



Rules of Conduct for Public Hearings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

PLANNING COMMISSION MEETING

Millersburg City Hall
4222 NE Old Salem Road, Albany OR 97321
Monday, February 10th, 2020
6:00 p.m.

Agenda

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL
- D. MEETING MINUTE APPROVAL
 - 1) Planning Commission Meeting held on:
 - i. January 23rd 2020 Planning Commission Meeting.
- E. QUASI-JUDICIAL PUBLIC HEARINGS
 - None
- F. CITY PLANNER UPDATE
 - 1) Draft Comprehensive Plan review with Matt Straite
 - 2) Land Use Development Code update with John Morgan
- G. ADJOURNMENT

Upcoming Meeting(s):

February 11th, 2020 @ 6:30 p.m. – City Council Meeting
February 17, 2020 – City Hall Closed – Presidents' Day
February 25, 2020 @ 4:00 p.m. – City Council Work Session
March 3, 2020 @ 6:00 p.m. – Planning Commission Meeting
March 10, 2020 @ 6:30 p.m. – City Council Meeting
March 12, 2020 @ 6:00 p.m. – Events Planning Committee Meeting

The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation to attend or participate, please notify the Millersburg City Hall in advance by calling 458-233-6300.



**CITY OF MILLERSBURG
PLANNING COMMISSION MEETING AND WORK SESSION**

4222 NE Old Salem Road
Tuesday, November 19th, 2019
6:00 pm

Minutes

- A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 6:00 pm.
- B. ROLL CALL:
- Members Present: Jimmy Kirkendall, Connie Lepin, Dennis Gunner, Steve Vogler, Anne Peltier, and Mark Raum
- Members Absent: Ryan Penning
- Staff Present: Matt Straite, City Planner; Jake Gabell, Deputy City Recorder; Forrest Reid, City Attorney; Janelle Booth, Assistant City Manager/City Engineer; and Kevin Kreitman, City Manager
- C. MEETING MINUTE APPROVAL
- 1) October 15th meeting minutes
Action: Motion to accept the minutes as corrected by Commissioner Peltier; seconded by Commissioner Raum.
- Commissioner Kirkendall: Aye**
Commissioner Lepin: Aye
Commissioner Gunner: Aye
Commissioner Vogler: Aye
Commissioner Peltier: Aye
Commissioner Raum: Aye
- D. APPOINTMENT OF PLANNING COMMISSION PRESIDENT
- 1) Commissioners nominated Commissioner Kirkendall to continue as Planning Commission PRESIDENT
Action: Commissioner Peltier moved to appoint Commissioner Kirkendall as the Planning Commissioner Chair, second by Commissioner Vogler.
- Commissioner Kirkendall: Aye**
Commissioner Lepin: Aye
Commissioner Gunner: Aye
Commissioner Vogler: Aye
Commissioner Peltier: Aye
Commissioner Raum: Aye
Approved: 6/0

E. QUASI-JUDICIAL PUBLIC HEARING

- 1) Public hearing on Land Use File PA 19-05 opened by President Kirkendall at 6:05 p.m. Deputy City Recorder, Jake Gabell, read disclosures. President Kirkendall finished opening the hearing.
 - a. File No: PA 19-05 Linn County Land Partition. The applicant is requesting approval to partition a 133.96 acre lot into three parcels of approximately 63.47 acres, 66.28 acres, and 4.21 acres. Staff report was presented by Matt Straite, City Planner.
 - i. No conflict of interest stated by Planning Commission members.
 - ii. Presentation by the applicant, Haden Wooten with Reese and Associates, 321 1st Ave E Suite 3a, Albany OR, stated that they agree with the conditions of approval in the staff report and had no clarifying questions.
 - iii. Supporting comments
 - Daren Lane, 4639 Terri Ln NE Albany OR 97321, had questions about current easements on the property.
 - iv. Questions for Staff by the Planning Commissioner
 - Commissioner Lepin asked clarifying questions about current trees on the property.
 - v. Public hearing closed at 6:16 pm by President Kirkendall.
 - Deliberation of Planning Commissioners with questions for staff.
 - a. No further deliberation.
 - vi. Dell Alexander, 724 Calapooia St SW, Albany OR 97321, requested a copy of the staff report.

ACTION

The following Motion was made by Commissioner Vogler:

Based upon the findings of fact, any testimony, the conditions of approval, and staff recommendations listed in the staff report, and because the proposed project satisfies the applicable criteria, I motion for the adoption of the findings from the staff report dated January 16th, 2020, and further motion that the Planning Commission approve partition PA 19-05, the Linn County Land Partition, pursuant to the conditions of approval listed in the staff report.

A second was given by Commissioner Peltier.

Commissioner Kirkendall: Aye

Commissioner Lepin: Aye

Commissioner Gunner: Aye

Commissioner Vogler: Aye

Commissioner Peltier: Aye

Commissioner Raum: Aye

Approved: 6/0

F. City Planner and Staff Updates

- 1) Draft Comprehensive Plan review, sections 9.1 through 9.8 with City Planner Matt Straite.
 - i. City Planner Straite reviewed the changes proposed to the Comprehensive Plan and why those changes are being proposed.

1. Commissioner Lepin requested that this item be added to the next Planning Commission meeting for further discussion.

G. Meeting adjourned by Commission President Kirkendall at 6:42 pm.

Respectfully submitted:

Reviewed by:

Jake Gabell
Deputy City Recorder

Matt Straite
City Planner

DRAFT

ARTICLE I – GENERAL PROVISIONS

Chapter 1.101	PURPOSE AND SCOPE	I-1
1.101.01	Title	I-1
1.101.02	Purpose.....	I-1
1.101.03	Conformance Required	I-1
1.101.04	Administration	I-1
1.101.05	Violations	I-2
1.101.06	Interpretation.....	I-3
1.101.07	Effect on Other Public and Private Regulations and Restrictions	I-3
1.101.08	Conflicting Regulations	I-4
1.101.09	Severability and Validity	I-4
1.101.10	Fees	I-4
Chapter 1.102	DEFINITIONS	I-5
1.102.01	Grammatical Interpretation.....	I-5
1.102.02	Definitions	I-5

1.101 Purpose and Scope

1.101.01 Title

This document shall be known as the **Millersburg Development Code** and may be referred to as the "Development Code" or "Code." Further, the regulations contained herein this Title may be referred to as the "Development Code" or the "Code."

1.101.02 Purpose

This Code is enacted to:

- (A) Implement the goals and policies of the City of Millersburg Comprehensive Land Use Plan;
- (B) Promote the public health, safety, prosperity, and general welfare of the community; and
- (C) Provide methods of administering and enforcing the provisions of this Code.

1.101.03 Conformance Required

The use of all land, as well as the construction, reconstruction, enlargement, structural alteration, movement, use, or occupation of any structure within the City of Millersburg shall conform to the requirements of this Code.

1.101.04 Administration

The Development Code shall be administered by the City Manager of the City of Millersburg. Unless otherwise specifically prohibited by Charter, the City Manager is granted the authority to delegate his/her duties under this Code.

1.101.05 Violations

- (A) Enforcement. It shall be the duty of the City Manager, or other designated agents of the city, to enforce this Code. All officials, employees, and contract employees of the City of Millersburg who have the authority to issue permits shall comply with the provisions of this Code and shall not issue or approve any permit, certificate or license for any use, building, or purpose, which violates or fails to comply with conditions or standards imposed by this Code. Any permit, certificate or license issued in conflict with the provisions of this Code, intentionally or otherwise, shall be void.

ARTICLE I
General Provisions

- (B) Penalties. Upon failure to comply with any provision of this Code, or with any restrictions or conditions imposed hereunder, the Council may withhold any further permits and may withhold or withdraw City utility services until correction is made. Notwithstanding any such action taken by the Council, any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of the Code, or who resists the enforcement of such provisions, shall be subject to civil penalties as proscribed by the Millersburg Municipal Code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

- (C) Inspection and Right of Entry. Whenever there is reasonable cause to suspect a violation of this Code, or when necessary to investigate an application or revocation of an approval under procedures prescribed in this Code, officials responsible for enforcement or administration of this Code may enter onto a site or structure for the purpose of investigation, provided it shall be done in a reasonable manner. No premises shall be entered without first attempting to obtain the consent of the owner or occupant. If consent cannot be obtained, the responsible official shall secure a search warrant from a court of competent jurisdiction before further attempts to gain entry and shall have recourse to every other remedy provided by law to secure entry.

1.101.06 Interpretation

- (A) Authority. The provisions of this Code shall be interpreted as minimum requirements. When this Code imposes a greater restriction than is required by other provisions of law, or by other regulations, resolutions, easements, covenants or agreements between parties, the provisions of this Code shall control. When a certain provision of the Development Code conflicts with another provision of this Code, or is unclear, the correct interpretation of the Code shall be determined by the City Manager. The Manager may request that City Legal Counsel, the Planning Director, the Planning Commission, or the City Council resolve the conflict or uncertainty.

- (B) Process. The City shall keep a record of all such interpretations made by the City including the reasoning behind the interpretation. Requests by the public for an interpretation shall be processed as a Type I application.

1.101.07 Effect on Other Public and Private Regulations and Restrictions

It is not the intent of the Development Code to interfere with other laws or Codes relating to the use of structures, vehicles or land, or, relating to the construction or alteration of any buildings or improvements. It is not the intent of this Code to interfere with any easement, deed restriction, covenant or other legally

enforceable restriction imposed on the use or development of land more restrictive than the provisions of this Code. Further, it is not the intent of this Code to enforce deed restrictions, covenants and similar legal instruments.

1.101.08 Conflicting Regulations

All other codes, ordinances or parts of codes or ordinances in conflict herewith are hereby repealed.

1.101.09 Severability and Validity

If any article, section, sentence, clause or phrase of this Code is held by a court of competent jurisdiction to be invalid, for any reason, said decision shall not affect the validity of the remainder of this Code. The City Council of the City of Millersburg, Oregon hereby declares that it would have adopted this Code, and each article, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more article, section, sentence, clause or phrases might be declared invalid.

1.101.10 Fees

- (A) Purpose. Fees are for the purpose of defraying administrative costs.
- (B) General Provisions:
 - (1) Payment. Fees shall be payable at the time of application and shall be as set forth by Resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
 - (2) Failure to Pay. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a defect and result in an incomplete application.
 - (3) Refunds. Fees are not refundable unless the application is withdrawn prior to the notification of the application or hearing.
 - (4) Fee Reduction. The City Council may reduce or waive the fees upon showing of just cause to do so.

1.102 DEFINITIONS

1.102.01 Grammatical Interpretation

- (A) Interpretation. Words used in the masculine include the feminine, and feminine the masculine. Words used in the present tense include the future, the singular number includes the plural, and the word "shall" is mandatory and not directory. Where terms or words are not defined, they shall have their ordinary accepted meanings within the context of their use.
- (B) Headings. If there is any conflict or inconsistency between the heading of an article, section or paragraph of this Code and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.
- (C) General and Specific Terms. The definitions in this Section include those that are applicable to the entire Development Code and those terms that apply to specific Sections. Terms used in specific sections are identified as follows:
- | | |
|------------|---|
| (Flood) | Flood Plain Overlay Zone; Chapter 2.201 |
| (Historic) | Historic Property Overlay Zone, Chapter 2.202 |
| (Sign) | Signs; Chapter 3.106 |
| (Greenway) | Willamette River Greenway, Chapter 2.204 |

1.102.02 Definitions

The following words and phrases, when used in this Code, shall have the meanings ascribed to them in this Chapter, except in those instances where the context clearly indicates a different meaning.

Abut or Abutting - Adjacent, contiguous or adjoining exclusive of street right-of-way with a common boundary line, except that where two or more lots adjoin only a corner or corners, they shall not be considered as abutting unless the common property line between the two parcels measures at least eight feet in a single direction.

Access - The way or means by which pedestrians, bicycles and vehicles shall have safe, adequate and usable ingress and egress to property.

- (a) Alternate Property access by a means other than the proposed approach or access connection. It may include an existing public right-of-way, another location on the subject street or highway, an easement across adjoining property, a different street, a service road, a local road, or an alley, and may be in the form of a single or joint approach.

ARTICLE I General Provisions

- (b) Control Where the right of access between a property abutting the highway and the highway has been acquired by a roadway authority, or eliminated by law, pursuant to access or approach spacing standards.
- (c) Easement An access conveyed for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a lot or parcel across intervening property under separate ownership from the parcel being provided access. Cross access easement is an easement providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.
- (d) Point A connection providing for the movement of vehicles between a lot or parcel and a public roadway.
- (e) Reasonable Access that does not require excessive out-of-direction travel or pose a safety hazard.
- (f) Spacing / Intersection Spacing The minimum required distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.
- (g) Way A walkway or multi-use path connecting two rights-of-way to one another where no vehicle connection is made.

Access Management - Regulation of access to streets, roads, and highways from abutting property and public and private roads and driveways.

Accessory Building (Structure) - A ~~detached~~, subordinate building or portion of a main building, the use of which is incidental to that of the main building or to the use of the land but does not include dwellings or living quarters.

Accessory Dwelling Unit - An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

Accessory Use - A use incidental, appropriate and subordinate to the main use of the parcel, lot or building.

Accessway - An unobstructed way or required width containing a paved drive or roadway, which provides vehicular access within a development.

Adjacent - In near, or close, proximity.

Adequate Access - Direct routes of travel between destinations.

Adequate Area - Space sufficient to provide all required public services to standards defined in this code.

Adverse - Acting against or contrary to, as to cause harmful interference or conflict.

ARTICLE I General Provisions

Adverse Impact - An impact that is detrimental to or contrary to the desired effect or so opposed as to cause harmful interference. A negative effect that is detrimental to the public welfare or injurious to people, property or the community environment.

Agriculture - The use of land, typically larger than one acre, for the primary purpose of deriving income from growing plants, crops, orchards or fruit production.

Alley - A minor public or private accessway affording only secondary means of access to the back or side of property otherwise abutting a public street.

Altered or Alteration - Any change or repair, which is intended to prolong the life of a supporting component of a building, such as bearing walls, columns, beams or girders; or any excavation, grading, or contouring of land, which changes the topography, slope, and/or drainage flow from natural conditions.

Alteration (Historic) - A change, addition, or modification to the exterior of a building.

Alteration or Altered (Sign) - Any change in the size, shape, method of illumination, position, location, construction, or supporting structure of a sign. A change in sign copy or sign face alone shall not be considered an alteration.

Apartment - A building or structure designed to house three or more dwelling units, also known as multi-family dwelling.

Applicant - The person making a formal application.

Appeal - A request for a review, by a higher review authority, of any land use decision or interpretation of any provision of this Code.

Approval Authority - The person or body authorized to make application decisions.

Area of Shallow Flooding (Flood) - A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one ~~(+)~~1 to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

Area of Special Flood Hazard (Flood) - Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

ARTICLE I General Provisions

Automobile Wrecking Yard - A building or lot used for dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles, or their parts.

Awning (Sign) - A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for the supporting framework.

Base Flood Level or Elevation (Flood) - The flood level having a one ~~(1)~~1 percent chance of being equaled or exceeded in any given year (100-year flood plain).

Basement - A portion of a building which has less than one-half ~~(1/2)~~ or more of its height measured from finished floor to finished ceiling below the average elevation of the adjoining grade.

Bed and Breakfast Facility - A building or premises used for the provision of lodging and meals, usually breakfast.

