

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.01 Classification of Zones

**CHAPTER 2.01 CLASSIFICATION OF ZONES**

**2.01.010 Zones**

For the purposes of this Code, and the implementation of the Millersburg Comprehensive Plan, the following zoning zones are hereby established:

*Table 1 - Classification of Zones*

Classification of Zones	
Zone	Map Symbol
Residential Low-Density	RL
Rural	RU
Residential Mixed Density	RM
Mixed-Use	MU
General Commercial	GC
Limited Industrial	LI
General Industrial	GI
Public Facility	PF
Floodplain Overlay	FPO
Historic Property Overlay	HPO
Willamette Greenway Overlay	WGO
Airport Approach Area Overlay	AAO

**2.01.020 Location of Zone Boundaries**

- (1) **Boundaries.** The boundaries for the zones listed in this Code are indicated on the Zoning Map of the City of Millersburg, which is hereby adopted by this reference and hereinafter referred to as the "Zoning Map" in this Code. The boundaries shall be modified, only in accordance with the Millersburg Comprehensive Plan land use designations and policies, with zoning map amendments, and adopted by ordinance.
- (2) **Zoning Map.** The official Zoning Map shall be maintained on file in the office of the City Manager as long as this Code remains in effect. Amendments thereto shall be endorsed on the map with the number of the ordinance by which the change was made. Failure to revise the map shall not affect the validity of any zone change.
- (3) **Boundary Resolution.** The City Council shall resolve any dispute over the exact location of a zone boundary. In interpreting the location of such boundaries on

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### Chapter 2.01 Classification of Zones

the Millersburg Zoning Map, the City Council shall rely on the Millersburg Comprehensive Plan map and the following guidelines for the location of zone boundaries: property lines; lot lines; center lines of streets, alleys, streams, or railroads; City boundaries; notations on the Millersburg Zoning Map; or other planning criteria determined appropriate by the City Council.

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.02 Interpretation of Uses

**CHAPTER 2.02 INTERPRETATION OF USES**

**2.02.010 Interpretations of Uses**

- (1) **Types of Uses.** Within each zone, uses are classified as “permitted,” “special,” and “conditional.” Further, uses are functionally classified by description of the particular activity, such as “single-family residence.”
- (2) **Interpretation of Uses**
  - a. The City Manager or designee shall interpret any question concerning uses, including determining the most appropriate zone and classification for uses not identified in this Code based on similarity with other uses. All interpretations will be logged and will be considered for inclusion in this Code.
  - b. Where a use is not defined in Chapter 1.02, the words of this Development Code describing such use are to be given their ordinarily accepted meaning, except where the context in which they are used otherwise clearly requires an alternative interpretation.
- (3) **Prohibited Uses.** A use not specifically identified as permitted, special permitted or conditionally permitted within a zone, or, otherwise allowed through interpretation, shall be considered a prohibited use.

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Chapter 2.02 Interpretation of Uses

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# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.03 Residential Low-Density Zone (RL)

### **CHAPTER 2.03 RESIDENTIAL LOW-DENSITY ZONE (RL)**

#### **2.03.010 Purpose**

The Residential Low-density Zone is applied in existing residential areas that have developed to urban densities in the City and may be applied to other rural residential properties if municipal water and sewer facilities are provided or approved by the City. It is intended to protect and maintain areas suitable for urban residential development and related public and semi-public uses as the City grows.

#### **2.03.020 Permitted Uses**

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

- (1) Single-family dwelling.
- (2) Residential care homes (for five or fewer individuals), licensed by the State of Oregon.
- (3) Day care facility for 12 or fewer children.
- (4) Duplex on a corner lot.
- (5) Public parks and other public or semi-public uses, excluding public or private schools, excluding water and sewage treatment facilities.
- (6) Utility substations or pumping stations, excluding outdoor storage of equipment or material.

#### **2.03.030 Special Uses**

The following uses, when developed under the special development requirements, are permitted in the RL zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions subject to the applicable provisions of Chapter 4.02.060.
- (3) Manufactured homes on individual lots, subject to the provisions of Chapter 3.12.030.
- (4) Home occupations, where there are no employees other than family members residing in the residence or no more than one vehicle associated with the home occupation and further subject to the provisions of Chapter 3.13.
- (5) Residential accessory structures, subject to the provisions in Chapter 3.15.
- (6) Residential accessory dwelling, subject to provisions in Chapter 3.16.
- (7) Temporary uses, subject to provisions in Chapter 3.17.
- (8) Bed and breakfast, subject to provisions in Chapter 3.18.

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.03 Residential Low-Density Zone (RL)

### 2.03.040 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (1) Houses of worship, and subject to provisions in Chapter 3.19.
- (2) Cemeteries.
- (3) Home Occupations proposed to have employees in addition to family members residing in the residence or more than one vehicle associated with the home occupation, subject to the provisions of Chapter 3.13.

### 2.03.050 Density Regulations

- (1) Single-family and Manufactured Homes - No more than one dwelling per lot or parcel, other than an approved accessory dwelling unit.
- (2) Duplex – No more than one duplex per corner lot or parcel.

### 2.03.060 Dimensional Standards

Unless otherwise required by this Code, the following minimum dimensional standards shall be required for all development in the RL zone:

Table 2 - RL Dimensional Standards

RL Zone Dimensional Standards	
Minimum Lot Area	
Single-family Dwelling & Duplex	10,000 square feet
Other Uses	Sufficient to meet density and development requirements
Minimum Setbacks	
Front Yard	15 feet
Garage	25 feet to entrance
Side Yard – one story (Interior)	5 feet
Side Yard – two or more stories (Interior)	8 feet
Side Yard (Street)	15 feet
Rear Yard	20 feet
Maximum Structure Height	
Primary Building	35 feet
Accessory Building Height & Setbacks	Per Section 3.15
Maximum Lot Coverage	50 %

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.03 Residential Low-Density Zone (RL)

#### 2.03.070 Development Standards

All development in the RL zone shall comply with the following specific standards:

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the RL zone shall conform to the standards contained in Chapter 3.06.
- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.
- (4) **Residential Design Standards.** All single-family homes, duplexes, and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.12
- (5) **Non-Residential Development.** Parking lots abutting an RU, RL, or RM zone shall provide sight obscuring screening with vegetation and/or fencing to a height of at least forty-two inches above the ground to screen headlight glare into the adjacent residential property. Trash collection areas shall also be enclosed with fencing at least six feet in height.

#### 2.03.080 Public Services

In an RL zone, all development and new construction requires connection to all public utilities.

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Chapter 2.03 Residential Low-Density Zone (RL)

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# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.04 Rural Zone (RU)

### CHAPTER 2.04 RURAL ZONE (RU)

#### 2.04.010 Purpose

The Rural Zone is applied in rural residential areas with standards for continued rural development until a transition to urban residential use occurs. When a property is subdivided, the property is automatically rezoned to Residential Low-density (RL).

#### 2.04.020 Permitted Uses

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

- (1) Single-family dwelling
- (2) Crop cultivation and the raising of fowl, bees, and domestic farm animals.
- (3) Residential care homes (for five or fewer individuals), licensed by the State of Oregon.
- (4) Day care facility for 12 or fewer children.
- (5) Public parks and other public or semi-public uses, excluding public or private schools, and water and sewage treatment facilities.
- (6) Utility substations or pumping stations, excluding outdoor storage of equipment or material.

#### 2.04.030 Special Uses

The following uses, when developed under the special development requirements, are permitted in the RU zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions, subject to the applicable provisions of Chapter 4.02.060.
- (3) Manufactured homes on individual lots, subject to the provisions of Chapter 3.12.030.
- (4) Home occupations, where there are no employees other than family members residing in the residence or no more than one vehicle associated with the home occupation and further subject to the provisions of Chapter 3.13.
- (5) Residential accessory structures, subject to the provisions in Chapter 3.15.
- (6) Residential accessory dwelling, subject to provisions in Chapter 3.16.
- (7) Temporary uses, subject to provisions in Chapter 3.17.
- (8) Bed and breakfast, subject to provisions in Chapter 3.18.

#### 2.04.040 Conditional Uses

The following uses require approval of a Conditional Use Permit:

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.04 Rural Zone (RU)

- (1) Houses of worship, subject to provisions in Chapter 3.19.
- (2) Cemeteries.
- (3) Home occupations proposed to have employees in addition to family members residing in the residence or more than one vehicle associated with the home occupation, subject to the provisions of Chapter 3.13.

### 2.04.050 Density Regulations

For single-family homes, including manufactured homes, no more than one dwelling per lot or parcel other than an approved accessory dwelling unit.

### 2.04.060 Dimensional Standards

Unless otherwise permitted in this Code, the following minimum dimensional standards shall be required for all development in the RU zone:

Table 3 - RU Zone Dimensional Standards

RU Zone Dimensional Standards	
Minimum Lot Area	2.5 acres
Lot Dimension Requirements	
Minimum Lot Width	300 feet
Maximum Lot Depth-to-Width Ratio	3:1
Minimum Setbacks	
Front Yard	20 feet
Garage	25 feet to entrance
Front Yard to Arterial and Collector Streets	50 feet to Centerline of Right-of-Way
Side Yard (Interior)	15 feet
Side Yard (Street)	20 feet
Rear Yard	20 feet
Maximum Structure Height	
Principal Building	35 feet
Accessory Building Height & Setbacks	Per Section 3.15
Maximum Lot Coverage	50%

### 2.04.070 Development Standards

All development in the RU zone shall comply with following specific standards:

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.04 Rural Zone (RU)

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the RU zone shall conform to the standards contained in Chapter 3.06.
- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.
- (4) **Residential Design Standards.** All single-family homes and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.12.
- (5) **Non-Residential Development.** Parking lots abutting an RL, RU, or RM zone shall provide sight obscuring screening with vegetation and/or fencing to a height of at least forty-two inches above the ground to screen headlight glare into the adjacent residential property. Trash collection areas shall also be enclosed with fencing at least six feet in height.

