ORDINANCE NO. 216-25

AN ORDINANCE AMENDING THE MILLERSBURG LAND USE DEVELOPMENT CODE BY REVISING SECTIONS 2.06-2.11, 2.12, 3.07, 3.15, 3.21, 3.30, 4.01-4.05, 4.1, AND 4.2, OF THE MILLERSBURG LAND USE DEVELOPMENT ORDINANCE

WHEREAS, the City of Millersburg in October of 2020 adopted a new Land Use Development Code; and,

WHEREAS, the adopted Land Use Development Code contained instances where the Code did not fully address the City's needs, items were inadvertently excluded, or need clarification; and,

WHEREAS, these amendments to the Millersburg Land Use Code will address 9 revisions to the existing Development Code. These include changes required by the Federal Emergency Management Agency (FEMA), proposed changes to RV covers (walls on them specifically), further refinements to the new ground mounted solar sections, changes to partition requirements, changes to legal non-conforming structure standards, revisions to signs on chain link fencing, minor clarification to the standards for fowl and rabbits, additions for middle housing mandates by the State, and clarification to lot to width standards for new partitions and subdivisions; and,

WHEREAS, the Department of Land Conservation and Development (DLCD) received hearing notice at least thirty-five days in advance of the hearing on May 23, 2025; and,

WHEREAS, a public hearing notice was published twice in the Albany Democrat Herald newspaper on June 10 and June 17, 2025; and,

WHEREAS, a notice was sent to every property owner in the City of Millersburg FEMA floodplain area (100 year and 500 year) on June 9, 2025; and,

WHEREAS, a hearing notice was posted in City Hall, on the Millersburg Website, and emailed to all parties who signed up for hearing notifications on or before June 9, 2025; and,

WHEREAS, on July 1, 2025, the Millersburg Planning Commission recommended the Millersburg City Council approve the amendments**;** and,

WHEREAS, on November 24, 2025, the Millersburg City Council provided direction to Staff to proceed with the model code option (of 3 option available from FEMA)**;** and,

WHEREAS, the City Council held a work session on June 3, 2025 and the Planning Commission held workshops on May 6, 2025 and all suggested revisions were made and included in the City Council Staff Report dated June 24, 2025; and,

WHEREAS, the Millersburg Planning Commission and City Council reviewed all findings in the June 24, 2025, Planning Commission Staff Report and determined that the project meets all criteria requirements from Section 5.11 of the Millersburg Land Use Development Code and is consistent with the Oregon Administrative Rules section 660-012.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF MILLERSBURG DO ORDAIN AS FOLLOWS:

The Millersburg City Council adopts all findings from the June 24, 2025 Staff Report and finds that the project meets all criteria requirements from Section 5.11 of the Millersburg Land Use Development Code and is consistent with the Oregon Administrative Rules section 660-012.

FURTHERMORE, the Millersburg Land Use Development Code sections 2.06-2.11, 2.12, 3.07, 3.15, 3.21, 3.30, 4.01-4.05, 4.1, AND 4.2, are hereby amended as shown in attached Exhibit A to this Ordinance.

PASSED by the Council and approved by the Mayor this 8th day of July, 2025.

Scott Cowan,
Mayor

ATTEST:

Sheena Dickerman,
City Recorder

Ord 216-25 Attachment A

CHAPTER 2.06. MIXED USE ZONE (MU)

2.06.020 Permitted Uses.

The following uses, when developed under the applicable development standards in the Code, are permitted in the MU zone:

(18) Ground Mounted Solar Systems when ancillary to a primary use, such as over parked cars.

[Note: the Commercial Office Zone was not included because it permits all uses from the GC Zone.]

CHAPTER 2.08. GENERAL COMMERCIAL ZONE (GC)

2.08.020 Permitted Uses.

The following uses, when developed under the applicable development standards in the Code, are permitted in the GC zone:

(16) Ground Mounted Solar Systems when ancillary to a primary use, such as over parked cars.

CHAPTER 2.09. LIGHT INDUSTRIAL ZONE (LI)

2.09.020 Permitted Uses.

The following uses, when developed under the applicable development standards in the Code, are permitted in the LI zone:

(7) Ground Mounted Solar Systems when ancillary to a primary use, such as over parked cars.

CHAPTER 2.10. GENERAL INDUSTRIAL ZONE (GI)

2.10.020 Permitted Uses.

The following uses, when developed under the applicable development standards in the Code, are permitted in the GI zone:

(12) Ground Mounted Solar Systems when ancillary to a primary use, such as over parked cars.