Bicycle Facilities – Improvements that provide for the needs of bicyclists, including bikeways and bicycle parking.

Bikeway - The general term for the four basic types of bikeways:

- (a) Bikes Lanes - A hard surfaced or paved facility, either separated physically from a road or separated by paint stripes, and which is designated specifically for use by bicyclists.
- (b) Cycle Track - A hard surfaced or paved facility separated physically from a road or street and which is designated specifically for two-way use by bicyclists
- (c) Shoulder Bikeways are where bicyclists travel within the roadway's paved shoulder. ~~Typically, shoulder bikeways are four to six feet in width.~~
- (d) Shared Roadways are roadways where bicyclists and motor vehicles share the travel lane.
- (e) Multi-Use Paths are separated from vehicular traffic. They are two-way pathways ~~about 10 feet wide~~ used by pedestrians, bicyclists and joggers.

Block - A tract of land bound on four sides by streets or bounded by streets and other such features as the city limits or physical barriers such as bodies of water or canyons.

Boarding a/or Rooming House - A building where lodging, with or without meals, is provided for compensation, but shall not include Homes for the Aged, Nursing Homes or Group Care Homes.

Buffers or Buffering - Distance, landscaping, walls, berms, or other measures used to physically separate one land use from another.

ARTICLE I General Provisions

Building - Any structure enclosed with walls, excluding canvas or fabric, including windows and doors, having a roof and permanent foundation, conforming to the design and construction requirements of the Oregon Residential Structural Specialty Code, built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind. Trailers, with or without wheels, shall not be considered as buildings, except that manufactured homes sited in accordance with standards in this Code shall be considered a building.

Building Frontage (Sign) - The portion of a building face most closely in alignment with an adjacent right-of-way or fronting a parking lot when so defined, as allowed in this chapter. A gasoline service station may use the overhanging canopy as a substitute for building frontage. Given different lengths, the longest side of the building or canopy shall be used to compute the allowable sign area.

Building Height - The vertical distance from the average ground level measured five feet from the foundation of a building to the highest point of the coping of a flat roof, deck line of a mansard roof, or to the middle height between the eaves and ridge of a pitch or hip roof. If a building is divided into units or segments by means of masonry walls or firewalls and parapets, each unit shall be calculated separately relative to building height.

Building Inspector - A designated person with duties and authority to enforce all building codes and the provisions of this Code.

Building Line - A line that is adjacent to the front side of a main building parallel to the front lot line.

Building Official - An individual empowered by the City Council to administer and enforce building regulations.

Canopy Sign (Sign) - A sign hanging from a canopy or eve, at any angle relative to the adjacent wall.

Capacity - Maximum holding or service ability, as used for transportation, utilities, parks, and other public facilities. See also, definition of "Occupancy" in applicable building codes.

Carpool - Two or more persons commuting in a single vehicle.

Carport - A stationary structure consisting of a roof with its supports and not more than one wall or storage cabinet substituting for a wall and used for covering a vehicle parking space.

Cemetery - Land used or intended to be used for the burial of the dead, and dedicated for cemetery purposes, including a columbarium, crematory,

ARTICLE I General Provisions

mausoleum, or mortuary, when operated in conjunction with and within the boundary of such cemetery.

Change of Use - Change in the primary type of use on a site as defined and administered by the Building Official.

Change of Use (Greenway) - 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

City - The City of Millersburg, Oregon.

City Council or Council - The legally elected City Council of the City of Millersburg, Oregon.

City Manager - The City Manager employed by the City Council of the City of Millersburg, Oregon.

Clear-Vision Area - A triangular area on a lot at the intersection of two streets or a street and a railroad. Two sides are lines measured from the corner intersection of the right-of-way lines for a specific distance. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lines at the intersections have rounded corners the right-of-way lines will be extended in a straight line to a point of intersection.

Clinic - A facility for examination and treatment of human ailments by a group of physicians, dentists, or other licensed practitioners on an out-patient basis and not involving overnight housing of patients.

Clinic, Large Animal - A business establishment in which veterinary services are rendered to large animals including livestock on an outpatient basis with no overnight boarding.

Clinic, Small Animal - A business establishment in which veterinary services are

ARTICLE I
General Provisions

rendered to small domestic pets on an outpatient basis with no overnight boarding.

Club - A facility owned or operated for a social, fraternal, religious, educational, or recreational purpose, to which membership is required for participation and which is neither operated primarily for profit nor to render a service which is customarily carried on by a business.

Commission - The Planning Commission of the City of Millersburg, Oregon.

Community Center - A facility owned and operated by a governmental agency or a non-profit community organization which is open to any resident of the neighborhood in which the facility is located or to any resident of the City or surrounding area, provided that the primary purpose of the facility is for assembly, and provided further that no permanent or temporary commercial eating or drinking facilities shall be operated on the premises.

Comprehensive Plan - The Comprehensive Plan of the City of Millersburg, Oregon.

Conveyance (Flood) - Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.

County Assessor - The County Assessor of Linn County, Oregon.

Curb Line - The line indicating the edge of the vehicular roadway within the overall right-of-way.

Cultural Resource Inventory (Historic) - Historical buildings or sites identified as "significant" on the Goal 5 historical resource inventory.

Cut - Any act by which earth, sand, gravel, rock, or any other similar material is excavated or removed from a site or parcel of land and includes the conditions resulting there from.

Day Care Facility - An institution, establishment, or place, appropriately licensed by the State of Oregon and not a part of a public school system, in which are commonly received three or more children for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

Declarant - The person who files a declaration under ORS 92.075.

ARTICLE I General Provisions

Declaration - The instrument described in ORS 92.075 by which the subdivision or partition plat was created.

Dedication - The designation of land by its owner for any public use as reflected on a subdivision or partition plat, deed, or other recording with the County. The term may also be used for dedications to a private homeowners' association.

Demolish (Historic) - To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district.

Density - The number of residential dwelling units per acre of land.

- (a) Gross density is calculated based on the total property acreage of each tax lot multiplied by the allowed units per acre.
- (b) Net density is calculated on the total acres, minus any floodplain, dedicated right-of-way, or other proposed or required dedications or allocations of land to uses other than the allowed residential units, except garages and other typical residential accessory uses.

Development - Any human-caused change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

Development (Flood) - Any activity that has the potential to cause erosion or increase the velocity or depth of floodwater. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.

Discretionary - A permit action or decision that involves substantial judgment or discretion.

DLCD – Oregon Department of Land Conservation and Development.

Driveway - A private way used by vehicles and pedestrians to gain access from an approved public access or right-of-way onto a lot or parcel of land.

Dwelling, Multi-Family - A building or portion thereof designed or used as three or more dwelling units.

Dwelling, Two-Family (Duplex) - A building designed or used for as two attached residential dwelling units, neither of which meets the definition of an accessory dwelling unit.

ARTICLE I General Provisions

Dwelling, Single Family - A building designed or used as one detached dwelling unit. This definition includes manufactured housing complying with the standards of this Code.

Dwelling Unit - A building or portion thereof designed with one or more rooms for residential purposes by not more than one family and including a kitchen and bathroom. A recreational vehicle is not a Dwelling Unit.

Easement - A grant of the right to use a strip of land for designated purposes.

Encroachment - Advancement of a surrounding or adjacent use or structure onto another property, right-of-way or a natural resource or hazard.

Encroachment (Flood): Any obstruction in the flood plain which affects flood flows.

Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision (Flood) - A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Code.

Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision (Flood) - The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

Family – An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or a group of not more than five unrelated individuals, living together as a single housekeeping unit.

Farming – To engage in the cultivation of crops or the raising of animals. Farm Use as defined in ORS 215.203 including non-farm uses authorized by ORS 215.213 and ORS 215.283.

Farmland, High Value - Lands classified by the US Natural Resource Conservation Service (NRCS) as predominantly Class I through IV soils in Western Oregon.

FEMA - The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.

ARTICLE I General Provisions

Fence, Non-sight Obscuring - Any fence constructed in such a manner as to allow vision of at least 80 percent of the fence when viewed from either side of the fence.

Fence or Wall, Sight Obscuring - Any fence or wall constructed in such a manner as to obstruct vision at least 80 percent when viewed from a 90-degree angle.

Fill - Any act by which earth, sand, gravel, rock, or any other similar material is deposited, placed, pulled, or transported to raise the land to a higher level or grade.

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, etc.

Flashing Sign (Sign) - A sign any part of which pulsates or blinks on and off, except time and temperature signs and message signs allowed by conditional use.

Flood or Flooding (Flood) - A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Boundary Floodway Map (FBFM) (Flood) - The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).

Flood Insurance Rate Map (FIRM) (Flood) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Millersburg.

Flood Insurance Study (FIS) (Flood) - The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway map and the water surface elevation of the base flood and is on file with the City of Millersburg.

Flood Plain (Flood) - Lands within the City that are subject to a one ~~(4)~~1 percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Millersburg.

Flood Proofing (Flood) - A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or

ARTICLE I General Provisions

elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Floodway (Flood) - The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one ~~(4)~~1 foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.

Floodway Fringe (Flood) - The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.

Floor Area - The area of the building, exclusive of porches and exterior stairs, which shall extend to the exterior faces of all walls. Floor area shall include all levels within a structure, including mezzanines and additional stories above the first floor, and including basements improved for regular human occupancy. Within a residential structure, floor area does not include garages or carports.

Floor Elevation - The height above mean sea level of the first floor of a building that is not a basement.

Floor, Habitable - Any floor area intended to be used for residential living purposes, which includes working, sleeping, eating, cooking or recreating, or a combination thereof. A floor area used only for storage purposes is not a "habitable floor".

Food Pod – A single site that includes three or more mobile food units.

Free-Standing Sign (Sign) - A sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

Frontage - That portion of a lot or parcel which abuts a public street.

Garage, Private - A detached accessory building or portion of a main building for the parking of automobiles of the occupants of the premises.

Garage, Public - A building other than a private garage used for the care, repair, parking or storage of automobiles.

Grade - The average elevation of the finished ground at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation opposite the center of the wall shall constitute the ground elevation.

ARTICLE I General Provisions

Hazardous Material (Flood) - Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.

Height (Sign) - Height is measured from the grade of the curb line lowest to the base of the sign to the highest point of the sign. In the absence of a curb line, the edge of the street pavement shall be used. In the absence of street pavement, the ground level shall be used to measure the height.

Historic District (Historic) - A geographically definable area, the boundaries of which have been adopted by the City Council.

Half-story - Means that part of any building wholly or partly within the roof frame and not occupying more than two-thirds of the floor area immediately below it.

Home Occupation - An occupation, profession, or craft, which is customarily incidental to or carried on in a dwelling or residential premise and not one in which use as a dwelling is largely incidental to the business use, and continually conforms to the criteria set forth in this Code.

Hotel or Motel - Any building or portion thereof designed or used to offer guest rooms or suites for temporary lodging, with or without meals, for compensation but excluding any institution in which human beings are housed or detained under legal restraint.

House of Worship - A permanently located building primarily used for religious worship. This definition shall also include accessory buildings for related religious activities and ~~a-residences~~ as allowed by state law.

Impervious Area - An area with minimal infiltration of surface water into the underlying soil and shall include pavement, such as concrete, asphalt, gravel, roadways, structures, and roofs or other similar surfaces that limit water penetration.

Incidental Signs (Sign) - A sign which is normally incidental to the allowed use of the property but can contain any message or content. Such signs can be used for, but are not limited to, nameplate signs, warning or prohibition signs, and directional signs not otherwise allowed.

Indirect Illumination (Sign) - A source of illumination directed toward such sign so that the beam of light falls upon the exterior surface of the sign.

Integrated Business Center (Sign) - A group of two or more businesses which are planned or designed as a center, and share a common off-street parking area or

ARTICLE I General Provisions

access, whether or not the businesses, buildings or land are under common ownership.

Interested Person - A person who has legal standing in a land use decision and may appeal a decision by virtue of their participation in the public hearing process for that decision.

Internal Illumination (Sign) - A source of illumination from within a sign.

Intersection - An at-grade connection of a public or private approach road to the highway.

Intensification (Greenway) - 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 property are not an intensification of use. Seasonal increases in gravel operations shall not be considered an intensification of use.

Junk Yards - The use of property for the storage of salvage materials, including scrap metals or other scrap materials, or for the dismantling or "wrecking" of automobiles or other vehicles or machinery, whether or not such uses are conducted as a business for profit or otherwise.

Kennel - Any premises where four or more dogs, cats, or other small animals or any combination thereof, are kept commercially or permitted to remain for compensation, propagation, training or sale, except not including a veterinary clinic or hospital.

Landmark (Historic) - Any site, object, building or structure designated by the city Council pursuant to provisions in Chapter 2.202.

Landscaping - The term includes trees, grass, shrubs, flowers, water features, garden areas, the arrangement of paths, walkways, fountains, patios, decks, fencing, street and yard furniture, ornamental concrete or stonework, decorative retaining walls, earth forms, such as grading, mounding, contouring, and terracing, exterior use of artificial turf or carpeting, artificial plants, shrubs, or flowers. Both native and non-native vegetation may constitute landscaping materials. This definition pertains to complete site modifications other than buildings and parking areas and driveways.

ARTICLE I General Provisions

Land Division - Any partition or subdivision of a lot or parcel.

Land Use - The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses.

Land Use Decision - A final decision or determination made by the City of Millersburg that concerns the adoption, amendment, or application of the Statewide Planning Goals, the Comprehensive Plan, or any land use regulation (i.e., this Code) where the decision requires the interpretation or exercise of policy or legal judgment. Decisions requiring Quasi-Judicial review by the City are considered Land Use Decisions. Decisions subject to Administrative review are considered Limited Land Use Decisions, pursuant to ORS 197.015.

LCDC - Oregon Land Conservation and Development Commission.

Legislative Process - A process that leads to the adoption of rules or policies that have broad implications for a large geographic area or for the community as a whole.

Livestock - Domestic animals of types customarily raised or kept on farms for profit or other purposes.

Loading Space - An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot - A unit of land created by a subdivision as defined in ORS 92.010 in compliance with all applicable zoning and subdivision codes; or created by deed or land sales contract if there were no applicable zoning, subdivision or partitioning codes, exclusive of units of land created solely to establish a separate tax account. Such lots may consist of a single lot of record; a portion of a lot of record; or a combination thereof. Lots created judicially may be considered legal lots only if established as part of a formal judicial decree or settlement.

Lot Area - The total horizontal area contained within the lot lines of a lot, excluding street or alley rights-of-way, and the portion of a flag lot within the pole or driveway area.

Lot, Corner - A lot abutting upon two or more streets at their intersection, or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees within the lot lines.

ARTICLE I
General Provisions

Lot Coverage - That portion of the total lot area covered by-by impervious surfaces, including structures and paving, expressed as a percentage of the total lot area.

Lot Depth - The horizontal mean average distance between the front and rear lot lines.

Lot, Flag - A lot created which is behind a lot fronting on a street and which is connected to that street by a driveway located on a narrow strip of land. The strip of land may be a portion of the lot behind the street-fronting lot, or an access easement over the street-fronting lot.

Lot, Interior - A lot or parcel of land other than a corner lot.

Lot Line - A line that defines a boundary of a lot, see also "Property Boundary."

Lot Line, Front - The boundary line of a lot that abuts a street other than a side or rear yard line. For a corner lot, the shortest property line along a street, other than an alley. If the lot does not abut a street, the longest boundary line closest to the street, other than the pole portion of a flag lot, shall be the front lot line.