#### **2.04.080 Public Services and Rezoning**

When connection to municipal water and sanitary sewer service is required for a property zoned RU as a condition of approval of an application for division of land into parcels or lots of less than 2.5 acres, the property shall automatically rezone to Residential Low-density. All further development of the property shall be subject to the provisions of the Residential Low-density zone.

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Chapter 2.04 Rural Zone (RU)

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# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.05 Residential Mixed-Use Zone (RM)

### **CHAPTER 2.05 RESIDENTIAL MIXED-USE ZONE (RM)**

#### **2.05.010 Purpose**

The Residential Mixed-Use Zone is located where municipal water and sanitary sewer are available and is designed to allow a mix of residential uses specifically designed to meet the market demand for housing.

#### **2.05.020 Permitted Uses**

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

- (1) Single-family dwelling.
- (2) Duplex.
- (3) Residential care homes licensed by the State of Oregon.
- (4) Day care facility for 12 or fewer children.
- (5) Nursing homes assisted living centers, convalescent homes, housing specifically designed for, and occupied by, individuals 55 years of age and older, and similar facilities, but excluding hospitals.
- (6) Public parks and other public or semi-public uses, excluding water and sewage treatment facilities.
- (7) Utility substations or pumping stations, excluding outdoor storage of equipment or materials.

#### **2.05.030 Special Uses**

The following uses, when developed under the special development requirements, are permitted in the RM zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions subject to the applicable provisions of Chapter 4.02.060.
- (3) Manufactured homes on individual lots, subject to the provisions of Chapter 3.12.030.
- (4) Multiple family dwellings, subject to design provisions in Chapter 3.12.040.
- (5) Manufactured home parks, subject to provisions in Chapter 3.11.
- (6) Home occupations, subject to the provisions of Chapter 3.13
- (7) Residential accessory structures, subject to the provisions in Chapter 3.15.
- (8) Residential accessory dwelling, subject to provisions in Chapter 3.16.
- (9) Attached dwellings, subject to provisions in Chapter 3.16.
- (10) Bed and breakfast, subject to provisions in Chapter 3.18.

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.05 Residential Mixed-Use Zone (RM)

- (11) Day care facilities exceeding 12 children, subject to site development review provisions in Chapter 5.05.
- (12) Temporary uses, subject to provisions in Chapter 3.17.

### 2.05.040 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (1) Houses of worship, subject to provisions in Chapter 3.19.
- (2) Public and private schools, pre-schools, kindergartens, elementary, middle, and high schools, but prohibiting business, art, dancing, trade, technical, or similar schools.
- (3) Home occupations proposed to have employees in addition to family members residing in the residence or more than one vehicle associated with the home occupation, subject to the provisions of Chapter 3.13.
- (4) Residential care facilities licensed by the State of Oregon.

### 2.05.050 Density Regulations

The maximum allowable density shall be six dwelling units per gross acre for single-family detached and attached homes, and 16 dwelling units per gross acre for multi-family development.

### 2.05.060 Dimensional Standards

The following shall apply:

*Table 4 - RM Zone Dimensional Standards*

RM Zone Dimensional Standards	
Minimum Lot Area	
Single-family	5,000 square feet
Duplex	7,000 square feet
Attached Dwellings other than Duplexes	3,500 square feet per unit
Multiple Family (3 or more)	2,500 square feet per unit
Other Uses	Sufficient to meet setbacks and development requirements
Minimum Lot Dimension Requirements	
Lot Width	50 feet
Lot Depth	80 feet

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.05 Residential Mixed-Use Zone (RM)

RM Zone Dimensional Standards	
Minimum Setbacks	
Front Yard	10 feet
Garage	25 feet to the entrance
Side Yard – one story (Interior)	5 feet
Side Yard – two or more stories (Interior)	8 feet
Side Yard (Interior)	5 feet (per story)
Side Yard (Street)	10 feet
Rear Yard	15 feet
Maximum Structure Height	35 feet
Accessory Building Height & Setbacks	Per Section 3.15
Maximum Lot Coverage	60%

#### 2.05.070 Development Standards

All development in the RM zone shall comply with following specific standards:

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the RM zone shall conform to the standards contained in Chapter 3.06.
- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.
- (4) **Residential Design Standards.**
  - a. All single-family homes and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.12.040.
  - b. Multiple Family and Non-Residential Development.
    - i. Property abutting an RL, RM, or RU zone shall provide sight obscuring screening with light and vision obscuring fencing or vegetation to a height of at least 42 inches above the ground, but not exceeding six feet unless otherwise allowed.
    - ii. Parking lots abutting an RL, RM, or RU zone shall provide sight obscuring screening with vegetation and/or fencing to a height of at least 42 inches above the ground to screen headlight glare into the adjacent residential property. Trash collection areas shall also be enclosed with a sight-obscuring fence or wall at least six feet in height.
- (1) **Landscaping and Natural Features:** A minimum of fifteen percent of the total site

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.05 Residential Mixed-Use Zone (RM)

area shall be landscaped, including all open areas not covered by buildings or pavement. Natural features, such as topography, trees, and native vegetation, existing on a site prior to development, may be incorporated into the site design and count towards landscaping requirements.



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Chapter 2.05 Residential Mixed-Use Zone (RM)

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ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.06 Mixed-Use Zone (MU)

**CHAPTER 2.06 MIXED-USE ZONE (MU)**

**2.06.010 Purpose**

The Mixed-Use Zone is applied to existing mixed residential and commercial areas and is intended to provide areas appropriate for centralized commercial facilities to serve the needs of area residents and employees.

**2.06.020 Permitted Uses**

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

- (1) Residential care homes and facilities licensed by the State of Oregon.
- (2) Day care facility for 12 or fewer children.
- (3) Nursing homes assisted living centers, convalescent homes, housing specifically designed for, and occupied by, individuals 55 years of age and older, and similar facilities.
- (4) Medical facilities including hospitals and research.
- (5) Retail trade establishments engaged in selling goods or merchandise to the general public for personal or household consumption such as retail groceries, hardware stores, department stores, and sporting goods stores.
- (6) Retail service establishments offering services and entertainment to the general public for personal or household consumption such as eating and drinking establishments, motels and hotels (but excluding recreational vehicle parks and campgrounds), personal instructional facilities (instructional classes), banks, real estate, and financial services.
- (7) Business service establishments engaged in rendering services to other businesses on a fee or contract basis such as building maintenance, employment services, and consulting services.
- (8) Professional offices and clinics for medical, dental, legal, engineering, and other professions.
- (9) Banks, credit unions, investment firms; real estate offices, mortgage companies, title companies, and similar financial-related offices.
- (10) Dwelling units shall be permitted subject to one of the following provisions:
  - a. A dwelling unit may be established if it is necessary and clearly accessory and subordinate to a permitted commercial use.
  - b. A dwelling unit not accessory and subordinate to a permitted commercial use may be established on the second or upper floors of a permitted commercial use.
- (11) Eating and drinking establishments and located within an office building and

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.06 Mixed-Use Zone (MU)

without drive-in/drive-through service.

- (12) Public and private utility buildings and structures, including but not limited to pumping stations, electric substations, telephone exchanges, and communications antennas or towers, excluding outdoor storage of equipment or materials.
- (13) Publicly owned and operated facilities or structures, including government offices and stations, fire stations, and public use buildings.
- (14) Public parks and other public or semi-public uses, excluding water and sewage treatment facilities.
- (15) Interim farm use, subject to the provisions in Chapter 3.21.040, except crops may be cultivated for commercial sales or use.
- (16) Laundry or dry cleaning.

#### **2.06.030 Special Uses**

The following uses, when developed under the applicable development standards of this Code and special development requirements, are permitted in the MU zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions, subject to the applicable provisions of Chapter 4.02.060.
- (3) Planned unit developments, subject to applicable provisions in Chapter 3.23.
- (4) Multiple family dwellings, subject to Site Development Review provisions in Chapter 5.05.
- (5) Home occupations, subject to the provisions of Chapter 3.13.
- (6) Bed and breakfast, subject to provisions in Chapter 3.18.
- (7) Day care facilities exceeding 12 children, subject to Site Development Review provisions in Chapter 5.05.
- (8) Temporary uses, subject to provisions in Chapter 3.17.

#### **2.06.040 Conditional Uses**

The following uses require approval of a Conditional Use Permit:

- (1) Houses of worship, subject to provisions in Chapter 3.19.
- (2) Public and private schools, pre-schools, kindergartens, elementary, middle, and high schools, including business, art, dancing, trade, technical, or similar schools.
- (3) Home occupations proposed to have employees in addition to family members residing in the residence or more than one vehicle associated with the home occupation, subject to the provisions of Chapter 3.13.