CHAPTER 2.11. PUBLIC FACILITIES ZONE (PF)

2.11.020 Permitted Uses.

The following uses are permitted in the PF zone and subject to Site Design Review:

(3) Ground Mounted Solar Systems when ancillary to a primary use, such as over parked cars.

CHAPTER 2.12 FLOODPLAIN OVERLAY ZONE (FPO)

2.12.010 Purpose.

The purpose of the Floodplain Overlay Zone is to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;

(6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;

(7) Notify potential buyers that the property is in a special flood hazard area;

(8) Notify those who occupy special flood hazard areas that they assume responsibility for their actions;

(9) Participate in and maintain eligibility for flood insurance and disaster relief;

(10) Implement the floodplain policies in the City of Millersburg Comprehensive Plan~~.~~;

(11) Preserve natural and beneficial floodplain functions.

2.12.020 Methods of Reducing Flood Losses.

In order to accomplish its purposes, this Chapter includes methods and provisions for:

(1) Restricting or prohibiting development which is dangerous to health,

safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage;

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

(6) Employing a standard of "no net loss" of natural floodplain functions.

2.12.030 Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

Ancillary Features (Flood): Features of a development that are not directly related to the primary purpose of the development.

Appeal (Flood): A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding (Flood). A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard (Flood). The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

Base flood (Flood). The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) (Flood). The elevation to which floodwater is anticipated to rise during the base flood.

Breakaway wall (Flood): A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting

foundation system.

Development (Flood). Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Fill (Flood). The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etcetera. For purposes of Section 2.12, the placement of fill is considered "development."

Fish Accessible Space (Flood). The volumetric space available to fish to access.

Fish Egress-able Space (Flood). The volumetric space available to fish to exit or leave from.

Flood or *Flooding (Flood)*. A general and temporary condition of partial or complete inundation of normally dry land areas from:

The overflow of inland or tidal waters.

The unusual and rapid accumulation or runoff of surface waters from any source.

Mudslides (i.e., mudflows) which are proximately caused by flooding as defined above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood elevation study (Flood). An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM) (Flood). The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) (Flood). See "Flood elevation study".

Flood proofing (Flood). Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of

flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway(Flood). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Flood Storage Capacity (Flood): The volume of floodwater that an area of the floodplain can hold during the 1-percent annual chance flood.

Functionally dependent use (Flood). A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Green Infrastructure (Flood). Use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it includes a range of measures that use plant or soil systems, permeable pavement, or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate or evapotranspirate stormwater and reduce flows to sewer systems or surface waters. Green infrastructure practices can be used to achieve no net loss of pervious surface function by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.

Habitat Restoration Activities (Flood). Activities with the sole purpose of restoring habitats that have temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project.

Hazard Trees (Flood): Standing dead, dying, diseased, or infested trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or pose a safety threat from the risk of falling on a road, building, or otherwise creates a risk of damage or injury.

Highest adjacent grade (Flood). The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure (Flood). Any structure that is:

Listed individually in the National Register of Historic Places (a listing

maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

By an approved state program as determined by the Secretary of the Interior or

Directly by the Secretary of the Interior in states without approved programs.

Hydraulically Equivalent Elevation (Flood). A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

Hydrologically Connected (Flood). The interconnection of groundwater and/or surface water such that they constitute one water supply and use of either results in an impact to both.

Impervious Surface (Flood). A surface that is resistant to infiltration by water and thereby increases the amount and rate of surface water runoff.

Low Impact Development (LID) (Flood). An approach to land development (or redevelopment) that works to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

Lowest floor (Flood). The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured dwelling (Flood). A structure, transportable in one or more

sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

Manufactured dwelling park or *subdivision (Flood)*. A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean Higher-High Water (Flood). The average of the higher-high water height of each tidal day observed over the National Tidal Epoch.

Mean sea level (Flood). For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction (Flood). For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Millersburg and includes any subsequent improvements to such structures.

No Net Loss (Flood). A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the State, Tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite (Flood). Mitigation occurring outside of the project area.

Onsite (Flood). Mitigation occurring within the project area.

Ordinary High Water Mark (Flood). The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Pervious Surface (Flood). A surface that readily allows water to infiltrate or percolate into the ground.

Qualified Professional (Flood). Appropriate subject matter expert that is defined by the community.