Lot Line, Rear - A lot line not abutting a street which is opposite and most distant from the front lot line, and not intersecting a front lot line, except on a corner lot.

Lot Line, Side - Any lot line not a front or rear line.

Lot, Through - Any lot, except a corner lot, that abuts two or more streets and/or highways.

Lot of Record - A legally created lot held in separate ownership as shown on the records of the County prior to the time of the passage of an ordinance or regulation establishing a new zoning district, or new standards within an existing district, within which it is located regardless of lot's compliance with standards of the new regulation.

Lot Width - The horizontal distance between the side lot lines measured within the lot boundaries or the mean distance between the side lot lines within the buildable area.

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

ARTICLE I General Provisions

Maintain - To cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable and carries out the purpose for which it was installed, constructed or required.

Major Public Improvement (Historic) - 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 district or on a landmark site, except for the repair or maintenance of existing public improvements.

Manufactured Dwelling or Home - A structure designed for movement on the public highways and for residential occupancy that has sleeping, cooking, and plumbing facilities, and was constructed in accordance with Federal Manufactured Housing Construction and Safety Standards and regulations in effect at the time of manufacture. For City zoning standards, the term does not include travel trailers and other similar ~~vehicles~~ recreational vehicles, nor does it include Accessory Dwelling Units as defined by the Oregon Building Codes Division.

Manufactured Home (Flood) - Means 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 connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes as defined in this Section. For insurance and floodplain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home or Mobile Home Park - Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership.

Manufactured Home Park or Subdivision (Flood) - Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level (Flood) - Means, 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.

Message Sign (Sign) - A sign which can change its message electronically including, but not limited to, signs displaying time and temperature.

Mini-Storage Warehouse - An area or areas located within an enclosed building or structure used only in connection with a residential land use for the storage of nonflammable or non-explosive materials.

ARTICLE I General Provisions

Mobile Food Unit – As defined by OAR 333-150-0000 as any vehicle that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate customer.

Mobile Home - A vehicle or structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, is intended for residential occupancy, and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of the Oregon Mobile Home law in effect at the time of construction. For City zoning standards, the term does not include travel trailers and other similar recreational vehicles, nor does it include Accessory Dwelling Units as defined by the Oregon Building Codes Division.

Mobile Home (Flood) - Means a vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by this Section.

Mobile Home Space - A plot of land within a manufactured or mobile home park designed for the placement of one mobile home.

Modular Home - A structure for residential use that has sleeping, cooking, and plumbing facilities, and is constructed off-site in compliance with the Uniform Building Code (Oregon State Structural Code) and designed to be transported to a site for installation and/or assembly of modular components to form a permanent structure.

Multi-faced Sign (Sign) - A sign which has two or more identical sign faces, contained in a single sign structure.

Mural (Sign) - A covering of the surface area of a wall with paint or other artistic medium, that creates a pictorial or abstract design and usually without advertising or commercial symbolism - such as logos or trademarks - or any representation of a product or business, except to identify the artist.

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

Nearby Uses - Activities or uses within one quarter mile of a development which can be reasonably expected to be used by pedestrians and within one mile of a development which can reasonably expected to be used by bicyclist.

Neighborhood Activity ~~Ceenters~~Centers - Schools, parks, and other similar sites.

New Construction - Structures for which construction was initiated on or after the effective date of this Code.

New Construction (Flood) - Any structure(s) for which the start of construction commenced on or after the original effective date of the Floodplain Overlay Zone.

Nonconforming Sign (Sign) - Any sign which lawfully exists prior to the effective date of this Chapter but, which due to the adopted requirements, no longer complies with the height, area and placement regulations or other provisions of these regulations.

Non-Conforming Site Conditions - A legally established site that does not conform to the landscaping, parking, or other site development standards of the zone in which it is located.

Non-Conforming Structure - A legally established building or other structure that does not conform with the height, setback, lot area, lot coverage, or other standards for structures within the zone it is located.

Non-Conforming Use - A use of land or a building or structure which lawfully existed at the time of the adoption of this Code, or any amendment thereto, but which does not conform to the regulations imposed by this code or such amendments thereto.

Nursing Home - Any home, place or institution which operates and maintains facilities providing convalescent or nursing care, or both, for period exceeding 24 hours for 2 or more ill or infirm patients not related to the nursing home Manager, or owner, by blood or marriage. Convalescent care may include, but is not limited to, the procedures commonly employed in nursing and caring for the sick and includes rest homes and convalescent homes but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility licensed under ORS.

Obstruction (Flood) - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.

Occupancy - The purpose for which a building, or part of a building, is used or

intended to be used.

Official Zoning Map - The Map established by adoption by the City Council on which plan locations, particularly of streets, are indicated with detail and exactness so as to furnish the basis for property acquisition, building restrictions, building permits, zoning or other uses or activities, the original of which shall be kept on file in the office of the City Manager.

Open Space - Land that is not covered by buildings, paving, or other hard surfaces, unless such hard surfaces are part of an approved landscape plan, and such land is intended to remain open for visual and/or active or passive recreational use.

Ordinary High Water (Greenway) - 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.

Owner - The owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel or property under written contract.

Owner (Sign) - The owner or lessee of a sign. If the owner or lessee of a sign cannot be determined, then "owner" means owner or purchaser of the land on which the sign is placed.

Parcel - A single unit of land that is created by a partitioning of land, or a unit of land created by deed or land sale contract prior to adoption of local planning, zoning or partitioning regulations. Parcel does not include a unit of land created solely to establish a separate tax account.

Parking Area, Private - An open area, building, or structure, other than a street or alley, used for the parking of the automobiles of residents and guests of a building.

Parking Area, Public - An open area, building, or structure, other than a private parking area, street or alley, used for the parking of automobiles and other motor vehicles, ~~but not to include~~ trucks less than 12,000 pounds gross vehicle weight, and available for use by persons patronizing a particular building, establishment or area.

Parking Space - A durable, dustless, concrete or asphalt paved, and marked surface area, but excluding paved area necessary for access and maneuvering into and out of the space. The following are not considered parking spaces for

ARTICLE I General Provisions

the purposes of OAR 660-12-045(5) (c): park and ride lots, handicapped parking, and parking for carpools and vanpools.

Partition - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition" does not include:

- (a) Divisions of land resulting from lien foreclosures, divisions of land resulting from contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; or
- (b) Any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning regulation; or
- (c) A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).

Pathway - A pedestrian facility that is entirely separate from the roadway and generally serves as an on-site pedestrian system within a development or park.

Pedestrian Connection - A continuous, unobstructed, reasonably direct route intended and suitable for pedestrian use between two points. Pedestrian connections include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges.

Pedestrian Way - A right-of-way for pedestrian traffic.

Permittee - The person who is proposing to use or develop property for which use, or development, requires a permit or the person who is using the property or development subject to a permit issued for the property.

Person - Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or any group of combination acting as a unit.

Pets - Dogs or cats, excluding large or exotic varieties normally located in the wild or displayed by zoological societies; birds, excluding poultry; turtles, fish, lizards, non-poisonous reptiles and snakes, and rodents when contained and housed within a residence and not present in sufficient numbers as to constitute a nuisance to neighbors or to constitute a business.

ARTICLE I General Provisions

Plan Map - An officially adopted map of the City, including urban growth boundary, showing land use designations and other graphic information which is part of the City's Comprehensive Plan.

Planned Road or Street - A highway, road, street, or alley identified in an adopted corridor plan, comprehensive plan or transportation system plan in accordance with administrative procedures of OAR 660-012 and ORS Chapter 197, but that has not been constructed.

Planter Strip - A landscape area for street trees and other plantings within the public right-of-way, usually a continuous planter area between the street and a sidewalk.

Planned Unit Development - A type of development of a site which, as a single project, is based on a design which incorporates all elements of land, structures and uses in conformance with the applicable standards of this Code.

Planning Commission - The Planning Commission of the City of Millersburg, Oregon, as may be appointed by the City Council as established in the Millersburg Municipal Code.

Plat - A map, diagram, drawing, re-plat or other writing containing all of the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision, condominium division or land partition.

- (a) A tentative plat is one that is prepared for review and considered by the City for compliance with development regulation standards.
- (b) A final plat is one that is prepared for recordation with the County after the City has approved the tentative plat. A final plat must substantially conform to the specifications as approve for the tentative plat.

Portable Sign (Sign) - Any sign that is not originally designed to be permanently affixed to a building, structure, or the ground; a sign originally designed, regardless of its current modification, to be moved from place to place. These signs include, but are not limited to, A-frame or sandwich board signs, signs attached to wood or metal frames and designed to be self supporting and movable, and also including trailer reader boards. Portable signs are not to be considered temporary signs as defined and used in this Code.

Professional-Type Service - Shall include activities of professional quality and requiring special training such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, planner, or accountant, of which may or may not require a license issued by the State of Oregon.

Projecting Signs (Sign) - A sign projecting from a structure, the face of which is not parallel to the wall on which it is mounted.

ARTICLE I
General Provisions

Property (or Lot) Boundary - The division line between two units of land.

Property (or Lot) Boundary Adjustment - The relocation of a common property line between two abutting properties.

Public Facilities and Services - Projects, activities, and facilities which are necessary for the public health, safety, and welfare.

Quasi-judicial Process - A process that leads to a decision on a land use or development application involving a single property or small group of properties. The process involves application of existing laws and regulations, or imposition of specific new regulations limited to the properties included in the application.

Reasonably Direct - A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

Recreational Vehicle - A vacation trailer, vehicle, or portable unit, which is either self-propelled, towed, or carried by a motor vehicle, which is:

- (a) Built on a single chassis;
- (b) Less than four hundred ~~(400)~~ square feet;
- (c) Designed primarily as temporary living quarters for recreational, camping, travel, or seasonal use; and
- (d) Not designed or intended as a permanent dwelling.

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.

Recreational Vehicle (Flood) - Means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801-350, and 801-565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home as defined in this Section.

Recreational Vehicle, Park - A lot, which is designed and operated for compensation as a place for temporary or short-term parking of occupied recreational vehicles.

Recreational Vehicle, Storage - A lot which is designed and operated for compensation as a place for temporary or long-term storage of unoccupied recreational vehicles.

ARTICLE I General Provisions

Residential Accessory Dwelling - A secondary dwelling unit, with or without kitchen and bathroom facilities, on the same lot as a single-family dwelling, and being of substantially the same exterior design as the ~~single family~~single-family unit, whether attached or detached. This definition includes guesthouse.

Residential Care Facility - As used in ORS 197, a residential facility is a residential treatment or training home, or adult foster home, licensed by the State of Oregon, which provides care, treatment or training for ~~six (6)~~ to fifteen ~~(15)~~ individuals, and which may also provide housing for staff persons who provide services to those individuals. For the purposed of this code, a residential facility is considered to be a form of multi-family residential development.

Residential Care Home - As used in ORS 197, a residential facility is a residential treatment or training home, or adult foster home, licensed by the State of Oregon, which provides care, treatment or training for ~~five (5)~~ or fewer individuals, and which may also provide housing for staff persons who provide services to those individuals. For the purposed of this code, a residential facility is considered to be a form of single-family dwelling unit.

Retaining Wall – A structure that holds back any material (usually earth) and prevents it from sliding or eroding away.

Review Authority - The individual, Board, Commission, or City Council who has authority to decide on a land use application as defined by this Code.

Right-of-Way - Real property or an interest in real property owned by a roadway authority for the purpose of constructing, operating, and maintaining public facilities.

Riparian Area - The area immediately adjacent to surface water such as rivers, streams ponds, lakes, wetlands, and springs consisting of transition areas between an aquatic ecosystem to a terrestrial ecosystem.

Roadway - The portion of a right-of-way that is improved for motor vehicle and bicycle travel, subject to applicable state motor vehicle licensing requirements. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

Roadway Authority - The City or other agency with jurisdiction over a road or street.

Roof Line (Sign) - Either the eaves of the roof, or, the top of the parapet, at the exterior wall. A "mansard roof" is below the top of a parapet and is considered a wall for sign purposes.

ARTICLE I General Provisions

Roof Sign (Sign) - A sign or any portion of which is displayed above the highest point of the roof, whether or not such sign also is a wall sign.

Rotating/Revolving Sign (Sign) - A sign, all or a portion of which, moves in some manner.

School, Elementary, Junior High or High School - A public, private, or parochial institution offering instruction in the several branches of learning and study in accordance with the rules and regulations of the State Department of Education.

School, Trade or Commercial - A building where the instruction is given to pupils for a fee in money or otherwise, which fee is the principal reason for the existence of the school.

Semi-Public Use - A structure or use intended or used for a semi-public purpose by a church, lodge, club, or any other non-profit organization.

Senior Housing – Housing specifically designed for, and occupied by, individuals 55 years of age and older. Housing arrangements may include independent living (apartments), assisted living including nursing, ~~and~~ rehabilitation care, and continuing care facilities and communities.

Service Station - Any lot used primarily for the retail sales of motor vehicle fuels and lubricants for delivery on premises, and minor automobile repair and service.

Setback - A line within a property boundary defining a locational limit for buildings, structures or other defined uses that creates an area or yard between the property line and the setback line.

Shared Driveway - A driveway used to access two or more parcels.

Shared Parking -Required parking facilities for two or more uses, structures, or lots or parcels, which are satisfied jointly with the same facilities.

Sidewalk - A publicly or privately paved pedestrian walkway within or adjacent to a street right-of-way or private street.

Sign (Sign) - Any writing, including letter, word, or numeral; pictorial presentation, including illustration or decoration; emblem, symbol or trademark; ~~flag, including~~ banner or pennant; or any other device, figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building, structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way.

Sign Area (Sign) - The area of a sign shall be the entire area within any type of perimeter or border which encloses the outer limits of any writing, representation,

ARTICLE I General Provisions

emblem, figure, or character. If the sign is enclosed in a frame or ~~cabinet~~cabinet, the area is based on the inner dimensions of the frame or cabinet surrounding the sign face. When a sign is on a base material and attached without a frame, such as a wood board or plexiglass panel, the dimensions of the base material are to be used. The area of a sign having no such perimeter, border, or base material shall be computed by enclosing the entire area within a parallelogram or a triangle of the smallest size sufficient to cover the entire message of the sign and computing the area of the parallelogram or a triangle. For the purpose of computing the number of signs, all writing included within such a border shall be considered one sign, except for multi-faced signs on a single sign structure, which shall be counted as one sign per structure. The area of multi-faced signs shall be calculated by including only one-half the total area of all sign faces.

Sign Face (Sign) - Surface of a sign containing the message. The sign face shall be measured as set forth in the definition for "Sign Area."

Sign Structure (Sign) - The supports, uprights, braces, framework and other structural components of the sign.

Site Development - Any human-caused change to improved or unimproved property, including, but not limited to, land surface mining, grading, filling, excavating, tree cutting, clearing, construction, installation or alteration of a building or other structure, paving, landscaping, establishment or termination of an access or outdoor storage on the land.

Site Plan or Development Plan - A drawing or graphic depiction or plan, prepared to scale, showing accurately and with complete scaled dimensioning, all existing and proposed uses, buildings, paving, and landscaping proposed for a specific parcel of land.

Space, Manufactured Home - An area or lot reserved exclusively for the use of a manufactured home occupant.

Start of Construction - The date a building permit is issued, provided that the actual start of construction, repair, reconstruction, placement, or other improvement occurs within 180 days of the permit date.

