

**ORDINANCE OF THE
NEWTON COUNTY BOARD OF COMMISSIONERS
TO AMEND THE ZONING ORDINANCE OF NEWTON COUNTY, GEORGIA**

WHEREAS, the Board of Commissioners of Newton County, Georgia is tasked with the protection of the County's health, safety, and general welfare, and is authorized to exercise zoning and planning powers; and

WHEREAS, the Board of Commissioners has investigated the compatibility of personal care homes, community living arrangements, and group residences with residential zoning districts; and

WHEREAS, according to the U.S. Census Bureau, from 2008-2012, the average household size in Newton County was 2.93; and

WHEREAS, the Board of Commissioners has determined that smaller personal care homes, community living arrangements, and group residences may be suitable in residential zoning districts provided they are similar in size to the average Newton County households, are conducted as home occupations, and meet specified criteria that promote compatibility with residential zoning districts; and

WHEREAS, by furthering the above-stated goals, these amendments will serve the public health, safety and general welfare.

NOW THEREFORE, 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, that the Zoning Ordinance, Newton County, Georgia is amended as provided herein:

SECTION 1

Article I, Division 105 of the Newton County Zoning Ordinance is hereby amended so as to delete the definition of group residence and personal care home, add a definition of disability; group residence for persons with a disability, home occupation; group residence for persons with a disability, congregate; group residence (non-disability); personal services; and resident manager, and amend the definition of family, as shown:

Sec. 105-020 SPECIFIC DEFINITIONS

Disability

A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. A "disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802 or successor law. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. "Has a record of such an impairment" means has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

Family

A group of individuals related by blood, marriage, adoption, or guardianship, or not more than four persons not so related, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Group residence for persons with a disability, home occupation

A residence in which a resident manager (who is a member of the family residing in the residence) and up to three unrelated persons with a disability protected under the Fair Housing Act reside and which is licensed by the State Department of Community Health as a Personal Care Home or Community Living Arrangement. The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

Group residence for persons with a disability, congregate.

A residence in which a resident manager and additional unrelated persons with a disability protected under the Fair Housing Act reside and which is licensed by the State Department of Community Health as a Personal Care Home or Community Living Arrangement. The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

Group residence (non-disability)

Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service and one or more personal services for two or more persons who are not related to the owner by blood or marriage and falls under the jurisdiction of the State Department of Human

Services or State Department of Community Health, but that does not meet the definition of "group residence for persons with a disability."

Personal Services

Provision of services, on a daily basis, that include, but are not limited to, ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting.

Resident Manager

A person who lives in a group residence and is responsible for daily operation of the residence and care given to residents on a 24-hour per day basis.

SECTION 2

Article V of the Newton County Zoning Ordinance is hereby amended so as to amend the Use Table as shown in Exhibit "A".

SECTION 3

Article V of the Newton County Zoning Ordinance is hereby amended so as to delete subsection 510-298, in its entirety, and to insert in lieu thereof, the following:

Sec. 510-298 GROUP RESIDENCE

- A. The following standards apply to a Group Residence for persons with a disability, home occupation:
1. The design and or maintenance of the structure used for the group residence must be residential in appearance and in keeping with neighboring homes. No external signage or other evidence of the use of the dwelling as other than a residential dwelling unit shall be permitted.
 2. The group residence shall be operated in a manner compatible with the neighborhood and shall not be detrimental to adjacent properties by reason of traffic, noise, light, refuse, parking or other activities. Adequate off-street parking shall be provided for residents, staff and visitors such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and visitation hours and any outside provision of services shall be restricted so as to not create undue traffic congestion.
 3. Personal services may be provided for residents; however, no medical or nursing services shall be provided.
 4. A group residence for persons with a disability, home occupation, with 4 or fewer persons is allowed as of right in all residential zoning districts. The resident manager, who must be a member of the family residing in the residence, is counted toward the limit.