Reach (Flood). A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

Recreational Vehicle (Flood). A vacation trailer, vehicle, or portable unit, as defined in ORS 801.180, 801.350, and 801.565, which is either self-propelled, towed, or carried by a motor vehicle, which is:

Built on a single chassis;

400 square feet or less when measured at the largest horizontal projection;

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

For the purpose of this definition, a recreational vehicle also includes a street legal trailer used for transporting motorized or non-motorized recreational vehicles including, but not limited to, boats, snowmobiles, ATV's, and motorcycles.

A recreational vehicle does not meet the definition for a manufactured home or mobile home.

Riparian (Flood): Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

Riparian Buffer Zone (RBZ) (Flood): The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area. Where the waterbody is not located within a SFHA, the RBZ does not apply.

Riparian Buffer Zone Fringe (Flood): The area outside of the RBZ and floodway but still within the SFHA.

Silviculture (Flood): The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

Special flood hazard area (SFHA) (Flood). See "Area of special flood hazard" for this definition.

Start of construction (Flood). Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure (Flood). For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage (Flood). Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement (Flood). Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Undeveloped Space (Flood). The volume of flood capacity and fish-accessible/egress-able space from the existing ground to the BFE that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete structures (vaults or tanks, pilings, levees and dikes, or any other development that reduces food storage volume and fish accessible/egress-able space must achieve no net loss.

Variance (Flood). A grant of relief by the City of Millersburg from the terms of a flood plain management regulation.

Violation (Flood). The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

2.12.040 Application of Special Flood Hazard Areas.

This code shall apply to all special flood hazard areas within the jurisdiction of the City of Millersburg and does not apply elsewhere. The degree of flood protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Code shall not create liability on the part of the City of Millersburg, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this Code or

any administrative decision lawfully made thereunder.

2.12.050 Basis for Establishing the Special Flood Hazard Areas.

The special flood hazard areas identified by the Federal Insurance Administration in a scientific and engineering report entitled the "The Flood Insurance Study for the City of Millersburg, Oregon," dated June 15, 1982, including any amendments or revisions, with accompanying Flood Insurance Rate Maps. The Flood Insurance Study and FIRM panels are on file at the Millersburg City Hall, 4222 NE Old Salem Road, ~~Albany~~ Millersburg OR 97321.

2.12.060 Coordination with State of Oregon Specialty Codes.

Pursuant to the requirement established in ORS Chapter 455 that the City of Millersburg administers and enforces the State of Oregon Specialty Codes, the City of Millersburg does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in areas of special flood hazard. Therefore, this code is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

2.12.070 Compliance and Penalties.

All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

2.12.080 Abrogation and Severability.

(1) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions granted to the City of Millersburg or which the City of Millersburg is a party. However, where this ordinance and another ordinance or such, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(2) This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

2.12.090 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

2.12.100 Warning and Disclaimer of Liability.

(1) The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

(2) This ordinance shall not create liability on the part of the City of Millersburg, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

2.12.110 Administration.

(1) The City Manager is hereby appointed to be the Floodplain Administration to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

(2) Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

a. Review all development permits to determine that:

i. The permit requirements of this ordinance have been satisfied;

ii. All other required local, state, and federal permits have been obtained and approved.

iii. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in Section 2.12.~~230~~240 are met; and

iv. Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data are available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data are not available, then ensure compliance with the provisions of Section 2.12.~~150~~160; and

v. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.

vi. Review all development permit applications to determine if the

proposed development qualifies as a substantial improvement as defined in Section 2.12.030.

vii. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in Section 2.12.~~130(A).~~ 140(1).

viii. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.

ix. Determine whether the proposed development activity complies with the no net loss standards in Section 2.12.290.

b. Information Maintenance. The following information shall be obtained and maintained and shall be made available for public inspection as needed:

i. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 2.12.~~150~~.

ii. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of Section 2.12.~~230 and Section 2.12.100(B)1.b.,~~ 110 are adhered to.

iii. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).

iv. Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.

v. Maintain all Elevation Certificates (EC) submitted to City of Millersburg;

vi. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with Section 2.12.~~150~~110.

vii. Maintain all floodproofing certificates required under this

ordinance;

viii. Record and maintain all variance actions, including justification for their issuance;

ix. Obtain and maintain all hydrologic and hydraulic analyses performed as required under Section 2.12.~~230~~110.

x. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under Section 2.12.~~100(G)~~110.

xi. Maintain for public inspection all records pertaining to the provisions of this ordinance.

(3) Community Boundary Alteration. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

(4) Watercourse Alterations. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

a. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

b. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 2.12.~~100(E).~~ 110(5). Ensure compliance with all applicable requirements in Section 2.12.~~100(E)~~ 110(5) ~~and Section 2.12.130(A)~~.