Start of Construction (Flood) - The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 used as part of the main structure.

ARTICLE I General Provisions

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Story - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade as defined herein, such basement or cellar shall constitute a story.

Street or Road - A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, or road.

- (a) Alley - A narrow street through a block used primarily for access by service vehicles to the back or side of properties fronting on another street.
- (b) Arterial - A street used primarily for through traffic external to the city. Arterials are interested by collector streets and typically have limited direct access to abutting properties.
- (c) Collector - A street used to some extent for through traffic and also for local circulation and access to abutting properties.
- (d) Cul-de-sac (dead-end) - A short street with one end open to traffic and the other terminated by a vehicle turn-around.
- (e) Frontage - A minor street parallel to and adjacent to an arterial or major collector street intended to provide access to abutting properties and providing protection from through traffic.
- (f) Half-street - A portion of the standard full width of a street, usually along the edge of a development where the remaining portion of the street could be provided in another development. A half-street improvement could include up to one half the total design width, plus sufficient additional width past the centerline to ensure proper design and construction of the centerline crown, as defined by the City Engineer.
- (g) Limited Access Street - A means of access to property that is limited by

ARTICLE I
General Provisions

- law for public roads or by posting by an owner for private roads.
- (h) Local - A street used exclusively for access to abutting properties.
 - (i) Stub Street - A temporary street ending where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.
 - (j) Through Street - A street that connects to other streets at both ends or is planned to do so in the future, pursuant to a comprehensive plan, transportation system plan, access management plan, or land use approval.

Structural Alteration - Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders or structural change in the roof or in the exterior walls.

Structure - That which is built or constructed and requires a building permit, including buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include at-grade paved areas or vegetative landscaping materials.

Structure (Flood) - Means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

Subdivide Land - To divide land into four or more lots within a calendar year, or to affect a subdivision of land, as defined below.

Subdivision - Either an act of subdividing land, or an area or tract subdivided as defined in this Code. A subdivision means the division of land into more than ~~three lots~~three lots within a calendar year.

Substantial Development - Receipt of a valid public works permit or building permit for construction activities, other than a grading permit, is deemed to constitute "substantial development".

Substantial Improvement - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure, as determined by the City's Building Official.

Substantial Improvement (Flood) - Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall,

ARTICLE I General Provisions

ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:

- (i) Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.
- (ii) Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure.

Temporary Sign (Sign) - A sign not permanently affixed to a structure on a property. These signs primarily include, but are not limited to, canvas, cloth, or paper banners or posters hung on a building wall or on a permanent pole such as on a free-standing sign support.

Tentative Plan - A tentative plan is the application, supplemental data and map showing the general design of a proposed subdivision or partition, submitted to the City for approval under the provisions of ORS 92 and the Millersburg Development Code

Transportation Facilities - A physical facility used to move people and goods from one place to another (i.e., streets, sidewalks, pathways, bike lanes, transit stations, bus stops, [rail](#), etc.).

Transportation Improvements - Facility improvements include, but are not limited to:

- (a) Normal operation, maintenance, repair, and preservation activities associated with existing transportation facilities.
- (b) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way
- (c) Projects specifically identified in the City's adopted Transportation System Plan
- (d) Landscaping as part of a transportation facility.
- (e) Measures necessary for the safety and protection of property or the public.
- (f) Construction of a street or road as part of an approved subdivision or partition consistent with the City's adopted Transportation System Plan.
- (g) Construction of a street or road as part of an approved subdivision or land partition approved in accordance with the applicable land division ordinance.

Use - The purpose for which land or a building is arranged, designed, or intended for which either land or a building is or may be occupied.

ARTICLE I

General Provisions

Utilities - Any water, gas, sewer, storm drainage, electrical, telephone, or communication service, and all persons, companies, and agencies supplying the same.

Urban Growth Boundary - An adopted boundary around the City which defines the area in which the City expects to grow, where public facilities will be extended, and where joint planning responsibilities are exercised with Linn County.

Vacations - A procedure to revert public lands, including a right-of-way, easements and other public places, to adjoining private property ownerships.

Variance - A grant of relief from the requirements of this Code which permits development in a manner that would otherwise be prohibited by this Code.

Violation - The division or use of land or structures, or the construction of, addition to, or alteration of, structures in a manner that does not fully comply with the provisions of this Code. Structures located in flood hazard areas without adequate elevation certificates or other satisfactory proof of compliance with the flood plain regulations will be presumed to be in violation until the necessary information is provided to prove otherwise.

Wall Sign (Sign) - A sign attached to, erected against or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall and not projecting more than 12 inches.

Warehouse - A place for the safekeeping of goods and materials necessary for the proper functioning of an industrial or commercial enterprise. Also, a facility designed and intended to be used for the rental of storage units to individuals for the safekeeping of personal items.

Watercourse (Flood) - A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplain.

Water-Dependent (Greenway) - 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 (Greenway) - 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.

Wetlands- Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal

ARTICLE I
General Provisions

circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetlands-Jurisdictional - A wetland subject to rules and regulations identified in Section 404 of the US Clean Water Act and Oregon's Fill and Removal statute.

Wrecking Yard - See Junk Yard.

Yard - Any open space on the same lot with a building or group of buildings, which is unoccupied and unobstructed by any structure from the ground upward to the sky, other than by landscaping or a permitted fence, and except for the projections as permitted in this Code.

- (a) Front Yard - An exterior yard facing a street. For corner lots, the property line facing the garage or carport
- (b) Rear Yard - A yard opposite the Front Yard.
- (c) Side Yard - A yard that is not a Front Yard or Rear Yard.
- (d) Street Facing Side Yard - An exterior side yard facing a street that is not a front yard. For corner lots, usually the largest street facing dimension of the property.
- (e) Exterior Yard - A yard area abutting a street right-of-way created by a setback line.
- (f) Interior Yard - A yard area adjacent to a property line created by a setback line that may be either a side yard or rear yard abutting another property.

Zero Setback - A property line having no setback ~~therefrom~~ ~~therefore~~ permitting building locations on the property line and may equally divide a common wall between buildings on adjacent properties.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

ARTICLE II – ZONES AND ZONING REGULATIONS

Chapter 2.101	CLASSIFICATIONS OF ZONES	II-4
2.101.01	Zones	II-4
2.101.02	Location of Zone Boundaries	II-4
Chapter 2.102	INTERPRETATION OF USES	II-4
2.102.01	Interpretations of Uses	II-4
Chapter 2.103	RESIDENTIAL LOW DENSITY ZONE (RL)	
2.103.01	Purpose.....	II-5
2.103.02	Permitted Uses.....	II-5
2.103.03	Special Uses	II-5
2.103.04	Conditional Uses	II-6
2.103.05	Density Regulations	II-6
2.103.06	Dimensional Standards	II-6
2.103.07	Development Standards.....	II-7
<u>2.103.08</u>	<u>Public Services.....</u>	<u>II-7</u>
Chapter 2.104	RURAL ZONE (RU)	
2.104.01	Purpose.....	II-5
2.104.02	Permitted Uses.....	II-5
2.104.03	Special Uses	II-5
2.104.04	Conditional Uses	II-6
2.104.05	Density Regulations	II-6
2.104.06	Dimensional Standards	II-6
2.104.07	Development Standards.....	II-7
2.104.08	Public Services and Rezoning	II-7
Chapter 2.105	RESIDENTIAL MIXED DENSITY ZONE (RM)	II-8
2.105.01	Purpose.....	II-8
2.105.02	Permitted Uses.....	II-8
2.105.03	Special Uses	II-8
2.105.04	Conditional Uses	II-9
2.105.05	Density Regulations	II-9
2.105.06	Dimensional Standards	II-9
2.105.07	Development Standards.....	II-10
Chapter 2.106	MIXED USE (MU)	II-23
2.106.01	Purpose.....	II-23
2.106.02	Permitted Uses.....	II-23
2.106.03	Special Uses	II-24

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.106.04	Conditional Uses	II-24
2.106.05	Density Regulations	II-25
2.106.06	Dimensional Standards	II-25
2.106.07	Development Standards.....	II-26
Chapter 2.107	COMMERCIAL OFFICE (CO)	II-23
2.107.01	Purpose.....	II-23
2.107.02	Permitted Uses.....	II-23
2.107.03	Special Uses	II-24
2.107.04	Conditional Uses	II-24
2.107.05	Dimensional Standards	II-25
2.107.06	Development Standards.....	II-26
Chapter 2.108	GENERAL COMMERCIAL (GC)	II-23
2.108.01	Purpose.....	II-23
2.108.02	Permitted Uses.....	II-23
2.108.03	Special Uses	II-24
2.108.04	Conditional Uses	II-24
2.108.05	Dimensional Standards	II-25
2.108.06	Development Standards.....	II-26
Chapter 2.109	LIMITED INDUSTRIAL ZONE (LI)	II-23
2.109.01	Purpose.....	II-23
2.109.02	Permitted Uses.....	II-23
2.109.03	Special Uses	II-24
2.109.04	Conditional Uses	II-24
2.109.05	Dimensional Standards	II-25
2.109.06	Development Standards.....	II-26
Chapter 2.110	GENERAL INDUSTRIAL ZONE (GI)	II-28
2.110.01	Purpose.....	II-28
2.110.02	Permitted Uses.....	II-28
2.110.03	Special Uses	II-29
2.110.04	Conditional Uses	II-29
2.110.05	Dimensional Standards	II-30
2.110.06	Development Standards.....	II-30
Chapter 2.111	PUBLIC <u>FACILITY</u> ZONE (PF)	II-28
2.111.01	Purpose.....	II-28
2.111.02	Permitted Uses.....	II-28
2.111.03	Special Uses	II-29
2.111.04	Conditional Uses	II-29

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.111.05	Dimensional Standards	II-30
2.111.06	Development Standards.....	II-30
Chapter 2.201	FLOOD PLAIN OVERLAY ZONE (FPO)	II-32
2.201.01	Purpose.....	II-32
2.201.02	Definitions	II-32
2.201.03	General Provisions.....	II-37
2.201.04	Uses - Exempt.....	II-38
2.201.05	Uses - Permitted	II-39
2.201.06	Permitting Conditional Use Procedures and Requirements	II-40
2.201.07	Flood Protection Standards.....	II-42
2.201.08	Generalized Flood Plain Areas	II-46
2.201.09	Variances	II-47
2.201.10	Variance Criteria	II-47
2.201.11	Warning and Disclaimer of Liability	II-48
Chapter 2.202	HISTORICAL PROPERTY OVERLAY ZONE - (HPO)	II-49
2.202.01	Purpose.....	II-49
2.202.02	Conformance Required	II-49
2.202.03	Definitions	II-49
2.202.04	Landmark and Zone Designation	II-50
2.202.05	Demolition and Moving.....	II-51
2.202.06	Exterior Alteration and New Construction	II-54
2.202.07	Notice and Public Hearing.....	II-56
Chapter 2.203	WILLAMETTE GREENWAY OVERLAY ZONE - (WGO)	II-49
2.203.01	Purpose.....	II-49
2.203.02	Greenway Management Definitions	II-49
2.203.03	Application	II-50
2.203.04	Permitted Uses.....	II-51
2.203.05	Greenway Conditional Use Permit	II-54
2.203.06	Use Management Considerations and Criteria	II-56
2.203.07	Greenway Review	II-56
2.203.08	Notification	II-56
Chapter 2.204	AIRPORT APPROACH AREA OVERLAY ZONE - (AAO)	II-49
2.204.01	Purpose.....	II-49
2.204.02	Regulations and Standards.....	II-49
Chapter 2.205	LIMITED USE OVERLAY ZONE (LUO)	II-57
2.205.01	Purpose	II-57
2.205.02	Requirements	II-57

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.205.03 — Procedures..... || 57
2.205.04 — Criteria || 57
2.205.05 — Adoption and Official Zoning Map || 58
2.205.06 — Development Provisions || 58

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.101 Classification of Zones

2.101.01 Zones

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

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
Flood Plain Overlay	FPO
Historic Property Overlay	HPO
Willamette Greenway Overlay	WGO
Airport Approach Area Overlay	AAO
Limited Use Overlay	LUO

2.101.02 Location of Zone Boundaries

- (A) 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.
- (B) 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.
- (C) 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 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

**ARTICLE II
ZONES AND ZONING REGULATIONS**

Millersburg Zoning Map; or other planning criteria determined appropriate by the City Council.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.102 INTERPRETATION OF USES

2.102.01 Interpretations of Uses

(A) 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.”

(B) Interpretation of Uses.

1. 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.

2. Where a use is not defined in Chapter 1.102, 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.

(C) 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.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.103 RESIDENTIAL LOW DENSITY ZONE (RL)

2.103.01 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.

2.103.02 Permitted Uses

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

- (A) Single family dwelling.
- (B) Residential care homes, licensed by the State of Oregon.
- (C) Day care facility for 12 or fewer children.
- (D) Open space, and public parks identified as part of an adopted master parks plan.
- (E) Duplex on a corner lot.
- (F) Public parks, community clubs, government offices and other public or semi-public uses, excluding public or private schools, excluding water and sewage treatment facilities.
- (G) Utility substations or pumping stations, excluding outdoor storage of equipment or material.

2.103.03 Special Uses

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

- (A) Partitions, subject to the provisions in Chapter ~~4.1085.104~~.
- (B) Subdivisions subject to the applicable provisions of Chapter ~~5.1114.108~~.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (C) Manufactured homes on individual lots, subject to the provisions of Chapter 3.203.
- (D) 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 3.204.
- (E) Residential accessory structures, subject to the provisions in Chapter 3.206.
- (F) Residential accessory dwelling, subject to provisions in Chapter 3.207.
- (G) Temporary uses, subject to provisions in Chapter 3.208~~11~~.
- (H) Bed and breakfast, subject to provisions in Chapter 3.209~~12~~.

2.103.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Houses of worship, and, subject to provisions in Chapter 3.210~~3~~.
- (B) Cemeteries.
- (C) 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 3.204.

2.103.05 Density Regulations

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

2.103.06 Dimensional Standards

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

**ARTICLE II
ZONES AND ZONING REGULATIONS**

Minimum Lot Area	
Single Family Dwelling, Manufactured Home & 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 (Interior)	5 feet
Side Yard (Street)	15 feet
Rear Yard	20 feet
Maximum Structure Height	
Primary Building	35 feet
Accessory Building Height & Setbacks	Per Section 3.206
Maximum Lot Coverage	50%

2.103.07 Development Standards

All development in the RL Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103.
- (B) Signs. Signs in the RL zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.10~~89~~.
- (D) Residential Design Standards. All single-family homes, duplexes and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.203.
- (E) Non-residential Development. Parking lots abutting an RU or RM zone shall provide sight obscuring screening with vegetation and/or fencing to a height of 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~~6 feet in height.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.103.08 Public Services

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

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.104 RURAL ZONE (RU)

2.104.01 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.

2.104.02 Permitted Uses

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

- (A) Single-family dwelling
- (B) Crop Cultivation and the raising of fowl, bees and domestic farm animals.
- (C) Residential care homes, licensed by the State of Oregon.
- (D) Day care facility for 12 or fewer children.
- (E) Public parks, community clubs, government offices and other public or semi-public uses, excluding public or private schools, and, water and sewage treatment facilities.
- (F) Utility substations or pumping stations, excluding outdoor storage of equipment or material.