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.06 Mixed-Use Zone (MU)

### 2.06.050 Density Regulations

The maximum allowable density shall be 32 dwelling units per gross acre for multi-family development.

### 2.06.060 Dimensional Standards

Unless otherwise permitted in this Code, the following minimum dimensional standards shall be required for all development in the MU zone:

Table 5 - MU Zone Dimensional Standards

MU Zone Dimensional Standards	
Minimum Lot Area	
All Development	5,000 square feet
Minimum Lot Dimension Requirements	
Lot Width	50 feet
Lot Depth	100 feet
Minimum Setbacks	
Front Yard	0 feet
Side Yard	0 feet
Side Yard (adjacent to "R" zone)	5 feet + 5 feet per story
Side Yard (street)	10 feet
Rear Yard	0 feet
Rear Yard (adjacent to "R" zone)	5 feet + 5 feet per story
Maximum Structure Height	65 feet (or higher with Conditional Use Permit)
Accessory Building Height & Setbacks	Per Section 3.15
Maximum Lot Coverage	90%

### 2.06.070 Development Standards

All development in the MU zone shall comply with following specific standards:

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the MU zone shall conform to the standards contained in Chapter 3.06.
- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.06 Mixed-Use Zone (MU)

- (4) **Site Development Review.** All new development and expansion of an existing structure or use in the MU zone shall be subject to the Site Development Review procedures of Chapter 5.05.
- (5) **Landscaping.** Any required or established front yard shall be landscaped with trees, shrubs, and groundcover, and maintained pursuant to provisions in Chapter 3.09.
- (6) **Multiple Family and Non-Residential Development.** Parking lots abutting an RL, RU, or RM zone shall provide sight obscuring screening with vegetation and/or fencing to a height of forty-two (42) inches above the ground to screen headlight glare into the adjacent residential property. Trash collection areas shall also be enclosed with fencing at least six feet in height.
- (7) **Outdoor Storage and Display.** Outdoor storage and display of merchandise, material, or equipment shall be permitted only when such storage is incidental to a permitted use located on the same property and provided that:
  - a. The storage area shall be completely enclosed by sight obscuring fences, walls, or buildings or a combination thereof. Said walls or fences shall be not less than six feet in height.
  - b. There shall be no outdoor storage of merchandise, materials, equipment, or other goods to a height greater than that of any enclosing fence, wall, or building.
  - c. Outdoor display of limited commercial goods may be permitted in front of the building, such as adjacent to the sidewalk, provided that the sidewalk is not obstructed, or the sidewalk is widened to create additional space outside of the normal 5-foot walkway.
- (8) **Mixing Uses.** Residential and commercial uses shall be mixed either on the entire site, within a building or both. No more than 90% of the total of gross floor area of the first four floors of all buildings within a development shall be a single use. In no case shall residential uses exceed 50% of the total floor area of the first four floors of a development.

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.07 Commercial Office Zone (CO)

**CHAPTER 2.07 COMMERCIAL OFFICE ZONE (CO)**

**2.07.010 Purpose**

The Commercial Office Zone is primarily designed to attract professional offices, with limited supporting commercial retail activities, to serve the community.

**2.07.020 Permitted Uses**

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

- (1) Business service establishments engaged in rendering services to other businesses on a fee or contract basis such as building maintenance, employment services, and consulting services.
- (2) Professional offices and clinics for medical, dental, legal, engineering, and other professions.
- (3) Banks, credit unions, investment firms; real estate offices, mortgage companies, title companies, and similar financial-related offices.
- (4) Retail trade establishments engaged in selling goods or merchandise to the general public for personal or household consumption, not to exceed 2,000 square feet in area and located within an office building.
- (5) Eating and drinking establishments located within an office building and without drive-in/drive-through service.
- (6) Interim farm use, subject to the provisions in Chapter 3.21.040, except crops may be cultivated for commercial sales or use.
- (7) Utility substations or pumping stations, excluding outdoor storage of equipment or materials.

**2.07.030 Special Uses**

The following uses, when developed under the applicable development standards of this Code and special development requirements, are permitted in the CO zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions, subject to the applicable provisions of Chapter 4.02.050.
- (3) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.13.
- (4) Temporary uses, subject to provisions in Chapter 3.17.
- (5) Bed and breakfast, subject to provisions in Chapter 3.18 and located within a pre-existing residence.
- (6) Wireless communication facilities, subject to provisions in Section 3.27.

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## Chapter 2.07 Commercial Office Zone (CO)

### 2.07.040 Conditional Uses

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- (1) Public and private utility buildings and structures, including but not limited to electric substations, telephone exchanges, and communications antennas or towers.
- (2) Publicly owned and operated facilities or structures, including government offices and stations, fire stations, public use buildings, and recreation sites excluding water and sewage treatment facilities.

### 2.07.050 Dimensional Standards

Unless otherwise permitted in this Code, the following minimum dimensional standards shall be required for all development in the CO zone:

*Table 6 - CO Zone Dimensional Standards*

CO Zone Dimensional Standards	
Minimum Lot Area	
All Development	5,000 square feet
Minimum Setbacks	
Front Yard	0 feet
Side Yard	0 feet
Side Yard (adjacent to "R" zone)	5 feet + 5 feet per story
Side Yard (street)	10 feet
Rear Yard	0 feet
Rear Yard (adjacent to "R" zone)	5 feet + 5 feet per story
Maximum Structure Height	
Principal and Accessory Building	35 feet (or higher with Conditional Use Permit)
Maximum Lot Coverage	90%

### 2.07.060 Development Standards

All development in the CO zone shall comply with following specific standards:

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the C Zone shall conform to the standards contained in Chapter 3.06.

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### Chapter 2.07 Commercial Office Zone (CO)

- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.
- (4) **Site Development Review.** All new development and expansion of an existing structure or use in the Commercial Office Zone shall be subject to the Site Development Review procedures of Chapter 5.05.
- (5) **Landscaping.** Any required or established front yard shall be landscaped with trees, shrubs, and groundcover, and maintained pursuant to provisions in Chapter 3.09.
- (6) **Outdoor Storage and Display.** Outdoor storage and display of merchandise, material, or equipment shall be prohibited.



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Chapter 2.07 Commercial Office Zone (CO)

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ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.08 General Commercial Zone (GC)

**CHAPTER 2.08 GENERAL COMMERCIAL (GC)**

**2.08.010 Purpose**

The General Commercial Zone is applied to areas suitable to meet a wide range of commercial activities to serve the community.

**2.08.020 Permitted Uses**

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

- (1) Retail trade establishments engaged in selling goods or merchandise to the general public for personal or household consumption such as retail groceries, hardware stores, department stores, and sporting goods stores.
- (2) Retail service establishments offering services and entertainment to the general public for personal or household consumption such as eating and drinking establishments, motels and hotels (but excluding recreational vehicle parks and campgrounds), personal instructional facilities (instructional classes), banks, real estate, and financial services.
- (3) Business service establishments engaged in rendering services to other businesses on a fee or contract basis such as building maintenance, employment services, and consulting services.
- (4) Professional offices and clinics for medical, dental, legal, engineering, and other professions.
- (5) Banks, credit unions, investment firms; real estate offices, mortgage companies, title companies, and similar financial-related offices.
- (6) Automobile service station, including towing service and vehicle washing and polishing facilities and services.
- (7) Automobile, truck, motorcycle, trailer, agricultural equipment, recreational vehicle and boat sales, lease, and rentals.
- (8) Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping, and similar automotive repair facilities.
- (9) Construction businesses such as floor laying, building equipment, masonry and stone, plumbing, electrical, metal work, or painting.
- (10) Part and accessory sales for automobiles, trucks, motorcycles, trailers, agricultural equipment, recreational vehicles, and boats, which include the installation, repair or modification of such parts and accessories; but specifically prohibiting junk yards, wrecking yards, or auto salvage and restoration yards. Part and accessory sales which do not include the installation, repair, or modification of such items are allowed as a permitted activity.
- (11) Retail tire sales.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.08 General Commercial Zone (GC)

- (12) Laundry or dry cleaning.
- (13) Warehouse for short term storage, including mini-warehouses.
- (14) Lumber yard and contracting supplies for lumber, stone, masonry, or metal.
- (15) Cabinet shop.
- (16) Interim farm use, subject to the provisions in Chapter 3.21.040, except crops may be cultivated for commercial sales or use.
- (17) Utility substations or pumping stations, excluding outdoor storage of equipment or materials.

#### **2.08.030 Special Uses**

The following uses, when developed under the applicable development standards of this Code and special development requirements, are permitted in the GC zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions, subject to the applicable provisions of Chapter 4.02.060.
- (3) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.13.
- (4) Temporary uses, subject to provisions in Chapter 3.17.
- (5) Bed and breakfast, subject to provisions in Chapter 3.18 and located within a pre-existing residence.
- (6) House of worship, subject to provisions in Chapter 3.19.
- (7) Recreational vehicle park, subject to provisions in Section 3.24.
- (8) Wireless communication facilities, subject to provisions in Section 3.27.

#### **2.08.040 Conditional Uses**

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- (1) Dwelling units shall be permitted subject to one of the following provisions:
  - a. A dwelling unit may be established if it is necessary and clearly accessory and subordinate to a permitted commercial use.
  - b. A dwelling unit not accessory and subordinate to a permitted commercial use may be established on the second or upper floors of a permitted commercial use.
- (2) All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, or testing uses provided all operations except off-street parking and temporary activities, with or without outdoor storage.
- (3) Public and private utility buildings and structures, including but not limited to electric substations, telephone exchanges, and communications antennas or

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.08 General Commercial Zone (GC)

towers.