(5) Requirements to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of

Federal Regulations (CFR), Sub-Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

(6) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

a. Proposed floodway encroachments that increase the base flood elevation; and

b. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

(7) An applicant shall notify FEMA within six months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

(8) Substantial Improvement and Substantial Damage Assessments and Determinations. Conduct Substantial Improvement (SI) (as defined in Section 2.0) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 2.12.1~~0~~10(~~B~~2)~~2~~ii. Conduct Substantial Damage (SD) (as defined in Section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area, as established in Section 2.12.040, are damaged to the extent that the cost of restoring the

structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.12.120 Establishment of a Development Permit.

(1) Floodplain Development Permit Required. A development permit shall be obtained before construction or development begins, more specifically before building permits are issued within any area horizontally within the special flood hazard area established in Section 2.12.040. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in Section 2.12.030, including fill and other development activities.

(2) Application for a Development Permit. Application for a development permit is a Type I process, made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

a. In riverine flood zones, the proposed elevation (in relation to mean

sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of Section ~~2.12.100(b)(2)~~2.12.180.

b. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

c. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in Section ~~2.12.100(b)(2)~~2.12.140.

d. Description of the extent to which any watercourse will be altered or relocated.

e. Base Flood Elevation data for subdivision proposals or other development when required per Sections ~~2.12.100(B)1, and 2.12.140~~ 2.12.150.

f. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

g. The amount and location of any fill or excavation activities proposed.

2.12.125 Floodplain Development Permit Exemptions.

The following development activities are exempt for the requirement for a Floodplain Development Permit in any SFHA:

(1) Grading, excavation, fill or paving less than 50 cubic yards (cumulative).

(2) Open barbless wire, pipe, rail, chain link, or wood fences that meet the design guidelines in this Article.

(3) Agricultural activities, not including structures.

(4) Short-term storage of equipment or materials that in time of flooding could either be removed from the area, or would not cause harm to property, humans, animals or the environment by becoming buoyant or hazardous.

(5) Signs, markers, aids, etc., placed by a public agency to serve the public.

(6) Customary dredging to maintain existing channel capacity consistent with State or Federal laws and permits.

(7) Replacement of utility facilities that are necessary to serve established and permitted uses, and that are of equal or lesser size

and impact.

(8) Subsurface public utility projects that will not ultimately result in modification to existing topography.

(9) Transportation facility rehabilitation and maintenance projects that will not result in modifications to existing topography.

2.12.130 Variance Procedure.

(1) The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

(2) *Conditions for Variances.*

a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of Section 2.12.120(~~B~~2)~~3~~c. and ~~5e.; and, Section 2.12.120(C).~~ As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

c. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon:

I. A showing of good and sufficient cause;

II. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

III. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

IV. Demonstration that the development will result in net loss of the following three proxies for floodplain functions in the SFHA: undeveloped space, pervious space, or trees 6 inches diameter at breast height (dbh) or greater (see Section 2.12.290 and associated options in Table 1).

e. Variances may be issued ~~by a community~~ for new construction, ~~and~~ substantial improvements, and for other development necessary for the conduct of a functionally dependent use provided that the standards of Section 2.12.140 are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(3) *Variance Notification.* Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 2.12.1~~0~~10(B2)~~2~~ii.

2.12.140 General Standards.

In all special flood hazard areas, the following standards shall be adhered to:

(1) Alteration of Water Courses. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with Sections 2.12.1~~0~~10(~~D~~4) and (~~E~~5).

(2) *Anchoring.*

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All manufactured dwellings shall be anchored per Section 2.12.2~~0~~10.

(3) *Construction Materials and Methods.*

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(4) *Utilities and Equipment.*

a. Water Supply, Sanitary Sewer, and On-site Waste Disposal Systems

I. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

II. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

III. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during

flooding consistent with the Oregon Department of Environmental Quality.

b. Electrical, Mechanical, Plumbing and Other Equipment. Electrical, heating, ventilating, air- conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities, if replaced as part of a substantial improvement shall meet all the requirements of this section.

c. Tanks

I. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

II. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

(5) No Net Loss. All requirements of Section 2.12.290 are met.

2.12.150 Subdivision Proposals and Other Proposed Developments.

(1) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.

(2) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

a. Be consistent with the need to minimize flood damage.

b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

c. Have adequate drainage provided to reduce exposure to flood hazards.

d. Comply with the no net loss standards in Section 2.12.290.