2.104.03 Special Uses

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

- (A) Partitions, subject to the provisions in Chapter [34.1085.104](#).
- (B) Subdivisions subject to the applicable provisions of Chapter [5.11143.108](#).
- (C) Manufactured homes on individual lots, subject to the provisions of Chapter 3.203.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (D) 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 3.204.
- (E) Residential accessory structures, subject to the provisions in Chapter 3.206.
- (F) Residential accessory dwelling, subject to provisions in Chapter 3.207.
- (G) Temporary Uses
- (H) Bed and Breakfast

2.104.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Houses of worship, and, subject to provisions in Chapter 3.213.
- (B) Cemeteries.
- (C) 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 3.204.

2.104.05 Density Regulations

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

2.104.06 Dimensional Standards

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

Minimum Lot Area	2.5 acres
Lot Dimension Requirements	
Minimum Lot Width	300 feet
Maximum Lot Depth-to-Width Ratio	3:1
Minimum Setbacks	

**ARTICLE II
ZONES AND ZONING REGULATIONS**

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 3.206
Maximum Lot Coverage	50%

2.104.07 Development Standards

All development in the RU Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103
- (B) Signs. Signs in the RU zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.1098.
- (D) Residential Design Standards. All single-family homes and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.203.
- (E) 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.

2.104.08 Public Services and Rezoning

When connection hook-ups to municipal water and sanitary sewer service is are required for extended to a property zoned RU as a condition of approval of an application approved for division of land into parcels or lots of less than 2.5 acres, the property shall automatically rezone to Residential Low Density. ~~Once~~

**ARTICLE II
ZONES AND ZONING REGULATIONS**

| ~~this event occurs, a~~All further development of the property shall be subject to the provisions of the Residential Low Density zone.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.105 RESIDENTIAL MIXED DENSITY ZONE (RM)

2.105.01 Purpose

The RM 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.

2.105.02 Permitted Uses

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

- (A) Single-family dwelling.
- (B) Duplex.
- (C) Residential care homes and facilities, licensed by the State of Oregon.
- (D) Day care facility for 12 or fewer children.
- (E) 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.
- (F) Open space, public parks, community clubs, government offices and other public or semi-public uses, excluding water and sewage treatment facilities.
- (G) Utility substations or pumping stations, excluding outdoor storage of equipment or materials.

2.105.03 Special Uses

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

- (A) Partitions, subject to the provisions in Chapter [5.1043-108](#).
- (B) Subdivisions subject to the applicable provisions of Chapter [5.1113-108](#).

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (C) Manufactured homes on individual lots, subject to the provisions of Chapter 3.203.
- (D) Multiple family dwellings, subject to design provisions in Chapter 3.203.04
- (E) Manufactured home parks, subject to provisions in Chapter 3.202.
- (F) Home occupations, subject to the provisions of Chapter 3.204.
- (G) Residential accessory structures, subject to the provisions in Chapter 3.206.
- (H) Residential accessory dwelling, subject to provisions in Chapter 3.207.
- (I) Attached dwellings, subject to provisions in Chapter 3.207.
- (J) Bed and breakfast, subject to provisions in Chapter 3.209.12.
- (K) Day care facilities exceeding 12-children, subject to Site Development Review provisions in Chapter 45.108.

2.105.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Houses of worship, subject to provisions in Chapter 3.210.
- (B) Public and private schools, pre-schools, kindergartens, elementary, middle and high schools, but prohibiting business, art, dancing, trade, technical, or similar schools.

2.105.05 Density Regulations

The maximum allowable density shall be 6 dwelling units per gross acre for single family detached and attached homes, and, 16 dwelling units per gross acre for multi-family development.

2.105.06 Dimensional Standards

The following shall apply:

Minimum Lot Area	
-------------------------	--

**ARTICLE II
ZONES AND ZONING REGULATIONS**

Single Family	5,000 square feet
Duplex	7,000 square feet
Attached Dwellings <u>other than duplexes</u>	3,500 square feet <u>per unit</u>
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
Minimum Setbacks	
Front Yard	10 feet
Garage	25 feet to the entrance
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 3.206
Maximum Lot Coverage	60%

2.105.07 Development Standards

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

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103.
- (B) Signs. Signs in the RM Zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.109.
- (D) Residential Design Standards. All single-family homes and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.203.
- (F) Multiple Family and Non-residential Development.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

1. ~~1.~~ Property abutting an RL or RU zone shall provide sight obscuring screening with ~~vegetation and/or light and vision obscuring~~ fencing ~~or vegetation~~ to a height of ~~at least forty-two (42)~~ inches above the ground, ~~but not exceeding six feet unless otherwise allowed.~~
- ~~1. Trash collection areas shall also be enclosed with fencing at least six feet in height.~~
2. ~~2.~~ Parking lots abutting an RL or RU 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 a sight-obscuring fence or wall at least six feet in height.~~

~~(F)~~(G) **Landscaping and Natural Features:** A minimum of fifteen percent of the total site 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.

~~(G)~~(H) **Screening:** ~~Parking lots abutting an RL or RU zone shall provide sight obscuring screening with vegetation and/or fencing to a height of forty-two 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.~~

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.106 MIXED USE ZONE (MU)

2.106.01 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.

2.106.02 Permitted Uses

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

- (C) Residential care homes and facilities, licensed by the State of Oregon.
- (D) Day care facility for 12 or fewer children.
- (E) Nursing homes, assisted living centers, convalescent homes, housing specifically designed for, and occupied by, individuals 55 years of age and older, and similar facilities.
- (F) Medical facilities including hospitals.
- (G) Open space, and public parks identified as part of an adopted master parks plan.
- (H) 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.
- (I) 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), banks, real estate, and financial services.
- (J) 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.
- (K) Professional offices and clinics for medical, dental, legal, engineering and other professions

**ARTICLE II
ZONES AND ZONING REGULATIONS**

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

2.106.03 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:

- (A) Partitions, subject to the provisions in Chapter ~~3.108~~5.104.
- (B) Subdivisions subject to the applicable provisions of Chapter ~~5.111~~3.108.
- (C) Planned Unit Developments subject to applicable provisions in Chapter 3.213.
- (D) Multiple family dwellings, subject to Site Development Review provisions in Chapter ~~4~~5.108.
- (E) Home occupations, subject to the provisions of Chapter 3.204.
- ~~(F) Residential accessory structures, subject to the provisions in Chapter 3.206.~~
- ~~(G) Residential accessory dwellings and attached dwellings approved as part of a planned development, subject to provisions in Chapter 3.207.~~
- ~~(H)~~(F) Bed and breakfast, subject to provisions in Chapter 3.209.
- ~~(H)~~(G) Day care facilities exceeding 12-children, subject to Site Development Review provisions in Chapter ~~4~~5.108.
- ~~(J) Planned Unit Developments, subject to the provisions in Chapter 3.213.~~
- ~~(K)~~(H) Temporary uses, subject to provisions in Chapter 3.208~~11~~.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.106.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Houses of worship, subject to provisions in Chapter 3.210.
- (B) Public and private schools, pre-schools, kindergartens, elementary, middle and high schools, including business, art, dancing, trade, technical, or similar schools.

2.106.05 Density Regulations

The maximum allowable density shall be ~~6 dwelling units per gross acre for single family detached and attached homes, and,~~ 16 dwelling units per gross acre for multi-family development.

2.106.06 Dimensional Standards

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

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 3.206
Maximum Lot Coverage	90%

2.106.07 Development Standards

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

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103.
- (B) Signs. Signs in the MU Zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.109.
- (D) 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 4.108.
- (E) Landscaping - Any required or established front yard shall be landscaped with trees, shrubs and groundcover, and maintained pursuant to provisions in Chapter 3.108.
- ~~(F) Residential Design Standards. All single-family homes and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.203.~~
- (G) 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.
- (H) 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:
 - (1) 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.
 - (2) 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.
 - (3) Outdoor display of limited commercial goods may be permitted in front of the building, such as adjacent to the sidewalk, provided that

ARTICLE II ZONES AND ZONING REGULATIONS

the sidewalk is not obstructed, or the sidewalk is widened to create additional space outside of the normal 5-foot walkway.

- (l) Mixing Uses. Residential and commercial uses shall be mixed either on the entire site, within a building, or both. No more than 90% of a development shall be a single use and in no case shall residential uses exceed 50% of the total floor area per development.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.107 **COMMERCIAL OFFICE ZONE (CO)**

2.107.01 Purpose

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

2.107.02 Permitted Uses

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

- (A) 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.
- (B) Professional offices and clinics for medical, dental, legal, engineering and other professions.
- (C) Banks, credit unions, investment firms; real estate offices, mortgage companies, title companies and similar financial-related offices.
- (D) 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.
- (E) Eating and drinking establishments and located within an office-building and without drive-in/drive-through service.

2.107.03 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:

- (A) Partitions, subject to the provisions in Chapter [5.1043-108](#).
- (B) Subdivisions subject to the applicable provisions of Chapter [3-1085.111](#).
- (C) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.204.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

(D) Temporary uses, subject to provisions in Chapter 3.20811.

2.107.04 Conditional Uses

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

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

2.107.05 Dimensional Standards

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

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%

2.107.06 Development Standards

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

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (B) Signs. Signs in the C Zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.1098.
- (D) 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 45.108.
- (E) Landscaping - Any required or established front yard shall be landscaped with trees, shrubs and groundcover, and maintained pursuant to provisions in Chapter 3.109.
- (F) Outdoor Storage and Display. ~~—~~Outdoor storage and display of merchandise, material, or equipment shall be prohibited.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.108 GENERAL COMMERCIAL ZONE (GC)

2.108.01 Purpose

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

2.108.02 Permitted Uses

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

- (A) 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.
- (B) 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), banks, real estate, and financial services.
- (C) 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.
- (D) Professional offices and clinics for medical, dental, legal, engineering and other professions
- (E) Automobile service station, including towing service and vehicle washing and polishing facilities, and services.
- (F) Automobile, truck, motorcycle, trailer, agricultural equipment, recreational vehicle and boat sales, lease and rentals.
- (G) Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales and service.
- (H) Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping and similar automotive repair facilities.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (I) 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.
- (J) Retail tire sales.
- (K) Laundry or dry cleaning.
- (L) Warehouse for short term storage, including mini-warehouse.
- (M) Lumber yard and contracting supplies for lumber, stone, masonry or metal.
- (N) Construction businesses such as floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting.
- (O) Cabinet shop.
- (P) Welding, machining, fabrication, blacksmith shop and similar facilities.

2.108.03 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:

- (A) Partitions, subject to the provisions in Chapter [3.1085.104](#).
- (B) Subdivisions subject to the applicable provisions of Chapter [5.1113-108](#).
- (C) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.204.
- (D) Temporary uses, subject to provisions in Chapter 3.208.
- (E) Bed and breakfast, subject to provisions in Chapter 3.209; and, located within a pre-existing residence.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (F) House of worship, subject to provisions in Chapter 3.210.
- ~~(G)~~ Recreational vehicle park, subject to provisions in Section 3.2146.
- ~~(G)~~(H) Wireless Communication Facilities, subject to provisions in Section 3.217.

2.108.04 Conditional Uses

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

- (A) Dwelling units shall be permitted subject to one the following provisions:
 - (1) A dwelling unit may be established if it necessary and clearly accessory and subordinate to a permitted commercial use.
 - (2) 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.
- (B) Truck Dispatch Operations.
- (C) 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.
- (D) Public and private utility buildings and structures, including but not limited to electric substations, telephone exchanges, and communications antennas or towers.
- (E) Publicly owned and operated facilities or structures, including government offices and stations, public use buildings and recreation sites excluding water and sewage treatment facilities.

2.108.05 Dimensional Standards

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

Minimum Lot Area	
All Development	5,000 square feet
Minimum Setbacks	

**ARTICLE II
ZONES AND ZONING REGULATIONS**

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%

2.108.06 Development Standards

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

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103.
- (B) Signs. Signs in the C Zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.109.
- (D) 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 Development Review procedures of Chapter 45.108.
- (E) Landscaping - Any required or established front yard shall be landscaped with trees, shrubs and groundcover, and maintained pursuant to provisions in Chapter 3.109.
- (F) Outdoor Storage and Display. 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:
 - (1) 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.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (2) 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.

(G) ~~(G)~~ 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.

(I) Automobile Sales. Use of modular or portable offices is not allowed.
Outdoor display areas must be paved.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.109 LIMITED INDUSTRIAL ZONE (LI)

2.109.01 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.

2.109.02 Permitted Uses

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

- (A) 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 2.109.06(F).
- (B) 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.
- (C) Public and private utility buildings and structures, including but not limited to electric substations, telephone exchanges, and communications antennas or towers.
- (D) Publicly owned and operated facilities or structures, including government offices and stations, public use buildings and recreation sites, excluding water and sewage treatment facilities.

2.109.03 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:

- (A) Partitions, subject to the provisions in Chapter [43-1085.104](#).

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (B) Subdivisions subject to the applicable provisions of Chapter [5.11143-108](#).
- (C) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.204.
- (D) Temporary uses, subject to provisions in Chapter 3.208.
- ~~(J)~~ (E) Bed and breakfast within a pre-existing residence, subject to provisions in Chapter 3.209.
- ~~(H)~~ Wireless Communication Facilities, subject to provisions in Section 3.217.

2.109.04 Conditional Uses

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

- (A) Public and private utility buildings and structures, including but not limited to electric substations, telephone exchanges, and communications antennas or towers.
- (B) Publicly owned and operated facilities or structures, including government offices and stations, public use buildings and recreation sites excluding water and sewage treatment facilities.
- ~~(C)~~ RRecreational vehicle park, subject to provisions in Section 3.214V Park in accordance with the provisions of Section 3.214.

2.109.05 Dimensional Standards

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

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)

**ARTICLE II
ZONES AND ZONING REGULATIONS**

Maximum Lot Coverage	90%
-----------------------------	-----

2.109.06 Development Standards

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

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103.
- (B) Signs. Signs in the LI Zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.10~~8~~⁹.
- (D) 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 ~~4~~⁵.108.
- (E) Landscaping - Any required or established yard shall be landscaped with trees, shrubs and groundcover, and maintained pursuant to provisions in Chapter 3.109.
- (F) 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**

2.110 GENERAL INDUSTRIAL ZONE (GI)

2.110.01 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.

2.110.02 Permitted Uses

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

- (A) Manufacturing and Assembly, Secondary Processing
- (1) 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.
 - (2) Textile mill products including apparel and other finished products made from fabrics and similar materials.
 - (3) Furniture and fixtures including retail wood products.
 - (4) Printing, publishing, and allied industries.
 - (5) Rubber and miscellaneous plastics.
 - (6) Leather and leather goods, but excluding a tannery.
 - (7) Cement, glass, clay and stone products manufacturing.
 - (8) Fabricated metal products.
 - (9) Electrical and electronic equipment, machinery and supplies but excluding lead-acid batteries.
 - (10) Measuring, analyzing, and controlling instruments; photographic, medical, and optical goods; watches and clocks.
 - (11) Freight terminals, including loading docks, storage, warehousing and wholesale distribution, and cold storage ~~lockers and similar personal storage facilities such as mini-storage warehouses.~~
 - (12) Other manufacturing, wholesaling or distributing activities similar to those listed.
- (B) Wholesale trade and distribution facilities, but excluding trade and distribution involving:

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (1) Metals and minerals.
- (2) Scrap and waste material.
- (3) Farm-product raw materials.
- (4) Chemicals and allied products.
- (5) Petroleum and petroleum products.