- (4) Publicly owned and operated facilities or structures, including government offices and stations, fire stations, public use buildings, and recreation sites excluding water and sewage treatment facilities.
- (5) Houses of worship, subject to provisions in Chapter 3.19.

### 2.08.050 Dimensional Standards

Unless otherwise permitted in this Code, the following minimum dimensional standards shall be required for all development in the GC zone:

Table 7- GC Zone Dimensional Standards

GC Zone Dimensional Standards	
Minimum Lot Area	
All Development	5,000 square feet
Minimum Setbacks	
Front Yard	0 feet
Side Yard	0 feet
Side Yard (adjacent to "R" zone)	5 feet + 5 feet per story
Side Yard (street)	10 feet
Rear Yard	0 feet
Rear Yard (adjacent to "R" zone)	5 feet + 5 feet per story
Maximum Structure Height	
Principal and Accessory Building	35 feet or higher with Conditional Use Permit
Maximum Lot Coverage	90%

### 2.08.060 Development Standards

All development in the GC zone shall comply with following specific standards:

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the GC zone shall conform to the standards contained in Chapter 3.06.
- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.
- (4) **Site Development Review.** All new development and expansion of an existing structure or use in the General Commercial Zone shall be subject to the site

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.08 General Commercial Zone (GC)

development review procedures of Chapter 5.05.

- (5) **Landscaping.** Any required or established front yard shall be landscaped with trees, shrubs, and groundcover and maintained pursuant to provisions in Chapter 3.09.
- (6) **Outdoor Storage, Display, and Dining.**
  - a. Outdoor storage and display of merchandise, material, or equipment, when not otherwise allowed by a Conditional Use, shall be permitted only when such storage is incidental to a permitted use located on the same property, and provided that:
    - I. The storage area shall be completely enclosed by sight obscuring fences, walls, or buildings or a combination thereof. Said walls or fences shall be not less than six feet in height.
    - II. Outdoor display of limited commercial goods may be permitted in front of the building, such as adjacent to the sidewalk, provided that the sidewalk is not obstructed, or the sidewalk is widened to create additional space outside of the normal five-foot walkway.
  - b. Outdoor dining areas are allowed providing required parking spaces or accessways are not used.
- (7) **Residential Screening.** Property abutting an RL, RU, or RM zone shall be screened with a sight-obscuring fence not less than six feet in height. This requirement shall not include the front yard.
- (8) **Automobile Sales.** Use of modular or portable offices is not allowed. Outdoor display areas must be paved.

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.09 Limited Industrial Zone (LI)

**CHAPTER 2.09 LIMITED INDUSTRIAL ZONE (LI)**

**2.09.010 Purpose**

The Limited Industrial Zone is applied to areas suitable for limited manufacturing and warehousing activities which have minimal emissions or nuisance characteristics potentially detrimental to the public health, safety, or general welfare that would impact adjacent non-industrial areas.

**2.09.020 Permitted Uses**

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

- (1) All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, or testing uses, including personal storage facilities such as mini-storage warehouses provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building or screened per requirements in Section 2.09.060(6).
- (2) Uses of a nature that are consistent with the purpose statement of the zone. The intent is to permit flexibility in allowing appropriate uses generated by emerging technologies. For example, server farms or call centers would be consistent with provision.
- (3) Public and private utility buildings and structures, including but not limited to fire stations, electric substations, telephone exchanges, and communications antennas or towers.
- (4) Utility substations or pumping stations, excluding outdoor storage of equipment or materials.
- (5) Welding, machining, fabrication, blacksmith shop, and similar facilities.
- (6) Construction businesses such as floor laying, building equipment, masonry and stone, plumbing, electrical, metal work, or painting.

**2.09.030 Special Uses**

The following uses, when developed under the applicable development standards of this Code and special development requirements, are permitted in the Limited Industrial zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions, subject to the applicable provisions of Chapter 4.02.060.
- (3) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.13.
- (4) Temporary uses, subject to provisions in Chapter 3.17.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.09 Limited Industrial Zone (LI)

- (5) Bed and breakfast within a pre-existing residence, subject to provisions in Chapter 3.18.
- (6) Wireless communication facilities, subject to provisions in Section 3.27.
- (7) Interim farm use, subject to the provisions in Chapter 3.21.040, except crops may be cultivated for commercial sales or use.

#### **2.09.040 Conditional Uses**

The following uses require approval of a conditional use permit and are subject to Site Development Review:

- (1) Publicly owned and operated facilities or structures, including government offices and stations, public use buildings, and recreation sites excluding water and sewage treatment facilities.
- (2) Agricultural chemical, fertilizer, insecticide storage, and distribution, excluding ammonium nitrate.
- (3) Lumber yard and contracting supplies for lumber, stone, masonry, or metal.
- (4) A caretaker's residence, either free-standing or incorporated into another building, for an established or concurrently being developed industrial use.

#### **2.09.050 Dimensional Standards**

Unless otherwise permitted in this Code, the following minimum dimensional standards shall be required for all development in the LI Zone:

*Table 8 - LI Zone Dimensional Standards*

LI Zone Dimensional Standards	
Minimum Lot Area	
All Development	Sufficient to meet setbacks and development requirements
Minimum Setbacks	
All Yards	0 feet
All Yards Adjacent to "R" Zones	10 feet + 5 feet per story
Maximum Structure Height	
Principal and Accessory building	50 feet (or higher with a Conditional Use Permit)
Maximum Lot Coverage	90%

#### **2.09.060 Development Standards**

All development in the LI zone shall comply with the following specific standards:

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.09 Limited Industrial Zone (LI)

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the LI zone shall conform to the standards contained in Chapter 3.06.
- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.
- (4) **Site Development Review.** All new development and expansion of an existing structure or use in the Limited Industrial Zone shall be subject to the site development review procedures of Chapter 5.05.
- (5) **Landscaping.** Any required or established yard shall be landscaped with trees, shrubs, and groundcover and maintained pursuant to provisions in Chapter 3.09.
- (6) **Residential Screening.** Property abutting an RL, RU, or RM zone shall be screened with a sight-obscuring fence not less than six feet in height. This requirement shall not include the front yard.



ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.09 Limited Industrial Zone (LI)

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ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.10 General Industrial Zone (GI)

**CHAPTER 2.10 GENERAL INDUSTRIAL ZONE (GI)**

**2.10.010 Purpose**

The General Industrial Zone is applied to areas well suited for all types of industrial development that require excellent highway and rail access and are free from conflict with other non-compatible land uses. The GI zone is intended to protect and preserve these areas for industrial development to assist in supporting the area's economy.

**2.10.020 Permitted Uses**

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

- (1) Manufacturing and Assembly, Secondary Processing
  - a. Food processing, including canning, freezing, drying, dairy products, and similar food processing and preserving, beverage bottling facility, including warehousing and distribution, but excluding processes which involve the slaughter of animals.
  - b. Textile mill products, including apparel and other finished products made from fabrics and similar materials.
  - c. Furniture and fixtures, including retail wood products.
  - d. Printing, publishing, and allied industries.
  - e. Rubber and miscellaneous plastics.
  - f. Leather and leather goods but excluding a tannery.
  - g. Cement, glass, clay, and stone products manufacturing.
  - h. Production, processing, finishing, fabricating, handling, recycling, storage and use of alkali, alkaline earth, metals and their alloys.
  - i. Research and Development facilities.
  - j. Electrical and electronic equipment, machinery and supplies but excluding lead-acid batteries.
  - k. Measuring, analyzing, and controlling instruments; photographic, medical, and optical goods; watches and clocks.
  - l. Recycling centers less than 5,000 square feet.
  - m. Freight terminals and rail transfer facilities, including loading docks, storage, warehousing and wholesale distribution, and cold storage.
  - n. Other manufacturing, wholesaling, or distributing activities similar to those listed.
- (2) Wholesale trade and distribution facilities, but excluding trade and distribution involving:

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.10 General Industrial Zone (GI)

- a. Metals and minerals.
  - b. Scrap and waste material.
  - c. Farm-product raw materials.
  - d. Chemicals and allied products.
  - e. Petroleum and petroleum products.
- (3) Public and private utility facilities, including fire stations, water and sewage treatment facilities, substations, pumping stations, and similar facilities with outdoor equipment storage permitted.
  - (4) Fleet vehicle maintenance and storage.
  - (5) Heavy equipment parts and repair, including non-passenger vehicle tires.
  - (6) Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales, and service.
  - (7) Truck dispatch operations.
  - (8) Welding, machining, fabrication, blacksmith shop, and similar facilities.
  - (9) Uses of a nature that are consistent with the purpose statement of the zone. The intent is to permit flexibility in allowing appropriate uses generated by emerging technologies. For example, server farms or additive manufacturing would be consistent with provision.
  - (10) Interim farm use, subject to the provisions in Chapter 3.21.040, except crops may be cultivated for commercial sales or use.
  - (11) Construction businesses such as floor laying, building equipment, masonry and stone, plumbing, electrical, metal work, or painting.

#### **2.10.030 Special Uses**

The following uses, when developed under the applicable development standards of this Code and special development requirements, are permitted in the General Industrial zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions, subject to the applicable provisions of Chapter 4.02.060.
- (3) Temporary uses, subject to provisions in Chapter 3.17.
- (4) Wireless communication facilities, subject to provisions in Section 3.27.

