient light conditions change to comply with these regulations.

j. Each Sign shall have automatic dimming software or solar sensors to control brightness for nighttime viewing.

k. The maximum brightness levels for Digital Signs shall not exceed .3 (three-tenths) foot-candles over ambient light levels measured within 150 (one hundred fifty) feet of the source.

l. Certification must be provided to the City demonstrating that the Sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the City in its reasonable discretion, at the Sign Owner's expense, to ensure that the specified brightness levels are maintained at all times.

m. Digital signs displaying multiple static messages shall have a minimum dwell time of seven seconds and a maximum frame effect time of three seconds between static messages.

n. With consent from the sign owner, the city may request emergency information to be displayed on a digital billboard signs such as: Amber Alerts and/or any other information deemed an emergency by any governmental entity.

o. In addition to the above, the following shall be considered in allowing a Digital Sign Conditional Use Permit:

    i. Other elements of Street and site furniture and adjacent Structures; form, proportion, and scale;

ii. Potential effect of the proposed Sign on driver and pedestrian safety; iii. Potential effect of historical, cultural or architectural significance;

iv. Potential negative impact on adjacent Buildings to side yards, front yards, open space, or parks;

v. Potential negative impact on visual quality of public spaces; open space, or parks; vi. Potential negative impact on visual quality of public spaces;

vii. Style or character of existing improvements upon the site and lots adjacent to the site;

viii. The location of the sign relative to residential areas or neighborhoods and potential negative impact;

ix. The location of the sign relative to street intersections and stop lights or stop sign.

2. FINDINGS: In making a decision the City shall specify the particular grounds relied upon and shall make affirmative findings that the proposed use conforms with the general standards set forth in SECTION V(1) above.

SECTION VI. PERIOD OF VALIDITY OF CONDITIONAL USE PERMIT. A conditional use permit shall expire automatically, without revocation by the City, unless a building permit to effectuate such conditionally permitted use is obtained within twelve (12) months after such permit is obtained by the applicant, or if no building permit is required, unless substantial evidence of use is filed with the Zoning Administrator within the twelve (12) months period after such permit is obtained. A conditional use permit shall expire if the conditionally permitted use shall cease or be abandoned for more than twelve (12) months.