2.12.160 Use of Other Base Flood Data.

(1) When Base Flood Elevation data has not been provided in accordance with Section 2.12.040 the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal,

state, or other source, in order to administer Sections 2.12.1310 to 2.12.160270. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 2.12.1450.

(2) Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

2.12.170 Structures Located in Multiple or Partial Flood Zones.

In coordination with the State of Oregon Specialty Codes:

(1) When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

(2) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

2.12.180 Specific Standards for Riverine (Including All Non-Coastal) Flood Zones.

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in Section 2.12.1340 of this ordinance.

(1) Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

a. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;

b. Be used solely for parking, storage, or building access;

c. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

I. A minimum of two openings,

II. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,

III. The bottom of all openings shall be no higher than one foot above grade.

IV. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.

V. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

(2) Garages. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:

a. If located within a floodway the proposed garage must comply with the requirements of Section 2.12.2~~3~~40.

b. The floors are at or above grade on not less than one side;

c. The garage is used solely for parking, building access, and/or storage;

d. The garage is constructed with flood openings in compliance with Section 2.12.170(A) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

e. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;

f. The garage is constructed in compliance with the standards in Section 2.12.~~130~~230; and

g. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(3) Detached garages must be constructed in compliance with the standards for accessory structures in Section 2.12.2230 ~~or non-residential structures in Section 2.12.180(C) depending on the square footage of the garage~~.

(4) No Net Loss. All requirements of Section 2.12.290 are met.

2.12.190 For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations.

In addition to the general standards listed in Section 2.12.1~~3~~40 the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

(1) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement,

or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in Section 2.12.290.

(2) Residential Construction

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one (1) foot above the Base Flood Elevation (BFE).

b. Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 2.12.~~170(A).~~ 200.

(3) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall:

a. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) together with attendant utility and sanitary facilities,

b. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

c. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

d. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 2.12.~~100(B)2~~110(2)b.

(4) Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in Section 2.12.~~170(B)~~200.

(5) Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below.

2.12.200 Below Grade Crawl Spaces.

Where a structure contains a below grade crawl space, the following shall apply:

(1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required flood openings stated in Section 2.12.1~~7~~80(~~A~~1). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(2) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.

(3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(5) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

(6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(8) The velocity of floodwaters at the site shall not exceed five feet per

second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

2.12.210 Manufactured Dwellings.

(1) New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 2.12.1780(B1);

(2) The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;

(3) New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over- the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;

(4) Electrical crossover connections shall be a minimum of 12 inches above Base Flood Elevation (BFE).

2.12.220 Recreational Vehicles.

Recreational vehicles placed on sites are required to:

(1) Be on the site for fewer than 180 consecutive days,

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the requirements of Section 2.12.2010, including the anchoring and elevation requirements for manufactured dwellings.

2.12.230 Accessory Structures.

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for accessory structures that meet the following requirements:

(1) Accessory structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section 2.12.2340.

(2) Accessory structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

(3) In compliance with State of Oregon Specialty Codes, accessory structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two acres in area and the proposed accessory structure will be located a minimum of 20 feet from all property lines.

Accessory structures on properties that are zoned as non- residential are limited in size to 120 square feet.

(4) The portions of the accessory structure located below the Base Flood Elevation must be built using flood resistant materials;

(5) The accessory structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

(6) The accessory structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 2.12.1~~7~~80(~~B~~1);

(7) Accessory structures shall be located and constructed to have low damage potential;

(8) Accessory structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed incompliance with Section 2.12.~~130(D)3~~140(4)c.

(9) Accessory structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

2.12.240 Floodways.

Located within the special flood hazard areas established in Section 2.12.0450 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

a. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

b. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled as well as all applicable no net loss standards from

Section 2.12.290.

(2) If the requirements of Section 2.12.2340(A1) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Sections 2.12.1340 to 2.12.1670.

2.12.250 Standards for Shallow Flooding Areas.

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident.
Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

2.12.260 Standards for AH Zones.

Development within AH Zones must comply with the standards in Sections 2.12.1340, 2.12.1780 and 2.12.2450.

2.12.270 Standards for AO Zones.

In AO zones, the following provisions apply in addition to the requirements in Sections 2.12.1340 and 2.12.2450:

(1) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) or at least two feet if no depth number is specified. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

(2) New construction and substantial improvements of non-residential structures within AO zones shall either:

a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) at least two feet if no depth number is specified; or

b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of

resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in Section 2.12.~~180(C)~~4190(3)d.

(3) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

a. Be on the site for fewer than 180 consecutive days, and

b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

c. Meet the elevation requirements of Section 2.12.~~240~~190(2)a, and the anchoring and other requirements for manufactured dwellings of Section 2.12.~~20~~10.