#### **2.10.040 Conditional Uses**

The following uses require approval of a Conditional Use Permit:

- (1) Extraction and processing of minerals, rock, or other earth products.
- (2) Recycling centers greater than 5,000 feet of enclosed area, automotive dismantling, wrecking and salvage yard, and refuse transfer facilities.

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.10 General Industrial Zone (GI)

- (3) Petroleum products storage and distribution, including asphalt plants.
- (4) Manufacturing, processing, storage of explosives, or EPCRA Section 302 - Extremely Hazardous Substances.
- (5) Feed and seed facilities, grain elevators and storage; including agricultural chemical, fertilizer, insecticide storage and distribution, excluding ammonium nitrate.
- (6) Wholesale and distribution involving these activities.
- (7) A caretaker's residence, either free-standing or incorporated into another building, for an established or concurrently being developed industrial use.

### 2.10.050 Dimensional Standards

Unless otherwise permitted in this Code, the following minimum dimensional standards shall be required for all development in the GI zone:

Table 9 - GI Zone Dimensional Standards

GI Zone Dimensional Standards	
Minimum Lot Area	
All Development	Sufficient to meet setbacks and development requirements
Minimum Setbacks	
All Yards	0 feet
Yards Adjacent to RM, RL, and RU Zones	10 feet + 5 feet per story
Yards Adjacent to Conser Road	30 feet + 5 feet per story
Yards Adjacent to Old Salem Road	10 feet south of the Murder Creek undercrossing. North of the Murder Creek undercrossing, 10 feet on the west side and 20 feet on the east side incorporating trail as identified in the most currently adopted Transportation System Plan
Maximum Structure Height	
Principal and Accessory building	No limit
Maximum Lot Coverage	100%

### 2.10.060 Development Standards

All development in the GI zone shall comply with the following specific standards:

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.10 General Industrial Zone (GI)

- (1) **Off-Street Parking.** Parking, driveway, and loading improvements shall comply with provisions in Chapter 3.03.
- (2) **Signs.** Signs in the GI zone shall conform to the standards contained in Chapter 3.06.
- (3) **Yards and Lots.** Yards and lots shall conform to provisions contained in Chapter 3.08.
- (4) **Site Development Review.** All new development and expansion of an existing structure or use in the General Industrial Zone shall be subject to the site development review procedures of Chapter 5.05.
- (5) **Landscaping.** Any required or established yard shall be landscaped with trees, shrubs, and groundcover and maintained pursuant to provisions in Chapter 3.09.
- (6) **Residential Screening.** Property abutting an RL, RU, or RM zone shall be screened with a sight-obscuring fence not less than six feet in height. This requirement shall not include the front yard.
- (7) **Environmental performance standards** may limit placement of certain uses in the zone if the site is located within 300 feet of residentially zoned land.

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.11 Public Facilities Zone (PF)

**CHAPTER 2.11 PUBLIC FACILITIES ZONE (PF)**

**2.11.010 Purpose**

The purpose of the Public Facilities zone is to provide areas appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. It is intended that this zone be applied to individual parcels shown to be an appropriate location for a certain public or semi-public use.

**2.11.020 Permitted Uses**

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

- (1) Educational facilities, including:
  - a. Kindergartens;
  - b. Elementary, Middle Schools, and High Schools;
  - c. Stadiums and Athletic Fields;
  - d. Playgrounds; and
  - e. Open Space
- (2) Municipal service facilities, including:
  - a. Fire and Police stations;
  - b. City Hall;
  - c. Sewage Treatment Facilities;
  - d. Water Treatment Facilities;
  - e. Public Works Shops;
  - f. Wireless Telecommunication Facilities;
  - g. Libraries; and
  - h. Parks and Open Space.

**2.11.030 Special Uses**

The following uses, when developed under the special development requirements, are permitted in the PF zone:

- (1) Partitions, subject to the provisions in Chapter 4.02.050.
- (2) Subdivisions, subject to the applicable provisions of Chapter 4.02.060.
- (3) Wireless Communication Facilities, subject to provisions in Section 3.27.
- (4) Temporary uses, subject to provisions in Chapter 3.17.

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.11 Public Facilities Zone (PF)

### 2.11.040 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (1) Fraternal and civic organizational facilities.
- (2) Hospitals and overnight clinics.
- (3) Semi-public facilities such as houses of worship, cemeteries, monasteries, and convents.
- (4) RV Park in accordance with the provisions of Section 3.24.
- (5) Cemeteries.

### 2.11.050 Dimensional Standards

The following dimensional standards shall be required for all development in the PF zone:

*Table 10 - PF Zone Dimensional Standards*

PF Zone Dimensional Standards	
Minimum Lot Area	Sufficient to allow the use and comply with setback requirements.
Minimum Setbacks	
Front Yard – Non-residential	None
Front Yard - Residential	15-feet
Side Yard – Non-residential	None
Side Yard - Residential	15 feet
Rear Yard – Non-residential	None
Rear Yard – Residential	15 feet
Maximum Structure Height	60 feet
Maximum Lot Coverage	80%

### 2.11.060 Development Standards

All development in the PF Zone shall comply with following specific standards:

- (1) **Off-Street parking.** Off-street parking shall conform to the standards of Section 3.03.
- (2) **Signs.** Signs in the Public Facility Zone shall conform to the provisions of Section 3.06.
- (3) **Design Review.** All new development or expansion of existing structure or use in the shall be subject to the Site Design Review procedures of Section 5.05.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.11 Public Facilities Zone (PF)

- (4) **Landscaping.** Landscaping improvements shall be installed and maintained in all yard areas accordance with Section 3.09.



ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.11 Public Facilities Zone (PF)

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ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.12 Flood Plain Overlay Zone (FPO)

**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.

**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.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.12 Flood Plain Overlay Zone (FPO)

#### 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.

**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** - 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.** The flood having a one percent chance of being equaled or exceeded in any given year.

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

**Development.** 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.

#### **Flood or Flooding.**

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.

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.12 Flood Plain Overlay Zone (FPO)

**Flood elevation study.** 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).** 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).** See "Flood elevation study".

**Flood proofing.** 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.** 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."

**Functionally dependent use.** 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.

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

**Historic structure.** 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.

**Lowest floor.** 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

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.12 Flood Plain Overlay Zone (FPO)

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

**Mean sea level.** 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.** 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.

**Recreational Vehicle.** A vacation trailer, vehicle, or portable unit, as defined in ORS 801.180, 801-350, and 801, 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.

**Special flood hazard area.** See "Area of special flood hazard" for this definition.

**Start of construction.** 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

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.12 Flood Plain Overlay Zone (FPO)

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.** 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.** 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.** 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."

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

**Violation.** 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. 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

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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 OR 97321

#### **2.12.060 Coordination with State of Oregon Specialty Codes**

Pursuant to the requirement established in ORS 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. However, where this ordinance and another ordinance, 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

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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 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; 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).
    - VIII. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
  - 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



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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., 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.
  - 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.
  - X. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under Section 2.12.100(G).
  - XI. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (1) 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

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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.

- (2) 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). Ensure compliance with all applicable requirements in Section 2.12.100(E) and Section 2.12.130(A).

- (3) 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.
- (4) 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.
- (5) 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).
- (6) 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 2.12.100(B)2. 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

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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 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 may be 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.
  - 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 2.12.180(C).
  - 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.
  - 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.

#### **2.12.130 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

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- 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)3. and 5.; 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.
  - 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 criteria of Section 2.12.120(B)2 to 4., 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 2.12.100(B)2.

#### **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 2.12.100(D) and (E).
- (2) Anchoring

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- 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 2.12.200.
- (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
- c. 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.
  - d. 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.
  - e. 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.

#### **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

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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.

#### **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 2.12.130 to 2.12.160. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 2.12.140.
- (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 2.12.130 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

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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 2.12.230.
  - 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; 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 2.12.220 or non-residential structures in Section

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2.12.180(C) depending on the square footage of the garage.

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

In addition to the general standards listed in Section 2.12.130 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.
- (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).
- (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.
- (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).
- (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).



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#### **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 2.12.170(A). 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.

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**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 2.12.170(B);
- (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 2.12.200, 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 2.12.230.
- (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,

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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 2.12.170(B);
- (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 in compliance with Section 2.12.130(D)3.
- (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 2.12.040 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.
- (2) If the requirements of Section 2.12.230(A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Sections 2.12.130 to 2.12.160.

#### **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

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.12 Flood Plain Overlay Zone (FPO)

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 2.12.130, 2.12.170 and 2.12.240.

### **2.12.270 Standards for AO Zones**

In AO zones, the following provisions apply in addition to the requirements in Sections 2.12.130 and 2.12.240:

- (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)4.
- (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, and the anchoring and other requirements for manufactured dwellings of Section 2.12.200.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.12 Flood Plain Overlay Zone (FPO)

- (4) In AO zones, new and substantially improved accessory structures must comply with the standards in Section 2.12.220.
- (5) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in Section 2.12.170(A).

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.13 Historical Property Overlay Zone (HPO)

**CHAPTER 2.13 HISTORICAL PROPERTY OVERLAY ZONE (HPO)**

**2.13.010 Purpose**

The purpose of the Historical Property Overlay Zone is to:

- (1) Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration, and protection of those buildings, structures, sites, zones, and objects of historic interest within the City;
- (2) Foster civic pride in the accomplishments of the past; and
- (3) Carry out the provisions of the Land Conservation and Development Commission Goal 5.