~~(C)~~ ~~(G)~~—Public and private utility facilities, including water and sewage treatment facilities, substations, pumping stations and similar facilities with outdoor equipment storage permitted.

(D) Environmental performance standards may limit placement of certain uses in the zone if the site is located within 300 feet of residentially zoned land.

2.110.03 Special Uses

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

(A) Partitions, subject to the provisions in Chapter ~~5.1043-108~~.

(B) Subdivisions subject to the applicable provisions of Chapter ~~5.1113-108~~.

~~(K)~~ (C) Temporary uses, subject to provisions in Chapter 3.208.

~~(L)~~ Wireless Communication Facilities, subject to provisions in Section 3.217.

2.110.04 Conditional Uses

The following uses require approval of a Conditional Use Permit: Extract from Albany code for industrial uses Section 4.060 sub 2 and

(A) Extraction and processing of minerals, rock, or other earth products.

(B) Automotive dismantling, wrecking and salvage yard, recycling centers greater than 5,000 feet of enclosed area, refuse transfer facilities.

(C) Petroleum products storage and distribution, including asphalt plants.

~~(D) Battery manufacture, sales and service.~~

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (E) Manufacturing, processing, storage of explosives or Extremely Hazardous Substances as defined by the US Emergency Plan and Right-to-Know Act; flammable or toxic products; chemical manufacturing.
- (F) Feed and seed facilities, grain elevators and storage; including agricultural chemical, fertilizer, insecticide storage and distribution
- (G) Wholesale and distribution involving these activities.

2.110.05 Dimensional Standards

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

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 Transportation System Plan
Maximum Structure Height	
Principal and Accessory building	No limit
Maximum Lot Coverage	<u>1090%</u>

2.110.06 Development Standards

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

- (A) Off-street Parking. Parking, driveway and loading improvements shall comply with provisions in Chapter 3.103.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (B) Signs. Signs in the GI Zone shall conform to the standards contained in Chapter 3.106.
- (C) Yards and Lots. Yards and lots shall conform to provisions contained in Chapter 3.10~~8~~⁹.
- (D) 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 4~~5~~⁵.108.
- (E) Landscaping - Any required or established yard shall be landscaped with trees, shrubs and groundcover, and maintained pursuant to provisions in Chapter 3.109.
- (F) 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**

2.111 PUBLIC FACILITY ZONE (PF)

2.111.01 Purpose

The purpose of the Public Facility 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.

2.111.02 Permitted Uses

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

- (A) Educational facilities, including:
 - (1) Kindergartens;
 - (2) Elementary, junior high and high schools;
 - (3) Stadiums and athletic fields;
 - (4) Playgrounds;
 - (5) Open space.

- (B) Municipal service facilities, including:
 - (1) Fire and Police stations;
 - (2) City Hall;
 - (3) Sewage treatment facilities;
 - (4) Water treatment facilities;
 - (5) Public Works Shops;
 - (6) Wireless Telecommunication Facilities;
 - (7) Libraries.
 - (8) Parks and Open Space

2.111.03 Special ~~Permitted~~ Uses

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

- (A) Partitions, subject to the provisions in Chapter [5.1043-108](#).
- (B) Subdivisions subject to the applicable provisions of Chapter [5.1113-108](#).
- (C) Wireless Communication Facilities, subject to provisions in Section 3.217.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.111.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Fraternal and civic organizational facilities
- (B) Hospitals and overnight clinics
- (C) Semi-public facilities such as houses of worship, cemeteries, monasteries, and convents

2.111.05 Dimensional Standards

The following dimensional standards shall be required for all development in the Public Facility Zone:

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	50 feet
Maximum Lot Coverage	80%

2.111.06 Development Standards

All development in the Public Facility Zone shall comply with the applicable provisions of Section 2.400 of this Ordinance. In addition, the following specific standards shall apply:

- (A) Off-street parking. Off-street parking shall conform to the standards of Section 3.103.
- (B) Signs. Signs in the Public Facility Zone shall conform to the provisions of Section 3.106.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (C) 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 [54.108](#).

- (D) Landscaping. Landscaping improvements shall be installed and maintained in all yard areas accordance with Section [3.108](#).

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.201 FLOOD PLAIN OVERLAY ZONE (FP)

2.201.01 Purpose

The purpose of the Flood Plain Overlay Zone is to:

- (A) Restrict or prohibit uses which are 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.
- (B) Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.
- (C) Minimize flood damage to new construction by elevating or flood proofing all structures.
- (D) Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.
- (E) Control filling, grading, dredging and other development which may be subject to or increase flood damage.
- (F) Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.
- (G) Comply with the requirements of the Federal Insurance Administration to qualify the City of Millersburg for participation in the National Flood Insurance Program.
- (H) Minimize flood insurance premiums paid by the citizens of the City of Millersburg by reducing potential hazards due to flood damage.
- (I) Implement the flood plain policies in the City of Millersburg Comprehensive Plan.

2.201.02 Definitions

For purposes of this Overlay Zone, the following terms shall mean:

- (A) Area of Shallow Flooding - A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding

ARTICLE II ZONES AND ZONING REGULATIONS

is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

- (B) Area of Special Flood Hazard - Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- (C) Base Flood Level - The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100-year flood plain).
- (D) Conveyance - Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.
- (E) Development - Any activity that has the potential to cause erosion or increase the velocity or depth of floodwater. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.
- (F) Encroachment - Any obstruction in the flood plain which affects flood flows.
- (G) Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision - A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Ordinance.
- (H) Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

ARTICLE II ZONES AND ZONING REGULATIONS

- (I) FEMA - The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.
- (J) Fill - 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, etc.
- (K) Flood or Flooding - A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.
- (L) Flood Boundary Floodway Map (FBFM) - The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).
- (M) Flood Insurance Rate Map (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Millersburg.
- (N) Flood Insurance Study (FIS) - The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway map and the water surface elevation of the base flood and is on file with the City of Millersburg.
- (O) Flood Plain - Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Millersburg.
- (P) Flood Proofing - A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.
- (Q) Floodway - The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one ~~(1)~~ foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (R) Floodway Fringe - The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
- (S) Hazardous Material - Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.
- (T) Lowest Floor - Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- (U) Manufactured Home - Means 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 connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes. For insurance and floodplain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles recreational vehicles.
- (V) Manufactured Home Park or Subdivision - Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (W) Mean Sea Level - Means, 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.
- (X) Mobile Home - Means a vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle in (BB) of this Section.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (Y) New Construction- Any structure(s) for which the start of construction commenced on or after the original effective date of the Floodplain Overlay Zone.
- (Z) Obstruction - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.
- (AA) Recreational Vehicle - Means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801-350, and 801-565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in (Y), of this Section.
- (BB) Start of Construction - The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 used as part of the main structure.

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the

**ARTICLE II
ZONES AND ZONING REGULATIONS**

construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.

- (CC) Structure - Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.

- (DD) Substantial Improvement - Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:
 - (1) Before the improvement or repair is started; or

 - (2) If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:
 - (a) Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.

 - (b) Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure.

- (EE) Watercourse - A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplain.

2.201.03 General Provisions

The following regulations apply to all lands in identified flood plains as shown on the most recent FEMA Flood Maps. The flood plain is those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "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 report and maps are incorporated in the overlay zone by this reference and are on file at the City of

**ARTICLE II
ZONES AND ZONING REGULATIONS**

Millersburg. When base flood elevation data has not been provided, the City Manager, or designee, shall have the authority to determine the location of the boundaries of the floodplain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination.

- (A) Duties of the City Manager. The duties of the City Manager or designee, shall include, but not be limited to:
- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
 - (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
 - (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions are met.
- (B) Use of Other Base Flood Data. When base flood elevation data has not been provided on the FIRM, or when more detailed data is available, the City Manager, or designee, shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Section.
- (C) Information to be Obtained and Maintained
- (1) From the developer of the property, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.
 - (2) For all new or substantially improved flood proofed structures:
 - (a) Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and,
 - (b) Maintain any flood-proofing certifications required by this Section.
 - (3) Maintain for public inspection all records pertaining to the provisions of this Code.

2.201.04 Uses - Exempt

ARTICLE II ZONES AND ZONING REGULATIONS

Within a FP (FLOOD PLAIN) Overlay zone no uses, structures, vehicles, and premises shall be used or established except as provided in the applicable underlying zone and the provisions of this overlay zone. The following uses are exempt from the regulations of this overlay zone:

- (A) Signs, markers, aids, etc., placed by a public agency to serve the public.
- (B) Driveways, parking lots and other open space use areas where no alteration of topography will occur.
- (C) Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 2.110.
- (D) Customary dredging associated with channel maintenance consistent with applicable State or Federal law.
- (E) Placement of utility facilities necessary to serve established and permitted uses within flood plain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of flood plain development.

2.201.05 Uses - Permitted

If a use is otherwise allowed in the underlying zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and commercial, industrial and public structures that involve a building permit, including the placement of fill to elevate a structure, are allowed subject to a written determination that the following requirements are met:

- (A) The structure is not located within a floodway.
- (B) The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.
- (C) The structures will be located on natural grade or compacted fill.
- (D) The lowest floor will be elevated to one (1) foot above the level of the base flood elevation and the anchoring requirements in this Chapter.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (E) The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of this Chapter.
- (F) The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under this Chapter prior to occupancy.
- (G) A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the City Manager prior to use of the structure.
- (H) There is no net loss of storage volume within the floodplain, or it is demonstrated by providing a technical evaluation by a registered professional engineer or architect that the fill within the floodplain will result in a rise of no more than 0.1 foot in flood levels during the occurrence of the base flood discharge.
- (I) A recreational vehicle may be located in a floodplain only during the non-flood season (June 1 through September 30), provided, it is fully licensed and ready for highway use, or meet the requirements for manufactured homes. A recreation vehicle is ready for highway use if it is 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.

2.201.06 Permitting Procedures and Requirements

- (A) Permit Required. Except as otherwise provided in this Chapter, a floodplain development permit shall be obtained before construction or development begins within the Flood Plain Overlay Zone. The permit shall be processed as a Type I application per requirements in Chapter 4.202; except that a Type I permit shall not be required for a floodplain elevation certificate submitted in conjunction with a building permit.
- (B) Data. When base flood elevation data and floodway data have not been provided in accordance with this Chapter, the applicant, with the assistance of the City Manager, or designee, shall obtain any base flood elevation data or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data is insufficient, the City Manager, or designee, may require that the applicant provide data derived by standard engineering methods.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (C) Occupancy. Prior to occupancy the applicant shall provide a certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures meets the requirements of this Chapter.
- (D) Additional Information. In addition to other information required in a conditional use application, the application shall include:
- (1) Land elevation in mean sea level data at development site and topographic characteristics of the site.
 - (2) Base flood level expressed in mean sea level data on the site.
 - (3) Plot plan showing property location, floodplain, and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
 - (4) Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone.
- (E) Factors of Consideration. In reviewing a floodplain permit application for development, the following factors shall be considered in making a decision on approval or denial of the permit:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
 - (3) The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions.
 - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (5) The importance to the community of the service provided by the proposed facility.
 - (6) The requirements of the facility for a waterfront location.
 - (7) The availability of alternative locations not subject to flooding for the proposed use.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - (10) The safety of access to property in times of flood for ordinary and emergency vehicles.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
 - (12) Such other factors which are relevant to the purpose of this Section.
- (F) Imposition of Conditions. The City may attach such conditions deemed necessary to further the purpose of this Section. Such conditions may include, but are not limited to:
- (1) Limitations on periods of use and operation.
 - (2) Imposition of operation controls, sureties, and deed restrictions.
 - (3) Flood-proofing measures.

2.201.07 Flood Protection Standards

In all areas of identified flood plain, the following requirements apply:

(A) Dwellings and Manufactured Homes

New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this ordinance shall:

- (1) Have the lowest floor, including basement, elevated on a permanent foundation to 1 foot above base flood elevation.
- (2) Manufactured homes shall be anchored in accordance with provisions in this Chapter.
- (3) No manufactured home shall be placed in a floodway, except in an existing manufactured home park.
- (4) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following

ARTICLE II ZONES AND ZONING REGULATIONS

minimum criteria:

- (a) A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (B) Manufactured homes in existing manufactured home parks. Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either:
- (1) Have the lowest floor at, or above, the base flood elevation; or,
 - (2) Have the chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade. *Manufactured homes outside existing manufactured home parks must meet the requirements for residential structures.*
- (C) Non-residential Development. New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:
- (1) The flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (3) Be certified by a registered professional engineer or architect that the standards in this Chapter are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are flood-proofed.
 - (4) Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in this Chapter.
 - (5) Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are 1foot

**ARTICLE II
ZONES AND ZONING REGULATIONS**

below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as 1 foot below that level).

(D) Accessory Structures. Structures such as sheds or detached garages may be exempt from elevation and flood-proofing standards providing the following development standards are met:

- (1) The structure cannot be more than 480 square feet in area and shall not be used for human habitation;
- (2) Shall be designed to have low potential for flood damage;
- (3) Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and,
- (4) Shall be firmly anchored to prevent flotation which may result in damage to other structures.

(E) Fill

- (1) Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions for the proposed fill or other materials.
- (2) Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

(F) Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be anchored to resist floatation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (a) Over-the-top ties are provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations with manufactured homes more than 50 feet long requiring only one additional tie per side.
 - (b) Frame ties must be provided at each corner of the home with five additional ties per side at intermediate points with manufactured homes less than 50 feet long requiring only four ties per side.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (3) All components of the anchoring system are capable of carrying a force of 4,800 pounds.
- (4) Any additions or expansions to the manufactured home are similarly anchored.

An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater (must be certified).

(G) Construction materials and methods

- (1) All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.

(H) Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.
- (2) New and replacement sanitary sewage systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(I) Developments, Generally. Residential developments involving more than one single-family dwelling, including subdivisions, manufactured home parks, multiple-family dwellings and planned developments, shall meet the following requirements:

- (1) Be designed to minimize flood damage.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (2) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - (3) Have adequate drainage provided to reduce exposure to flood damage.
 - (4) Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods will be required.
- (J) Storage of Materials and Equipment - Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.
- (K) Alteration of watercourses (floodways) - When considering a conditional use permit to allow alteration or modification of a watercourse (floodway) the following shall apply:
- (1) Adjacent communities, (and) the Oregon Division of State Lands and the Department of Land Conservation and Development shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration.
 - (2) Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (L) Floodways - Located within areas of flood plain are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential the following provisions shall apply in addition to the requirement in I.: (These provisions shall also apply to areas within a flood plain where a floodway has not been technically determined and the base flood level is two feet or more above the land surface.)
- (1) Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

This evaluation may be submitted to the Federal Emergency Management Agency for technical review.

- (2) If Section (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 152.201.07(A).
- (3) Prohibit the placement of any manufactured homes except in an existing manufactured home park.
- (4) The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of flood waters beneath the structure.

2.201.08 Generalized Flood Plain Areas

Where elevation data is generalized, such as the unnumbered “A” zones on the FIRM, conditional use permits shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed flood plain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted by qualified professionals that demonstrate the site is not in a floodplain. In such cases, a letter of map amendment or revision may be required by the City Manager.