- B. A group residence for persons with a disability, congregate, and a group residence (non-disability) are allowed with conditional use in the OI, CN, CH and CG zoning districts.
- C. The operator of the group residence shall comply with all applicable local, state and federal laws and regulations. Copies of all applicable licenses and permits, including but not limited to a Newton County business license, and State licenses, shall be provided to the Development Services Department. Evidence shall be made available to the Development Services Department on an annual basis that the group residence maintains and is in compliance with all licensing requirements.
- D. The group residence shall comply with all applicable building, housing, and fire codes. A fire inspection shall be required prior to the issuance of a business license and shall be required annually prior to the renewal of said business license.
- E. To prevent the institutional atmosphere created by a concentration or clustering of several group residences thereby defeating the group residence goal of integrating individuals into the community, each group residence shall be a minimum of five hundred (500) feet from any other group residence or similar use if located in a single-family residential zoning district. (Said distance shall be measured from property lines).
- F. The applicant shall submit a 24-hour crisis intervention plan. It shall be within the county's discretion to require the group residence to enter into a memo of understanding with the appropriate local agencies such as schools, hospitals or other crises intervention agencies for provision of emergency services, including, where applicable, 24-hour crises intervention.
- G. The operator of a group residence housing juveniles shall provide the Newton County Sheriff's Department with a current list of residents. If any of the juveniles were placed in the group residence by the Department of Family and Children's Services, a list shall also be provided to the Newton County Office of the Department of Family and Children's Services. Said list shall be updated within ten days of a change in residents. The operator of the group residence shall also provide a 24-hour contact number for the person or organization owning the group residence.

SECTION 4

Article V of the Newton County Zoning Ordinance is hereby amended so as to delete subsection 510-460, in its entirety.

SECTION 5

Article 2, Section 285-020 C of the Newton County Zoning Ordinance is hereby amended so as to replace “Personal Care Home, Group Residence” with “Group residence for persons with a disability, congregate”.

SECTION 6

Article 2, Section 290-020 C of the Newton County Zoning Ordinance is hereby amended so as to delete the “Dwelling, Group Residence” and “Personal Care Home” categories in the table, and replace them with the following:

Type of Use	Mixed Use District
Group residence for persons with a disability, home occupation	A
Group residence for persons with a disability, congregate	CU
Group residence (non-disability)	CU

SECTION 7

Article 3, Section 300-090 of the Newton County Zoning Ordinance is hereby amended so as to delete subsections F and G, and replace them with the following:

- F. Group residence for persons with a disability, home occupation
- G. Group residence for persons with a disability, congregate

SECTION 8

Article 4, Section 440-020 of the Newton County Zoning Ordinance is hereby amended so as to replace the reference to “Personal Care Home, Group Home” in the table with “Group residence for persons with a disability, congregate, group residence (non-disability)”.

SECTION 9

Article 4, Section 445-020 of the Newton County Zoning Ordinance is hereby amended so as to replace the reference to “Personal Care Home, Group Home” in the table with “Group residence for persons with a disability, home occupation”.

SECTION 10

Article 6, Section 605-030 B.5. and Section 620-060 B.14. of the Newton County Zoning Ordinance is hereby amended so as to replace the references to “Personal Care Home for the

handicapped” with “Group residence for persons with a disability” and to replace “handicap” with “disability”.

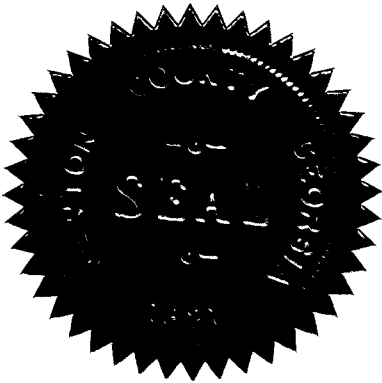
SECTION 11

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

SECTION 12

This Ordinance shall be in force and take effect on May 20, 2014.

Adopted and approved by the Board of Commissioners on the 20th day of May, 2014, after a public hearing on said date.



NEWTON COUNTY BOARD OF COMMISSIONERS

By: William K. Ellis
William K. Ellis, Chairman

Attest: Jackie Smith
Jackie Smith, Clerk

Recommended for approval and adopted by the Newton County Planning Commission on the 22nd day of April, 2014, after a public hearing on said date.

NEWTON COUNTY PLANNING COMMISSION

By: Landis Stephens
Landis Stephens, Chairman

Attest: Crystal Dooley
Crystal Dooley, Secretary

EXHIBIT "A"

USE TABLE

Type of Use	Applicable Use Standards	Zoning Districts																
		A	R-E	A-R	R-1	R-2	R-3	MSR	DR	RMF	MHP	MHS	OI	CN	CH	CG	M-1	M-2
Dwelling, Single Family		A	A	A	A	A	A	A	A	A	A	A						
Group Residence for persons with a disability, home occupation	510-298	A	A	A	A	A	A											
Group Residence for persons with a disability, congregate	510-298												CU	CU	CU	CU		
Group Residence, non-disability	510-298												CU	CU	CU	CU		