**2.13.020 Conformance Required**

No land shall be used, and no building, site, object, zone, or structure of significance, or part thereof, shall be demolished, moved, or altered, nor shall any new construction take place within a zone or on a landmark site except in conformity with this Code.

**2.13.030 Definitions**

The following definitions shall apply to this Section: otherwise:

**Alteration.** A change, addition, or modification to the exterior of a building.

**Cultural Resource Inventory.** Historical buildings or sites identified as significant on the Goal 5 historical resource inventory.

**Demolish.** To raze, destroy, dismantle, deface, or in any other manner cause partial or total destruction of a landmark or any building within an historic zone.

**Historic Zone.** A geographically definable area, the boundaries of which have been adopted by the City Council pursuant to provisions in Section 2.13.050.

**Landmark.** Any site, object, building, or structure designated by the City Council pursuant to provisions in Section 2.13.050.

**Major Public Improvement.** The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property within a zone or on a landmark site, except for the repair or maintenance of existing public improvements.

**2.13.040 Historic Landmark Committee**

There is hereby established a Millersburg Historic Landmark Committee charged with carrying out the functions of this chapter where identified.

The City Council appoints the Planning Commission as the Committee until such time as Council determines the need for an independently Historic Landmark Committee. The Committee will meet and operate in accordance with all standards of local and state law. When the Planning Commission is serving as the Committee, it shall meet

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.13 Historical Property Overlay Zone (HPO)

separately from a Planning Commission meeting with an independent agenda, meeting notice, and minutes. This can occur on the same night as a Planning Commission meeting, preceding or following the Commission meeting.

#### **2.13.050 Landmark and Zone Designation**

- (1) **Process.** The process for designating a landmark or historic zone may be initiated by the Council, the Planning Commission acting as the Historic Landmark Committee, or by any interested person who submits an application for designation to the City Recorder. At the time of application, the City shall provide the property owner and applicant with information regarding the benefits and restriction of designation.
- (2) **Information.** The following information shall be required in an application:
  - a. The applicant's name and address;
  - b. The owner's name and address, if different from the applicant;
  - c. A written description of the boundaries of the proposed zone or the location of the proposed landmark;
  - d. A map illustrating the boundaries of the proposed zone or the location of the proposed landmark;
  - e. A statement explaining the following:
    - i. The reason(s) why the proposed zone or landmark should be designated;
    - ii. The reason(s) why the boundaries of the proposed zone are appropriate for designation;
    - iii. The potential impact, if any, the designation of the proposed zone or landmark would have on the residents or other property owners in the area.
  - f. Any other information deemed necessary by the City.
- (3) **Application Review and Decision.** The City Recorder shall set the application on the agenda of the Historic Landmarks Committee which will review the application against applicable criteria and develop a recommendation to the City Council. This will occur within 60 days of the application being filed unless extended by the request of the applicant. Following the Historic Landmark Committee's consideration, the City Recorder will set the matter on a Council agenda within 45 days of the Historic Landmark Committee's action. The Council shall hold a public hearing at which time testimony will be received with the recommendation from the Historic Landmark Committee, and the applicant and any citizens wishing to give input. The Council shall make a written record with findings approving, approving with conditions, disapproving, or postponing final action on the request.
- (4) **Decision Criteria.** The Historic Landmark Committee and the Council shall consider the following criteria in determining whether to approve a proposed landmark or zone:
  - a. Association with the life or activities of a person, group, organization, or

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.13 Historical Property Overlay Zone (HPO)

- institution that has made a significant contribution to the City, county, state, or nation;
  - b. Association with an event that has made a significant contribution to the City, county, state, or nation;
  - c. Association with broad patterns of political, economic, or industrial history in the City, county, state, or nation;
  - d. Significance as an example of a particular architectural style, building type, and/or convention;
  - e. Significance due to quality of composition, detailing, and/or craftsmanship;
  - f. Significance as an example of a particular material and/or method of construction;
  - g. Significance because the resource retains its original design features, materials, and/or character;
  - h. Significance as the only remaining, or one of the few remaining resources of a particular style, building type, design, material, or method of construction;
  - i. Significance as a visual landmark;
  - j. Significance because existing land-use surrounding the resource contribute to the integrity of the historic period represented;
  - k. Significance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;
  - l. Significance because the property is 50 years old or older in conjunction with other criteria listed above;
  - m. The resource is listed on the National Register of Historic Places.
- (5) **Removal of Designation.** The process for removing a landmark or historic zone designation may be initiated by the Council, the Historic Landmark Committee, or by any interested person who submits to the City Recorder an application for removal of the designation. The Council may amend or rescind its designation by following procedures required by this Code for designating a landmark, including the adoption of appropriate findings.

**2.13.060 Demolition and Moving**

- (1) **City Manager Approval.** No person shall move, demolish, or cause to be demolished a landmark or a significant resource in an historic zone, unless a permit to do so has first been obtained from the City Manager, or designee, following approval by the City Council. Application for a permit shall be on a form provided by the City.
- (2) **Alternative Actions.** At the time a demolition or moving application is made the City Manager or designee shall review alternatives to demolition or moving with the owner of the structure or resource, including local, state, and federal



## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.13 Historical Property Overlay Zone (HPO)

preservation programs.

- (3) **Review Process.** An application to move, demolish, or cause to be demolished a landmark or a significant resource in an historic zone shall be processed in accordance of the procedure identified in Section 2.13.050(3) above.
- (4) **Decision Criteria.** In determining whether the requested demolition or moving is appropriate, the Historic Landmark Committee and the City Council shall consider the following:
  - a. Plans, drawings, and photographs submitted by the applicant.
  - b. Information presented at the public hearing concerning the proposal.
  - c. The purpose of this Code as set forth in this Chapter.
  - d. The criteria used in the original designation of the resource.
  - e. If within an historic zone, the resource's contribution to the zone and the subsequent integrity of the zone if the resource is demolished or moved.
  - f. Whether denial of the request will involve substantial hardship to the applicant.
  - g. Whether issuance of the permit would act to the substantial detriment of the public welfare and be contrary to the purpose and scope of this Code.
  - h. The economic, social, environmental and energy consequences of demolishing or moving the resource compared to preserving it.
  - i. The physical condition of the resource.
  - j. The recommendation from the Historic Landmarks Committee.
- (5) **Postponement.** The Historic Landmarks Committee or the City Council may postpone taking final action on a request for issuance of a demolition or moving permit for a period fixed by the Committee or Council as follows:
  - a. No more than 60 days following the date of a public hearing. Further postponements may be made for a period not to exceed a total of 120 days from the date of hearing, if the Committee or Council makes the findings specified in item (b) of this Subsection.
  - b. Further postponements as stated above may only be made if the Committee or Council finds:
    - i. There is a program or project underway that could result in public or private acquisition of the landmark or resource; and
    - ii. There is a reasonable ground for believing the program or project may be successful.
  - c. After granting a further postponement, the Commission may order the Manager to issue the permit if it finds:
    - i. All programs or projects to save the resource have been unsuccessful;

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Chapter 2.13 Historical Property Overlay Zone (HPO)

- ii. The application for demolition or moving has not been withdrawn; and
  - iii. The application otherwise complies with City Codes and state law.
- (6) **Additional Requirements.** During a period of postponement, the Committee or Council may require the property owner to:
- a. List the resource for sale with a real estate agent for a period of not less than 90 days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days over a 5-week period.
  - b. Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the City and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for assuring that the sign is posted for a continuous 90-day period in conjunction with a. above.
  - c. Prepare and make available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.
  - d. Assure that the owner has not rejected the highest bona fide offer for sale and removal of the resource.
- (7) **Press Notification.** Prior to issuance of a demolition permit, the City Manager shall issue a press release to local and state newspapers of general circulation in the county. The press release shall include, but not limited to, a description of the significance of the resource, the reasons for the proposed demolition or removal, and possible options for preserving the resource.
- (8) **Permit Conditions.** As a condition for approval of a demolition permit, the Council may:
- a. Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource.
  - b. Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials. The applicant shall be provided with a list of persons capable of salvaging the resource.
- (9) **Dangerous Building.** This Code shall not be construed to make it unlawful for any person, without prior approval of the Council, to comply with an order by an authority having jurisdiction to remove or demolish any landmark determined to be dangerous to life, health, or property.

**2.13.070 Exterior Alteration and New Construction**

- (1) **Scope.** No person shall alter a landmark or any significant resource in an historic zone nor shall any new building or structure be constructed in an historic zone or on a landmark site unless approval is first obtained under this section. In addition,

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.13 Historical Property Overlay Zone (HPO)

no major public improvements shall be made on a landmark site or in an historic zone unless approved by the City Manager or Historic Landmark Commission as provided below.