2.201.09 Variances

- (A) A variance 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 criteria in this Chapter.
- (B) A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and, (2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C.
- (C) A community shall: (1) maintain a record of all variance actions, including justification for their issuance; and, (2) report such variances issued in its annual report submitted to the City Manager.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.201.10 Variance Criteria

The following criteria shall be used to review variance applications. Variance shall only be issued upon a showing that:

- (A) There is a good and sufficient cause;
- (B) That failure to grant the variance would result in exceptional hardship to the applicant;
- (C) 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 local laws;
- (D) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (E) The variance will be consistent with the intent and purpose of the provision being varied;
- (F) There has not been a previous land use action approved on the basis that variances would not be allowed; and
- (G) The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.

2.201.11 Warning and Disclaimer of Liability

The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This zone 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 zone will 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 chapter or any decision lawfully made there under.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

2.202 HISTORICAL PROPERTY OVERLAY ZONE (HPO)

2.202.01 Purpose

The purpose of this Overlay Zone is to:

- (A) 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;
- (B) Foster civic pride in the accomplishments of the past; and
- (C) Carry out the provisions of the Land Conservation and Development Commission Goal 5.

2.202.02 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.

2.202.03 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 2.202.04.

Landmark - Any site, object, building or structure designated by the City Council pursuant to provisions in Section 2.202.04.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

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.

2.202.04 Landmark and Zone Designation

- (A) Process. The process for designating a landmark or historic zone may be initiated by the Council, the Commission, 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.
- (B) Information. The following information shall be required in an application:
- (1) The applicant's name and address;
 - (2) The owner's name and address, if different from the applicant;
 - (3) A written description of the boundaries of the proposed zone or the location of the proposed landmark;
 - (4) A map illustrating the boundaries of the proposed zone or the location of the proposed landmark;
 - (5) A statement explaining the following:
 - (a) The reason(s) why the proposed zone or landmark should be designated;
 - (b) The reason(s) why the boundaries of the proposed zone are appropriate for designation;
 - (c) The potential impact, if any, which designation of the proposed zone or landmark would have on the residents or other property owners in the area.
 - (6) Any other information deemed necessary by the city.
- (C) Council Action. Within seven days of receipt of a complete application, the City Recorder shall forward the request to the Council. The Council shall hold a public hearing within 45 days of receipt of the application pursuant to Article 4 of this Code. The Council shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request.
- (D) Decision Criteria. The Council shall consider the following criteria in determining whether to approve a proposed landmark or zone:

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (1) Association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
 - (2) Association with an event that has made a significant contribution to the city, county, state, or nation;
 - (3) Association with broad patterns of political, economic, or industrial history in the city, county, state, or nation;
 - (4) Significance as an example of a particular architectural style, building type and/or convention;
 - (5) Significance due to quality of composition, detailing, and/or craftsmanship;
 - (6) Significance as an example of a particular material and/or method of construction;
 - (7) Significance because the resource retains its original design features, materials, and/or character;
 - (8) Significance as the only remaining, or one of the few remaining resources of a particular style, building type, design, material, or method of construction;
 - (9) Significance as a visual landmark;
 - (10) Significance because existing land-use surrounding the resource contribute to the integrity of the historic period represented;
 - (11) Significance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;
 - (12) Significance because the property is 50 years old or older in conjunction with other criteria listed above;
 - (13) The resource is listed on the National Register of Historic Places.
- (E) Removal of Designation. The process for removing a landmark or historic zone designation may be initiated by the Council, the Commission, 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.

2.202.05 Demolition and Moving

- (A) 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. Application for a permit shall be on a form provided by the City.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (B) Review Process. Upon receipt of a completed application, the City Recorder shall include the demolition request on the agenda for consideration at the next available Commission meeting. The Commission shall hold a public hearing pursuant to Section 2.202.04 of this Code within 45 days after a completed application has been received by the City. The Commission shall request comments from any historical commission recognized by the City.
- (C) Decision Criteria. In determining whether the requested demolition or moving is appropriate, the Commission shall consider the following:
- (1) Plans, drawings, and photographs submitted by the applicant.
 - (2) Information presented at the public hearing concerning the proposal.
 - (3) The purpose of this Code as set forth in this Chapter.
 - (4) The criteria used in the original designation of the resource.
 - (5) 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.
 - (6) Whether denial of the request will involve substantial hardship to the applicant.
 - (7) 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.
 - (8) The economic, social, environmental and energy consequences of demolishing or moving the resource compared to preserving it.
 - (9) The physical condition of the resource.
 - (10) Comments from the historical commission.
- (D) Planning Commission Approval. The Commission may approve the demolition or moving request after considering the criteria in this section. If no appeal is filed, the Recorder shall issue the permit in compliance with all other codes and ordinances of the City.
- (E) Planning Commission Denial. The Commission may disapprove the demolition or removal request if after considering the criteria in this section it determines that, in the interest of preserving historical or architectural values, the resource should not be demolished or moved.
- (F) Planning Commission Postponement. The Commission may postpone taking final action on a request for issuance of a demolition or moving permit for a period fixed by the Commission as follows:

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (1) No more than 60 days following the date of 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 Commission makes the findings specified in item (2) of this Subsection.
 - (2) Further postponements as stated above may only be made if the Commission finds:
 - (a) There is a program of project underway that could result in public or private acquisition of the landmark or resource; and
 - (b) There is a reasonable ground for believing the program or project may be successful.
 - (3) After granting a further postponement, the Commission may order the Recorder to issue the permit if it finds:
 - (a) All programs or projects to save the resource have been unsuccessful;
 - (b) The application for demolition or moving has not been withdrawn; and
 - (c) The application otherwise complies with City Codes and state law.
- (G) Appeals. A decision by the Commission to approve, disapprove or postpone issuance of a demolition or moving permit or to grant a further postponement may be appealed to the Council by any aggrieved party who appeared orally or in writing, in person or through an attorney at the Commission hearing and presented or submitted testimony related to the request under consideration.
- (H) Final Decision. If no decision on the application is made by the Commission within the periods specified above, the City Recorder shall issue the permit.
- (I) Alternative Actions. At the time a demolition or moving application is made the City Manager shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.
- (J) Additional Requirements. During a period of postponement, the Commission may require the property owner to:

ARTICLE II ZONES AND ZONING REGULATIONS

- (1) 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.
 - (2) 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 (1) above.
 - (3) Prepare and made available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.
 - (4) Assure that the owner has not rejected the highest bona fide offer for sale and removal of the resource.
- (K) Press Notification. Prior to issuance of a demolition permit, the Director 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.
- (L) Permit Conditions. As a condition for approval of a demolition permit, the Commission may:
- (1) 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. The historical documentation materials shall be the property of the county or other party determined appropriate by the Commission.
 - (2) 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.
- (M) Dangerous Building. This Code shall not be construed to make it unlawful for any person, without prior approval of the Commission, to comply with

**ARTICLE II
ZONES AND ZONING REGULATIONS**

an order by the City Council to remove or demolish any landmark determined by the Council to be dangerous to life, health, or property.

2.202.06 Exterior Alteration and New Construction

- (A) 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, no major public improvements shall be made on a landmark site or in an historic zone unless approved by the Commission.
- (B) 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.
- (C) Approval Requirements. The City Manager shall approve the alteration request if:
 - (1) There is no change in the appearance or material of the resource as it exists; **or**
 - (2) 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.
- (D) Planning Commission Action. If a request for alteration does not meet the provisions of subsection (C) of this Section, the Recorder shall forward the application to the Commission. The Commission, after notice and public hearing held in accordance with provisions in Article 4 of this Code, shall approve or disapprove issuance of the requested permit. The Commission may attach conditions to the approval which must be adhered to for the approval to remain valid.
- (E) Decision Criteria. The Commission shall consider the following criteria in determining whether to approve an alteration request:
 - (1) The purpose of this Code.
 - (2) 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.
 - (3) The value and significance of the resource.
 - (4) The physical condition of the resource.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (5) The effect of requested changes related to the original exterior design, arrangement, proportion, detail, scale, color, texture, and/or materials.
 - (6) Pertinent aesthetic factors as identified by the Commission.
 - (7) Economic, social, environmental and energy consequences of the proposed alteration.
 - (8) Any design guidelines adopted by the Commission.
- (F) 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.

2.202.07 Notice and Public Hearing

- (A) Notice. Within 45 days of receipt of a complete application for designation, alteration, demolition or moving of a landmark, or for undertaking such activities or new construction in a historic zone, the Commission shall conduct a public hearing to consider the application.
- (B) Application Process. The hearing shall be conducted as a Type II hearing and subject to the notice, procedural and appeal provisions for such actions.

2.203 WILLAMETTE GREENWAY OVERLAY ZONE (WGO)

2.203.01 Purpose

The purpose of the Willamette Greenway Overlay provisions is to:

- (A) Protect the natural, scenic and recreation qualities of lands along the Willamette River.
- (B) Implement the goals and policies of the State of Oregon's Willamette River Greenway Program.
- (C) Implement the goals and policies of the Millersburg Comprehensive Plan.
- (D) Establish standards and requirements for the use of lands within the Willamette River Greenway in the City of Millersburg.
- (E) 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.

2.203.02 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.

ARTICLE II ZONES AND ZONING REGULATIONS

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 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.

2.203.03 Application

- (A) 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. If needed, interpretation of the exact location of the boundary shall be made by the Planning Commission utilizing aerial photos and other resources.
- (B) 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

**ARTICLE II
ZONES AND ZONING REGULATIONS**

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.

2.203.04 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:

- (A) Customary dredging and channel maintenance conducted under permit from the State of Oregon.
- (B) Seasonal increases in gravel operations as provided under permit from the State of Oregon.
- (C) The placing by a public agency of signs, markers, aids, etc., to serve the public.
- (D) 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.
- (E) Emergency erosion control operations. Standard erosion control operations are required to have a Greenway Conditional Use permit.
- (F) Farm uses.
- (G) Reasonable emergency procedures necessary for the safety or protection of property.
- (H) Maintenance and repair usual and necessary for the continuance of an existing use.
- (I) 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

**ARTICLE II
ZONES AND ZONING REGULATIONS**

already existing on the same property and that they are accomplished in a manner compatible with the purpose of this section.

- (J) The propagation of timber or the cutting of timber which is done for public safety.
- (K) 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.

2.203.05 Greenway Conditional Use Permit

Except as provided in Section 2.203.04, 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 2.101 and the Conditional Use provisions of Chapter 4.107.

- (A) 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.
- (B) The location of any existing vegetative fringe along the river bank or other significant vegetation on the site plan.
- (C) Statements, drawings, or photos of the proposed external appearance of proposed activity as viewed from the river.
- (D) Statements demonstrating compliance with the provisions of this Section.
- (E) Any additional information determined by the Planning Commission to be necessary to demonstrate compliance with this Section.

2.203.06 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:

- (A) Significant fish and wildlife habitats shall be protected.
- (B) Significant natural and scenic areas, viewpoints and vistas shall be preserved.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

- (C) Areas of ecological, scientific, historical and archaeological significance shall be protected, preserved, restored or enhanced to the maximum extent possible.
- (D) 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 Greenway Management Standard.
- (E) Areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum extent possible to protect water retention, overflow and other natural functions.
- (F) 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.
- (G) The proposed development, change, or intensification of use is compatible with existing uses on the site and the surrounding area.
- (H) 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.
- (I) 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.
- (J) Any public recreational use or facility shall not substantially interfere with the established uses on adjoining property.
- (K) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- (L) 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.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

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

2.203.07 Greenway Review

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 4.107.

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.

2.203.08 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.

2.204 AIRPORT APPROACH AREA OVERLAY ZONE (AAO)

2.204.01 Purpose

The purpose of the Airport Approach (AA) Standards 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.

2.204.02 Regulations and Standards

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

- (A) Application. The AA Area Standards may be combined with any Primary Zone when located within the designated air approach areas.
- (B) 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.
 - 1. Visual Approach Zone. Slopes twenty 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.
 - 2. Transitional Zones. Slope 7 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 7 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.
 - 3. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 372 feet above mean sea level.
 - 4. Conical Zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet

**ARTICLE II
ZONES AND ZONING REGULATIONS**

above the airport elevation and extending to a height of 350 feet above the airport elevation.

- (C) 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 hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- (D) 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:
1. In the 55 to 60 Ldn area, 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.
 2. 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 shall be subject to the provisions of Site Plan Review outlined in Chapter 4.108 and may be required to include additional sound buffering features within the development as a condition of approval.

**ARTICLE II
ZONES AND ZONING REGULATIONS**

~~2.205 LIMITED USE OVERLAY ZONE (LUO)~~

~~**2.205.01 Purpose**~~

~~The purpose of the Limited Use Overlay Zone is to reduce the list of permitted uses in a zone to those that are suitable for a particular location. Zones permit a number of uses which may be considered compatible in terms of the type and intensity of activity on adjacent properties. However, on a particular property certain permitted uses may conflict with adjacent land uses. Rather than deny appropriate permitted uses because the proposed zone would permit an objectionable use, the Limited Use Overlay can be used to identify the appropriate uses and require a conditional use permit for other uses normally permitted in the zone. It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.~~

~~**2.205.02 Requirements**~~

~~When the Limited Use Overlay zone is applied, the uses permitted in the underlying zone shall be limited to those permitted uses specifically referenced in the Council ordinance adopting the Limited Use Overlay zone. Until the Overlay zone has been removed or amended, the only permitted uses in the zone shall be those specifically referenced in the adopting ordinance. Uses that would otherwise be permitted may only be allowed if a Conditional Use permit is approved.~~

~~**2.205.03 Procedures**~~

~~The Limited Use Overlay zone is applied at the time the underlying zone is being changed. It shall not be necessary to mention in the hearing notice of a rezoning application that this overlay zone may be applied.~~

~~**2.205.04 Criteria**~~

~~The ordinance adopting the overlay zone shall include findings showing that:~~

- ~~(A) No zone has a list of permitted uses where all uses would be appropriate.~~
- ~~(B) The proposed zone is the best suited to accommodate the desired uses.~~
- ~~(C) It is necessary to limit the uses permitted in the proposed zone.~~

**ARTICLE II
ZONES AND ZONING REGULATIONS**

~~(D) The maximum number of acceptable uses in the zone have been identified and will be permitted, consistent with the intent of the zone change request.~~

2.205.05 Adoption and Official Zoning Map

~~The ordinance adopting the overlay zone shall by section, reference or by name, identify those permitted uses in the zone that will remain permitted uses. A permitted use description may be segmented to require a conditional use for distinct uses that may not be compatible. The official zoning map shall be amended to show an "LU" suffix on any parcel where the Limited Use Overlay zone has been applied.~~

2.205.06 Development Provisions

~~Development of property located within the LUO zone shall comply with all applicable procedures or development requirements contained in the Millersburg Development Code. Compliance with these provisions is not waived, altered or otherwise modified by the LUO zone.~~