(4) In AO zones, new and substantially improved accessory structures must comply with the standards in Section 2.12.~~22~~30.

(5) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in Section 2.12.1~~7~~80(~~A~~1).

2.12.280 Standards for Protection of SFHA Floodplain Functions

Mitigation may be necessary to ensure no net loss in floodplain functions of water storage, water quality, and vegetation. Proxies for these floodplain functions include undeveloped space, pervious surfaces, and trees to account for a no net loss in respective floodplain functions of floodplain storage, water quality, and vegetation. Mitigation of identified impacts to these proxies must be completed to ensure compliance with no net loss standards included below. No net loss applies to the net change in floodplain functions as compared to existing conditions at the time of proposed development and mitigation must be addressed to the floodplain function that is receiving the detrimental impact. The standards described below apply to all special flood hazard areas as defined in Section 2.0.

2.12.290 NO NET LOSS STANDARDS

(1) No net loss of the proxies as provided in 2.12.290 (4) below for the floodplain functions is required for development in the SFHA that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:

a. Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner

agreement);

b. If mitigation benefits multiple parcels or is performed at an offsite location, demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;

c. Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.

(2) Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.

(3) No net loss must be provided within, in order of preference:

a. the lot or parcel that floodplain functions were removed from,

b. the same reach of the waterbody where the development is proposed, or

c. the special flood hazard area within the same hydrologically connected area as the proposed development.

Table 1 presents the no net loss ratios, which increase based on the preferences listed above.

(4) FLOODPLAIN FUNCTION PROXIES

a. UNDEVELOPED SPACE

i. Development proposals post mitigation shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.

ii. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.

iii. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).

1. Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands as the development proposal. The flood elevation bands are:

a. Ordinary High Water Mark to 10-year flood event

b. 10-year to 25-year flood event

c. 25-year to 50-year flood event

d. 50-year to 100-year flood event

2. Hydrologically connected to the water body that is the flooding source;

3. Designed so that there is no net increase in velocity; and,

4. Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent practicable.

b. IMPERVIOUS SURFACES
Impervious surface mitigation shall be performed through any of the following options:

i. Development shall not result in a net increase in impervious surface area within the SFHA, or;

ii. Shall use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or;

iii. If prior methods are not feasible and documented by a qualified professional, stormwater detention is required to ensure no increase in peak volume or flow and to maximize infiltration and treatment is required to minimize pollutant loading. See section 2.12.300 (3) for stormwater detention specifications.

c. Trees

i. Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area. This requirement does not apply to silviculture where there is no development.

1. Trees 6-inches dbh or greater that are removed from the RBZ, Floodway, or RBZ fringe must be replaced at the ratios in Table 1.

2. Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.

2.12.300 NO NET LOSS STORMWATER MANAGEMENT

Any development proposal that cannot mitigate as specified in 2.12.290(4).b must include the following:

(1) Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area, and;

(2) Water quantity treatment (detention facilities) unless the outfall discharges into the ocean.

(3) Detention facilities must be designed to:

i. Limit discharge to match the pre-development peak discharge rate (i.e., the discharge rate of the site based on its natural groundcover and grade before any development occurred) for the 10-year, 5-year, 2-year, and 50 percent of the 2-year event peak flows.

ii. Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body.

iii. Be designed to not entrap fish and drain to the source of flooding.

iv. Be certified by a qualified professional.

(4) Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:

i. Access to stormwater treatment facilities at the site by the City for the purpose of inspection and repair.

ii. A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.

iii. For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.

v. The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on site and available at all times. Records of the maintenance and repairs shall be retained and made available for inspection by the City for five years.

2.12.310 ACTIVITIES EXEMPT FROM NO NET LOSS STANDARDS

The following activities are not subject to the no net loss standards in Section 2.12.290; however, they may not be exempt from floodplain development permit requirements.

(1) Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure;

(2) Normal street, sidewalk, and road maintenance, including filling

potholes, repaving, and installing signs and traffic signals, that does not alter drainage patterns, use, or culverts so long as the grade is not raised by more than six inches. Exempt activities do not include expansion of paved areas;

(3) Routine maintenance of landscaping that does not involve grading, excavation, or filling;

(4) Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration provided the spoils are removed from special flood hazard area or tilled into fields as a soil amendment;

(5) Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter drainage patterns, use, or culverts and so long as the grade is not raised by more than six inches;

(6) Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;

(7) Normal maintenance of above ground utilities and facilities, such as replacing power lines and utility poles provided there is no net change in footprint;

(8) Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe, or addition of protection on the face or toe with rock armor;

(9) Habitat restoration activities;

(10) Areas that do not serve one of the three floodplain functions identified in 2.12.290 and contain no fish habitat;

(11) Pre-emptive removal of documented susceptible trees to manage the spread of invasive species;

(12) Projects that are covered under separate consultations under Section 4(d), 7, or 10 of the Endangered Species Act (ESA).