- (2) **Application Process.** Application for alteration of a landmark or new construction in an historic zone or on a landmark site shall be made to the City Manager. The application shall be on a form provided by the City.
- (3) **Approval Requirements.** The City Manager shall approve the alteration request if:
  - a. There is no change in the appearance or material of the resource as it exists;  
or
  - b. The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials.
- (4) **Historic Landmarks Committee Action.** If a request for alteration does not meet the provisions of Subsection (3) of this Section, the City Manager shall forward the application to the Historic Landmarks Committee. The Committee, after notice and public hearing, shall approve or disapprove issuance of the requested permit. The Committee may attach conditions to the approval which must be adhered to for the approval to remain valid.
- (5) **Decision Criteria.** The Committee shall consider the following criteria in determining whether to approve an alteration request:
  - a. The purpose of this Code.
  - b. The use of the resource, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in the preservation of the resource.
  - c. The value and significance of the resource.
  - d. The physical condition of the resource.
  - e. The effect of requested changes related to the original exterior design, arrangement, proportion, detail, scale, color, texture, and/or materials.
  - f. Pertinent aesthetic factors as identified by the Commission.
  - g. Economic, social, environmental, and energy consequences of the proposed alteration.
  - h. Any design guidelines adopted by the Commission.
- (6) **Repair and Maintenance Provisions.** Nothing in this Code shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material, or appearance of such feature or which the City Manager shall determine is required for the public safety due to an unsafe or dangerous condition.

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.14 Willamette Greenway Overlay ZONE (WGO)

**CHAPTER 2.14 WILLAMETTE GREENWAY OVERLAY ZONE (WGO)**

**2.14.010 Purpose**

The purpose of the Willamette Greenway Overlay provision is to:

- (1) Protect the natural, scenic, and recreation qualities of lands along the Willamette River.
- (2) Implement the goals and policies of the State of Oregon's Willamette River Greenway Program.
- (3) Implement the goals and policies of the Millersburg Comprehensive Plan.
- (4) Establish standards and requirements for the use of lands within the Willamette River Greenway in the City of Millersburg.
- (5) Provide for the review of any intensification of use, change of use, or development on properties located within the Willamette River Greenway in the City of Millersburg.

**2.14.020 Greenway Management Definitions**

The following definitions shall apply to this WGO zone:

**Change of Use.** A different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water, or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. The sale of property is not in itself considered to be change of use. An existing open storage area shall be considered to be the same as a building.

Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use of existing improvements shall not be considered a change of use for the purpose of this Section.

**Intensification.** Any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the completion of a structure for which a valid permit was issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.14 Willamette Greenway Overlay Zone (WGO)

property are not an intensification of use. Seasonal increases in gravel operations shall not be considered an intensification of use.

**Natural Vegetative Fringe.** The naturally vegetated area that provides a transition between the water of a river and the most landward edge of this naturally vegetated area.

**Ordinary High-Water Line.** The level to which waters ordinarily rise, usually represented by the line of permanent vegetation. In areas without vegetation, this line may be determined with nearby permanent vegetation, either upstream or downstream or by the locations of a high bank extending out of the floodplain.

**Water-Dependent.** A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

**Water-Related.** Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

#### 2.14.030 Application

- (1) The provisions of this Section shall apply to all lands within the Willamette River Greenway Boundary of the City of Millersburg as shown on the official City zoning map as may be amended. If needed, interpretation of the exact location of the boundary shall be made by the Planning Commission utilizing aerial photos and other resources.
- (2) The provisions of this Section shall apply to lands within the Willamette River Greenway Boundary of the City of Millersburg in addition to the standards and requirements of the Flood Hazard Standards that may apply to such lands. Nothing in this Section shall be construed to constitute a waiver or suspension of the provisions of a Primary Zoning District or Flood Hazard Standard within the Willamette River Greenway. In the case of any conflict between the provisions of this section and the provisions of any other section of this Code, the more restrictive provisions shall apply.

#### 2.14.040 Permitted Uses

All activities, uses of land, and site development requirements set forth in the Primary Zone within the Greenway shall be permitted subject to approval of a Greenway Conditional Use Permit for all proposed development, change of use or intensification of land or water uses, except for the following which need not have a Greenway Conditional Use Permit:

- (1) Customary dredging and channel maintenance conducted under permit from the State of Oregon.
- (2) Seasonal increases in gravel operations as provided under permit from the State of Oregon.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.14 Willamette Greenway Overlay ZONE (WGO)

- (3) The placing by a public agency of signs, markers, aids, etc., to serve the public.
- (4) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses of public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical, or natural uses on public lands shall require review as provided by this section.
- (5) Emergency erosion control operations. Standard erosion control operations are required to have a Greenway Conditional Use Permit.
- (6) Farm uses.
- (7) Reasonable emergency procedures necessary for the safety or protection of property.
- (8) Maintenance and repair usual and necessary for the continuance of an existing use.
- (9) Landscaping, construction of driveways, repair or maintenance of existing structures, and small additions or equipment added to existing structures, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this section.
- (10) The propagation of timber or the cutting of timber which is done for public safety.
- (11) Water intakes and utilities that are not defined as a change of use or intensifications of use are required to have a Greenway Conditional Use Permit.

#### **2.14.050 Greenway Conditional Use Permit**

Except as provided in Section 2.14.040, a Greenway Conditional Use Permit shall be obtained before any development, change, or intensification of use commences within the Willamette River Greenway Boundary. Information contained in the application and supplied by the applicant shall include the following in addition to that required by the Flood Hazard Standards of Chapter 2.12 and the Conditional Use provisions of Chapter 5.04.

- (1) The proximity of the activity to the Willamette River at low and high-water level and the location of the top of the terrace bank on the site plan.
- (2) The location of any existing vegetative fringe along the riverbank or other significant vegetation on the site plan.
- (3) Statements, drawings, or photos of the proposed external appearance of proposed activity as viewed from the river.
- (4) Statements demonstrating compliance with the provisions of this Section.
- (5) Any additional information determined by the Planning Commission to be necessary to demonstrate compliance with this Section.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.14 Willamette Greenway Overlay Zone (WGO)

#### **2.14.060 Use Management Considerations and Criteria**

In reviewing an application for a Greenway Conditional Use Permit, compliance with the following additional considerations and criteria shall be determined:

- (1) Significant fish and wildlife habitats shall be protected.
- (2) Significant natural and scenic areas, viewpoints, and vistas shall be preserved.
- (3) Areas of ecological, scientific, historical, and archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.
- (4) The quality of the air, water, and land resources in and adjacent to the Greenway shall be maintained to state standards in the development, change of use, or intensification of use of land within the State of Oregon Greenway Management Standard.
- (5) Areas of annual flooding, floodplains, and wetlands shall be preserved in their natural state to the maximum extent possible to protect water retention, overflow, and other natural functions.
- (6) The natural vegetative fringe along the river shall be maintained to the maximum extent that is practical in order to assure scenic quality, protection of wildlife, protection from erosion, and screening of uses from the river.
- (7) The proposed development, change, or intensification of use is compatible with existing uses on the site and the surrounding area.
- (8) Areas considered for development, change, or intensification of use which have erosion potential shall be protected from loss by means which are compatible with the provisions of the Greenway Management Standard.
- (9) Extraction of aggregate deposits shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, and safety and to guarantee necessary reclamation.
- (10) Any public recreational use or facility shall not substantially interfere with the established uses on adjoining property.
- (11) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- (12) A minimum building setback line of 150 feet from the ordinary high-water line of the Willamette River will be maintained to minimize adverse impacts on the scenic qualities of lands along the river except for buildings and structures in conjunction with a water-related or a water-dependent use.
- (13) Public access to and along the river shall be limited to public lands where appropriate. This access shall be located and designated to minimize trespass and other adverse effects on adjoining property.

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.14 Willamette Greenway Overlay ZONE (WGO)

- (14) The development shall be directed away from the river to the greatest possible extent.
- (15) The development, change, or intensification of use shall provide the maximum possible landscaped area or vegetation between the activity and the river.

#### **2.14.070 Greenway Review**

- (1) The Planning Commission shall administer and implement this Section by granting or denying a Greenway Conditional Use Permit in accordance with the provisions and procedures of Chapter 5.04.
- (2) The Planning Commission shall review the Greenway Conditional Use Permit application to determine that the requirements of this Code have been met. The Planning Commission may impose conditions, restrictions, or limitations upon a permit in order to accomplish the provisions of this Code.

#### **2.14.080 Notification**

In addition to the notification requirements of this Code, written notice including the Greenway Conditional Use Permit application will be sent immediately to the Oregon Department Parks and Recreation. Notice to the Department will be sent by certified mail - return receipt requested. The City shall allow 10 days from the date of mailing to respond before a decision is made.



ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.14 Willamette Greenway Overlay Zone (WGO)

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ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.15 Airport Approach Area Overlay Zone (AAO)

**CHAPTER 2.15 AIRPORT APPROACH AREA OVERLAY ZONE (AAO)**

**2.15.010 Purpose**

The purpose of the Airport Approach Overlay (AAO) Zone is to apply additional development standards to properties that lie within the air approaches to the Albany Airport. These development requirements are intended to prevent establishment of air space obstructions in air approaches.

The referenced maps with zones and sound level limits are found at the end of this section.

**2.15.020 Regulations and Standards**

Property and development within the AAO Zone shall be subject to the following:

- (1) **Application.** The AAO development standards may be combined with any Primary Zone when located within the designated air approach areas.
- (2) **Height Restrictions.** No structure, mast antenna, or wire shall be erected, altered, or maintained; and no tree shall be allowed to grow to a height in excess of the height limit established within each of the following described zones.
  - a. **Visual Approach Zone.** Slopes 20 feet outward for each foot upward beginning at the ends of the primary surface (200 feet from the end of the pavement) and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
  - b. **Transitional Zones.** Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation which is 222 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface.
  - c. **Horizontal Zone.** Established at 150 feet above the airport elevation or at a height of 372 feet above mean sea level.
  - d. **Conical Zone.** Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- (3) **Other Interference Prohibited.** Notwithstanding any other provisions of this Code, no use may be made of land or water within any zone established by this Code in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike

## ARTICLE II ZONES AND ZONING REGULATIONS

### Chapter 2.16 Airport Approach Area Overlay Zone (AAO)

hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

- (4) **Noise Construction Standards.** Within the designated airport, noise contours which are projected future noise levels and are indicated in the applicable map, the following regulations shall apply:
- a. In the 55 to 60 LDN (Loudness Day Night) area as depicted and defined on the applicable map, a declaration of anticipated noise levels shall be attached to any development permit and recording of such declaration may be required for permit approval on each parcel within such area.
  - b. Development of "noise sensitive property" (residentially zoned areas, group quarters used for sleeping, motels, hotels, schools, churches, hospitals, libraries) within the 60 LDN area and above as depicted on the applicable map, shall be subject to the provisions of Site Development Review outlined in Chapter 5.05 and may be required to include additional sound buffering features within the development as a condition of approval.

ARTICLE II ZONES AND ZONING REGULATIONS  
 Chapter 2.15 Airport Approach Area Overlay Zone (AAO)

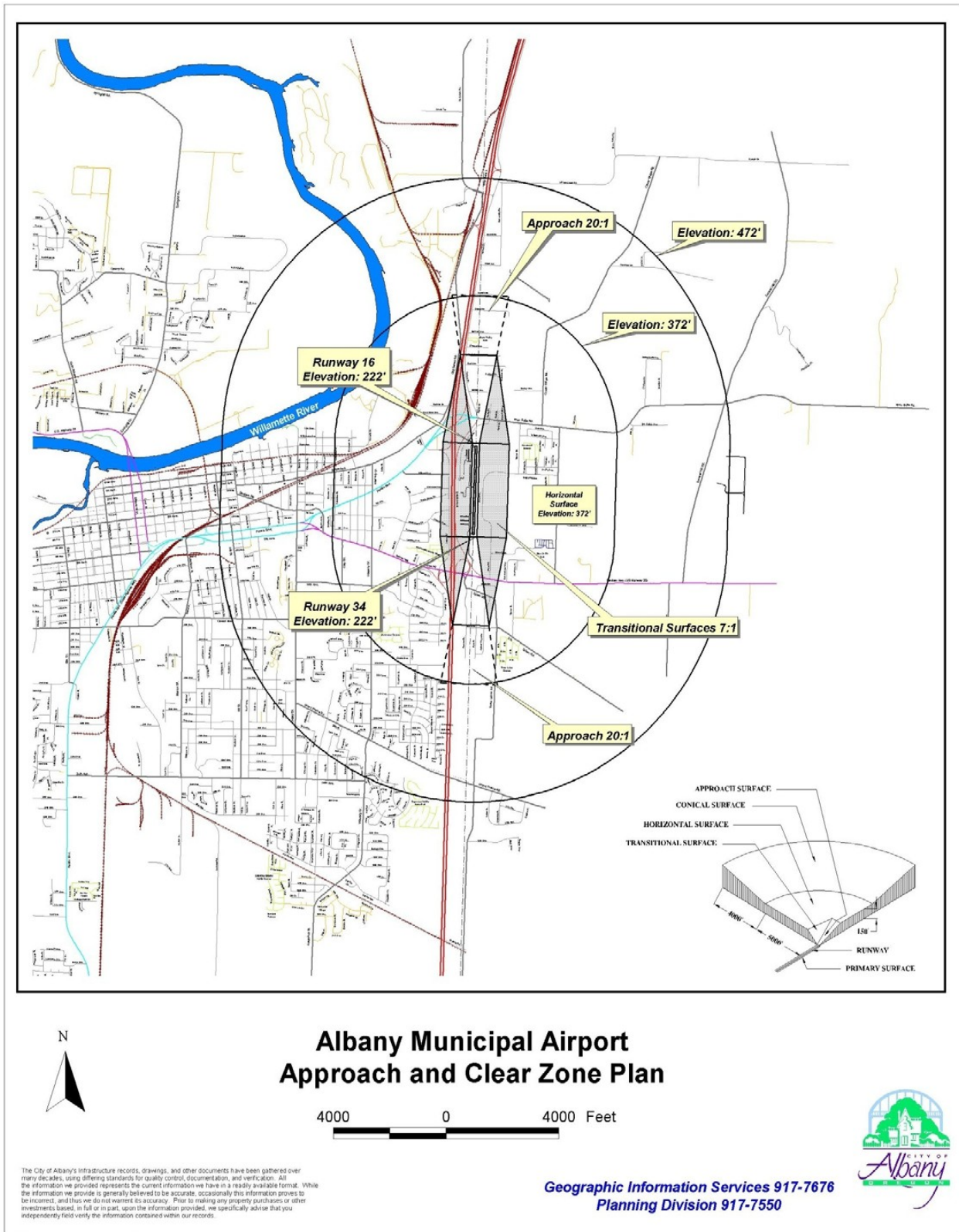


Figure 29 - Airport Approach and Clear Zones

# ARTICLE II ZONES AND ZONING REGULATIONS

## Chapter 2.16 Airport Approach Area Overlay Zone (AAO)

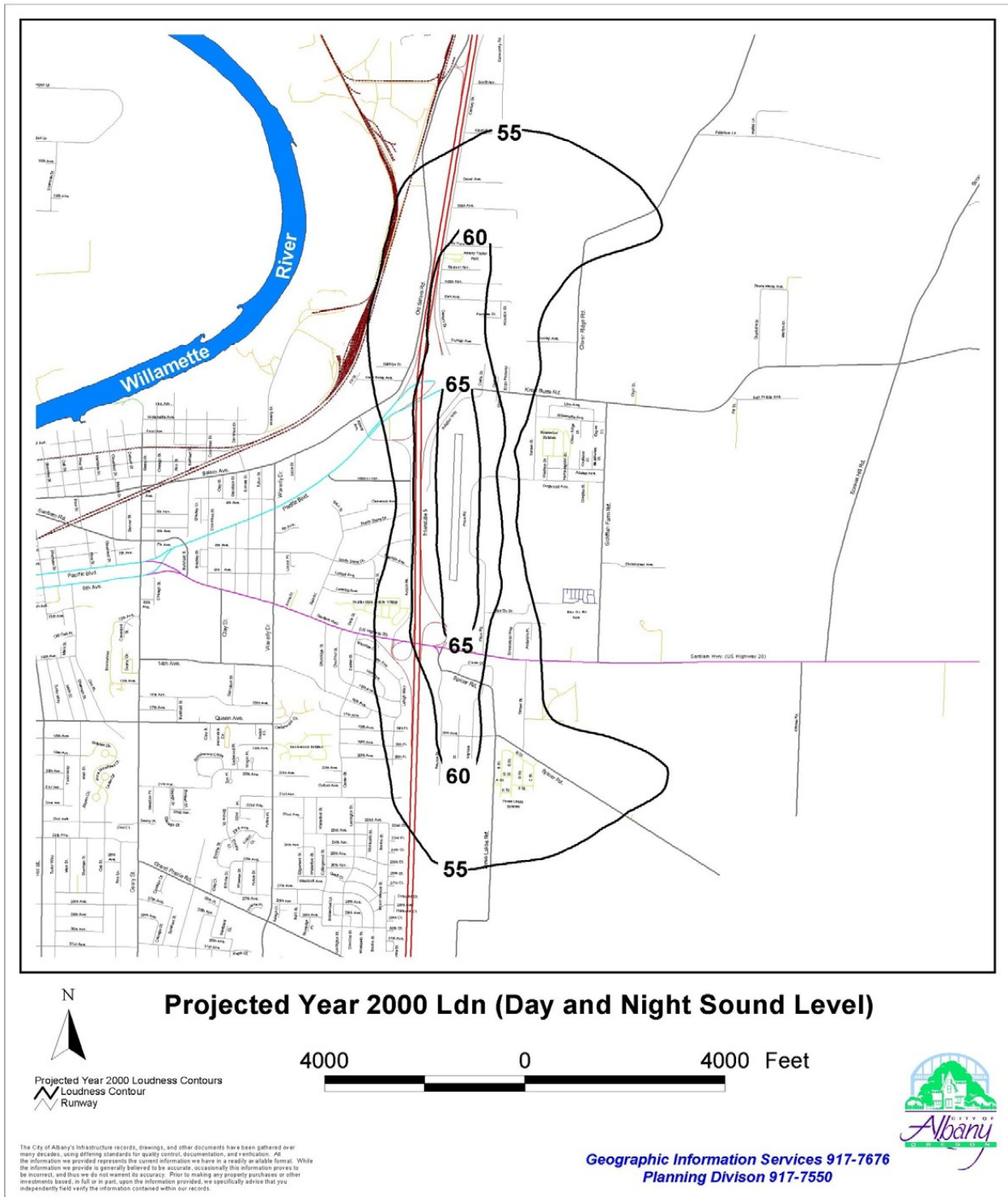


Figure 30 - Airport Sound Levels

ARTICLE II ZONES AND ZONING REGULATIONS  
Chapter 2.15 Airport Approach Area Overlay Zone (AAO)

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