2.12.320 SFHA RIPARIAN BUFFER ZONE (RBZ)

(1) The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream). The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.

(2) Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards

described above.

(3) Functionally dependent uses (like docks) are subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards (see Section 2.12.330).

(4) Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard (see Section 2.12.330).

Table 1 No Net Loss Standards

Basic Mitigate Ratios	Undeveloped Space (ft)	Impervious Surface (ft^2)	Trees (6"<dbh≤20")	Trees (20"<dbh≤39")	Trees (39"<dbh)
RBZ and Floodway	2:1	1:1	3:1	5:1	6:1
RBZ-Fringe	1.5:1	1:1	2:1	4:1	5:1
Mitigation multipliers					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5^{th} field)	200%	200%	200%	200%	200%

Notes:

1. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
   a. For example, if only 500 ft2 of the total 1000 ft2 of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft2 of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
2. RBZ impacts must be offset in the RBZ, on-site or off-site.

2.12.330 Beneficial Gain Standard

An area within the same reach as the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.

CHAPTER 3.07. - FENCING AND SCREENING

3.07.080 Fence Advertising or Signage.

Signs on fences within the right of way are not permitted. ~~Fences shall not be used for advertising purposes. Accordingly, no signage may be installed on fencing except for advisory purposes (such as "no trespassing") consistent with the sign code provisions in this Code. No such sign shall exceed two square feet, and no such sign shall be located closer than 20 feet from any other sign posted on the same fence.~~

CHAPTER 3.15. RESIDENTIAL ACCESSORY STRUCTURES

3.15.010 Single-family Residences.

Residential accessory structures for attached or detached single-family homes and duplexes, excluding Accessory Dwelling Units as defined in Chapter 3.16, shall comply with all requirements for a principal structure, except where specifically modified by this section. Accessory structures shall not be used for human habitation except as specified in this section. Accessory structures shall comply with the following standards:

(6) Standards for RV covers and carports.

a. Materials. Covers may be made from any building material including metal.
b. Setbacks. All accessory structure setbacks apply. Setbacks will be taken from the eves of the roofline, not the structure uprights.
c. The RV cover or carport has no setback requirement from the primary structure (house) and may even be connected to the primary structure.
d. Colors. The primary color of any metal roofing material must be neutral (earth tones) or be similar to the color, or accent color, of the primary structure.
e. Height. The maximum height of an RV cover is 20 feet, unless the cover is setback at least 20 feet from any property line, then the height limit from the zone applies.
f. Walls.
    i. RV covers cannot include a wall of any kind (or solid gate or fence) that covers the front facing side of the structure where

the RV enters the space. The 3 other sides may include walls consistent with the requirements of this section.

ii. Any wall (not including any primary structure walls if the RV cover structure is attached to a primary structure) must not be within 4 feet of the finished floor.

iii. Transparent screens or screening may be used on any portion of the RV cover and is not considered a 'wall' for purposes of this section.

CHAPTER 3.21. - GENERAL STANDARDS

3.21.040 Farm Uses and Livestock.

If permitted as described below, or otherwise permitted as a commercial or industrial activity, the following limitations shall apply:

(3) *Fowl and Rabbits.* The keeping of fowl or rabbits in all residential zones ~~may be approved~~ is permitted by right subject to the following provisions~~.~~:

3.21.100 - Nonconforming Uses and Standards.

A legal nonconforming use is a use on a property that is currently in use and has been in use since before the zoning did not permit the use. An example is a house in an industrial zone where residential uses are not permitted. A legal nonconforming standard is when a structure is not meeting a zoning or development standard. An example would be if a home were in a residential zone, but the home was built 3 feet from the rear property line prior to the establishment of a larger rear zoning setback.

(1) Continuation. A nonconforming use or standard may be continued although not in conformity with the regulations for the zone in which the use is located.

(2) Discontinuation. If a nonconforming use is discontinued for a period of more than one year, the use shall not be resumed unless the resumed use conforms with the requirements of the Code.

(3) Restoration.

a. Uses. If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, and the repair or replacement of the damaged or destroyed structure or structures is less than 80% of the appraised value, such use may be restored or replaced provided physical restoration or replacement is lawfully commenced within one year of the damage or destruction. The City may administratively grant a one time, one-year extension to this requirement.

b. Standards. If a structure with a nonconforming standard is damaged or destroyed by fire, other casualty, or natural disaster, it may be restored or replaced

with the nonconforming standard provided physical restoration or replacement is lawfully commenced within one year of the damage or destruction. The City may administratively grant up to two one-year extension to this requirement. This provision only applies to structures built after 1976.

CHAPTER 3.30. – GROUND MOUNTED SOLAR STANDARDS

3.30.010 Introduction and Purpose

The purpose of this Chapter is to regulate the development of ground mounted solar systems for residential and commercial purposes. The regulations intend to provide standards to allow smaller systems in residential areas such that they will not be a nuisance to neighbors and in non-residential areas in some limited applications. Residential Zones are intended for the development of housing, not commercial grade solar farms. Large scale systems would discourage the ultimate use of housing in residential zones. Article II prevents the use of ground mounted solar systems in other zones as a primary use where they do not represent the highest and best use of such property inside City limits.

3.30.020 General Standards

(1) The size and scale of all ground mounted solar panels shall not be of a commercial nature.

(2) Residential ~~G~~ground mounted solar systems shall be placed in a rear or side yard on lots/parcels under 20,000 square feet. Systems in front yards on lots/parcels of this size are not permitted.

(3) All residential ground mounted solar systems shall be less than 8 feet in height, measured to the peak of the tallest panel from the ground.

(4) Ground mounted solar systems shall not count against lot coverage requirements when area under the panels is pervious.

Ground mounted solar systems shall be installed so that the panels do not create glare on neighboring properties

ARTICLE IV. LAND DIVISIONS

CHAPTER 4.01. LAND DIVISION REQUIREMENTS

4.01.010 Applicability.

~~Sections 4.02 and 4.03~~ Article IV address specific requirements related to the division of land, including partitions, ~~and~~ subdivisions and middle housing land divisions.

These provisions concern the process of dividing land and do not alter the requirements and standards of the underlying zone(s).

Procedures related to land divisions, including property line adjustments, are contained in Article V - Review Procedures.

CHAPTER 4.02. STANDARDS

4.02.010 Purpose.

The purpose of this Chapter is to provide for the orderly, safe, and efficient division of land within the City.

4.02.020 Scope.

The provisions of this Chapter shall apply to all partitions, ~~and~~ subdivisions and middle housing land divisions within the City of Millersburg. The following shall determine the appropriate process and design standards:

(1) Partition. A land division creating two or three parcels within a calendar year shall be processed as a Partition and subject to the design and improvement standards for a Partition.

(2) Subdivision. A land division creating four or more lots within a calendar year shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision.

(3) ~~Serial Partition. If a Partition results in the creation of a large parcel that can be subsequently divided so that there is the potential to create more than three parcels from the original, the request shall be subject to the criteria, standards, design, and improvement standards for a Subdivision.~~ Middle Housing Land Division. A land division that allows the sale of duplexes to different owners by creating separate lots for each housing unit. All rules and regulations for Middle Housing Land Divisions are regulated by Oregon Revised Statutes 92.031 and 197.360.

(4) Some standards listed below pertain specifically to residential or non-residential (typically commercial and industrial). If the standard does not state that it is specific to one or the other, then it is applicable to all land divisions. Maps for mixed use projects shall be treated like a non-residential map.

4.02.030 Standards for Lots or Parcels.

The following standards shall apply to Partitions and Subdivisions.

(2) *Lot Width and Depth.* The depth of a lot or parcel shall not be more than three times the width. The mean shall be used for lots that are a unique shape. For lots or parcels where the mean is not appropriate, a determination of consistency shall be made by the Community Development Director. Lots or parcels created for commercial, industrial, or public uses shall be exempt from width to depth ratio provisions.

4.02.050 Improvement Requirements - Partition.

During the review of Partition proposals, the City shall require, as a condition of approval, the following improvements:

(3) Resultant parcels shall conform to the City's adopted code and standards including but not limited to transportation, stormwater, wastewater and water Public Facilities. ~~Sewer, water, and storm drainage facilities may be required on and adjacent to the project.~~ The developer shall submit engineering plans or facility improvement plans to the City for review. The plans shall address the required improvements contained in this Article, and any conditions of approval, and shall conform with City Engineering Design Standards. Improvement work shall not commence until plans are approved by the City.