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

ARTICLE III – DEVELOPMENT REQUIREMENTS

Chapter 3.101	GENERAL PROVISIONS	III-5
3.101.01	Purpose.....	III-5
3.101.02	Application of Standards	III-5
3.101.03	Application of Public Facility Standards	III-5
Chapter 3.102	STREET STANDARDS	III-7
3.102.01	Purpose.....	III-7
3.102.02	Scope	III-7
3.102.03	General Provisions.....	III-8
3.102.04	Access Spacing.....	III-10
3.102.05	Modification of Right-of-Way and Improvement Width	III-11
3.102.06	Construction Specifications	III-11
3.102.07	Sidewalks	III-11
3.102.08	Bikeways	III-12
3.102.09	Private Streets.....	III-13
3.102.10	Private Access Easement	III-14
3.102.11	<u>Lots and Parcels</u> Property Served by Private Streets and Access Easements	III-15
3.102.12	Traffic Impact Study	III-15
Chapter 3.103	OFF-STREET PARKING AND LOADING	III-17
3.103.01	Purpose.....	III-17
3.103.02	Scope	III-17
3.103.03	Location	III-17
3.103.04	Joint Use	III-18
3.103.05	General Provisions for Off-Street Parking a Loading	III-18
3.103.06	Off-Street Vehicle and Bicycle Requirements	III-19
3.103.07	Off-Street Loading Requirements.....	III-21
3.103.08	Parking and Loading Area Development Requirements	III-21
Chapter 3.104	STORM DRAINAGE AND GRADING	III-22
3.104.01	Purpose.....	III-22
3.104.02	Scope	III-22
3.104.03	Plan for Storm Drainage and Erosion Control	III-22
3.104.04	General Standards	III-22
3.104.05	Grading	III-24
Chapter 3.105	UTILITY LINES AND FACILITIES	III-25
3.105.01	Purpose.....	III-25
3.105.02	Standards.....	III-25

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.105.03	Public Facility Improvements	III-26
Chapter 3.106	SIGNS	III-28
3.106.01	Purpose.....	III-28
3.106.02	Definitions	III-28
3.106.03	Review Procedures	III-31
3.106.04	General Provisions.....	III-31
3.106.05	Nonconforming Signs.....	III-32
3.106.06	Signs Generally Permitted	III-33
3.106.07	Prohibited Signs	III-33
3.106.08	Residential Signs - Single Family and Duplex.....	III-35
3.106.09	Residential Signs – Other Development	III-35
3.106.10	Public and Semi-Public Signs	III-35
3.106.11	Commercial and Industrial Signs.....	III-36
3.106.12	Signs in the Central Business District	III-36
3.106.1 2 <u>3</u>	Conditional Use Permits - Signs.....	III-37
3.106.1 3 <u>4</u>	Variances - Signs	III-38
Chapter 3.107	FENCING AND SCREENING	III-40
3.107.01	Permit Required	III-40
3.107.0 1 <u>2</u>	Placement of Fencing on Public Rights-of-Way or Easements	III-40
3.107.0 2 <u>3</u>	General Requirements	III-41
3.107.0 3 <u>4</u>	Fencing Requirements for Residential Zones.....	III-41
3.107.0 4 <u>5</u>	Fencing Requirements for Commercial and Industrial Zones ...	III-41
3.107.0 5 <u>6</u>	Pathway Fencing.....	III-42
3.107.0 6 <u>7</u>	Fences Required for Sight-Obscuring Purposes	III-41
3.107.0 7 <u>8</u>	Walls Serving Fencing Purposes	III-42
3.107.0 8 <u>9</u>	Fence Advertising or Signage	III-43
3.107.0 9 <u>10</u>	Swimming Pool Fencing.....	III-43
Chapter 3.108	LAND DIVISIONS	III-44
3.108.01	Purpose.....	III-44
3.108.02	Scope.....	III-44
3.108.03	Standards for Lots or Parcels.....	III-44
3.108.04	Additional Standards for Subdivisions	III-45
3.108.05	Improvement Requirements – Partition.....	III-47
3.108.06	Improvement Requirements – Subdivision	III-48
3.108.07	Improvement Procedures.....	III-50
Chapter 3.108	YARD AND LOT STANDARDS	III-51
3.108.01	New Buildings Shall be on a Lot	III-51
3.108.02	Yards Apply Only to One Building	III-51

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.108.03	Front Yard Projections	III-51
3.108.04	Side Yard Projections.....	III-51
3.108.05	Rear Yard Projections	III-51
3.108.06	Vision Clearance	III-52
Chapter 3.109	LANDSCAPING STANDARDS	III-51
<u>3.109.01</u>	<u>Purpose.....</u>	<u>III-51</u>
<u>3.109.02</u>	<u>Applicability</u>	<u>III-51</u>
<u>3.109.03</u>	<u>Standards.....</u>	<u>III-51</u>
<u>3.109.04</u>	<u>Landscape Plans.....</u>	<u>III-51</u>
<u>3.109.05</u>	<u>Maintenance of Landscaped Areas.....</u>	<u>III-51</u>
Chapter 3.201	SPECIAL USE PROVISIONS	III-54
3.201.01	Applicability of Special Use Standards.....	III-54
Chapter 3.202	MANUFACTURED DWELLING PARKS	III-61
3.202 <u>3</u> .01	<u>Development Standards</u> Scope	III-61
Chapter 3.203	<u>RESIDENTIAL DESIGN STANDARDS FOR MANUFACTURED</u>	
	HOMES ON INDIVIDUAL LOTS.....	III-63
3.203 <u>4</u> .01	Scope	III-63
3.203 <u>4</u> .02	General Standards – <u>All Single Family and Duplex</u> Manufactured <u>Homes</u>	III-63
3.203 <u>4</u> .03	<u>General Standards – Manufactured</u> Site Built and Modular <u>Homes</u> Design Compatibility	III-64
<u>3.203.04</u>	<u>General Standards – Multi-Family Housing</u> Design <u>Standards</u>	
Chapter 3.204	HOME OCCUPATIONS	III-65
3.204 <u>5</u> .01	Standards.....	III-65
3.204 <u>5</u> .02	Process	III-66
3.204 <u>5</u> .03	Non-Compliance	III-66
Chapter 3.205	MANUFACTURED HOME, TRAILER, AND VEHICULAR SALES,	
	SERVICE AND RELATED USES	III-67
3.205 <u>6</u> .01	Scope	III-67
3.205 <u>6</u> .02	Standards.....	III-67
3.205 <u>6</u> .03	Yard Exceptions for Accessory Service Station Structures and Equipment.....	III-68
3.205 <u>6</u> .04	Process	III-68
Chapter 3.206	RESIDENTIAL ACCESSORY STRUCTURES	III-69
3.206 <u>7</u> .01	Single Family Residences	III-69

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.2067.02	Multiple Family Developments	III-69
Chapter 3.207	SPECIAL RESIDENTIAL DWELLINGS	III-69
3.2078.01	Residential Accessory Dwelling <u>Units</u>	III-69
3.2078.02	Attached Dwellings <u>Units</u>	III-69
Chapter 3.208	PERMITTED TEMPORARY USES	III-72
3.2089.01	Purpose	III-72
3.2089.02	Permitted Uses.....	III-72
Chapter 3.209	BED AND BREAKFAST ESTABLISHMENTS	III-74
3.2094.01	Purpose.....	III-74
3.2094.02	General Land Use Provisions	III-74
3.2094.03	Operation Requirements	III-75
3.2094.04	Approval Process	III-75
Chapter 3.210	HOUSES OF WORSHIP	III-76
3.2104.01	Development Provisions	III-76
<u>3.210.02</u>	<u>Approval Process</u>	<u>III-76</u>
Chapter 3.211	GENERAL STANDARDS	III-77
3.2112.01	Lots of Record.....	III-77
3.2112.02	Lots Abutting a Partial Street	III-77
3.2112.03	Protection of Runoff Capacity of Natural Drainage Channels	III-77
3.2112.04	Farm Uses and Livestock.....	III-78
3.2112.05	General Exception to Building Height Limitations.....	III-78
3.2112.06	Height Exceptions for Public Buildings	III-78
3.2112.07	Additions to Existing Structures.....	III-78
3.2112.08	Miscellaneous Exceptions to Setback Requirements.....	III-79
3.2112.09	Permitted Uses - All Zones	III-80
3.2112.10	Nonconforming Uses.....	III-81
Chapter 3.212	<u>WETLAND AND RIPARIAN AREAS OVERLAY (WRO)</u>
<u>3.212.01</u>	<u>Definitions</u>	<u>.....</u>
<u>3.212.02</u>	<u>Development Requirements and Process.....</u>	<u>.....</u>
Chapter 3.213	<u>PLANNED UNIT DEVELOPMENT (PUD)</u>
<u>3.213.01</u>	<u>Purpose.....</u>	<u>.....</u>
<u>3.213.02</u>	<u>Objectives</u>	<u>.....</u>
<u>3.213.03</u>	<u>Ownership</u>	<u>.....</u>
<u>3.213.04</u>	<u>Permitted Uses.....</u>	<u>.....</u>

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.213.05 Development Requirements Standards
3.213.06 Conditions of Approval
3.213.07 Modification of an Approved PUD

Chapter 3.214 RECREATIONAL VEHICLE PARK STANDARDS.....

Chapter 3.215 MOBILE FOOD UNITS AND VENDORS.....

Chapter 3.216 COMMERCIAL DESIGN STANDARDS

3.216.01 Purpose.....
3.216.02 Applicability
3.216.03 Commercial Design Standards.....

Chapter 3.217 WIRELESS COMMUNICATION FACILITIES

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.101 GENERAL PROVISIONS

3.101.01 Purpose

The purpose of this Article is to:

- (A) Carry out the Comprehensive Plan with respect to development standards and policies.
- (B) Ensure that natural features of the landscape, such as land forms, natural drainage-ways, trees and wooded areas, are preserved as much as possible and protected during construction.
- (C) Promote and maintain healthy environments and minimize development impacts upon surrounding properties and neighborhoods.

3.101.02 Application of Standards

- (A) Application. The standards set forth in this Article shall apply to partitions; subdivisions; developments; commercial and industrial projects; single family dwellings, duplexes and multi-family dwellings.
- (B) Alternatives to Standards. The application of these standards to a particular development shall be modified as follows:
 - (1) Development standards which are unique to a particular use, or special use, shall be set forth within the district or in this Chapter.
 - (2) Those development standards which are unique to a particular district shall be set forth in the Chapter governing that district.

3.101.03 Application of Public Facility Standards

Standards for the provision and utilization of public facilities or services available within the City of Millersburg shall apply to all land developments in accordance with the following table of reference. No development permit shall be approved unless the following improvements are provided prior to occupancy or operation, or unless future provision is assured through a bond, deposit, agreement or similar instrument approved by the City.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

Public Facilities Improvement Requirements Table – Table 3.1

Land Use Activity	Fire Hydrant	Street Improvement	Water Hookup	Sewer Hookup	Storm Drain	Street Lights	Bike and Pedestrian
Single Family Home & Duplex	No, Unless required by Fire Code	C-2	C-3	C-3	Yes	No	C-2
Multi-Family Dwelling	Yes	Yes	Yes	Yes	Yes	Yes	Yes (3+ units)
New Commercial Building	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial Expansion	C-1	C-4	Yes	Yes	Yes	Yes	No
New Industrial Building	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industrial Expansion	C-1	C-4	Yes	Yes	Yes	Yes	Yes
Partition (without public utilities)	No, unless required by Fire Code	C-2	C-3	C-3	No, <u>must accommodate drainage on-site</u>	No, <u>must accommodate drainage on-site</u>	No
Partition (with public utilities)	No, Unless required by Fire Code	C-2	Yes	Yes	Yes	No	C-2
Subdivision, PUD & Mnf. Home Park	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Legend: No = Not required Yes = Required C = Conditional, as noted:

C-1 Fire Hydrants for Commercial or Industrial Expansions: ~~One or more fire hydrants are required when the total floor area of a new or expanded building exceeds 2,500-square feet, or the proposed use is classified as Hazardous (H) in the As required in accordance with the Oregon Fire Code Uniform Building Code or Uniform Fire Code.~~

C-2 Street Improvements for Single Family Dwellings and ~~Partitions~~ Partitions:

- (1) New single-family dwellings on an existing parcel less than 2.5 acres in size and fronting an existing street which does not have a full street improvement including sidewalks, as required in the City’s street design standards and Section 3.102, below, shall dedicate the needed right-of-way and shall install the full improvement along a parcel’s frontage.

ARTICLE III DEVELOPMENT REQUIREMENTS

- (2) If there is no adjacent improvement, a street frontage fee, in accordance with the City's adopted connection fees, will be required in lieu of constructing the improvement.
- (3) If a street extension to serve the residence is necessary, the owner must provide the necessary right-of-way dedication and street improvement to City street standards along the full frontage of the parcel.
- (4) A partition to parcels of 2.5 acres or larger does not require street improvements.

C-3 In the [RUUT](#) zone well and septic systems are allowed. In the RL zone, connection to public utilities is required.

C-4 Street Improvements for Commercial or Industrial Expansions: The City will require improvement to full City standards when the use meets any of the following criteria:

- (1) The use generates an average of 100+ trips per day per 1,000 gross square feet of building as documented in the *Trip Generation Manual* of the Institute of Transportation Engineers, or another qualified source; **or**
- (2) The use includes daily shipping and delivery trips by vehicles over 20,000 pounds gross vehicle weight.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.102 STREET STANDARDS

3.102.01 Purpose

- (A) To provide for safe, efficient, convenient multi-modal movement in the City of Millersburg.
- (B) To provide adequate access to all proposed developments in the City of Millersburg.
- (C) To provide adequate area in all public rights-of-way for sidewalks, bikeways, sanitary sewers, storm sewers, water lines, natural gas lines, power lines and other utilities commonly and appropriately placed in such rights-or-way.
- (D) For purposes of this Chapter:
 - (1) “Adequate access” means direct routes of travel between destinations; such destinations may include residential neighborhoods, parks, schools, shopping areas, and employment centers.
 - (2) “Adequate area” means space sufficient to provide all required public services to Standards defined in this code or the City’s most current Engineering Standards.

3.102.02 Scope

The provisions of this Chapter shall be applicable to:

- (A) The creation, dedication or construction of all new public or private streets, bikeways, or accessways in all subdivision, partitions or other developments in the City of Millersburg.
- (B) The extension or widening of existing public or private street rights-of-way, easements, or street improvements including those which may be proposed by an individual or the City, or which may be required by the City in association with other development approvals.
- (C) The construction or modification of any utilities, sidewalks, or bikeways in public rights-of-way or street easements.

3.102.03 General Provisions

ARTICLE III DEVELOPMENT REQUIREMENTS

The following provision shall apply to the dedication, construction, improvement or other development of all public streets in the City of Millersburg. Unless otherwise modified through provisions in this Chapter, all streets shall be designed in conformance with the specific requirements of the City's Transportation System Plan and the most current Engineering Standards.

- (A) Street Layout. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.
- (B) Continuation. Development proposals shall provide for the continuation of all streets, bikeways and accessways within the development and to existing streets, bikeways, and accessways outside the development.
- (C) Alignment. All streets other than local streets or cul-de-sacs, shall be in alignment with existing streets by continuation of the centerlines to the maximum extent feasible. The staggering of street alignments resulting in "T" intersections shall be avoided wherever practical. However, when not practical, the staggering of street alignments resulting in "T" intersections shall meet with the approval of the City Engineer and ensure compliance with accepted traffic safety standards.
- (D) Future Street Extensions. When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, these facilities shall be platted to a boundary of the subdivision or development. Further, the street may be platted without a turnaround unless the Public Works Department or local Fire District finds a turnaround is necessary for reasons of traffic safety.
- (E) Intersection Angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require approval of the City Engineer. All tangent calculations and curb radii shall comply with Engineering Standards.
- (F) Existing Streets. Whenever existing public streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.
- (G) Half-Streets. Half-streets, while generally not acceptable, may be approved where essential to the reasonable development of an area and

ARTICLE III DEVELOPMENT REQUIREMENTS

when the City finds it to be practical to require the dedication of the other half when the adjoining property is developed. Whenever a half-street is adjacent to a tract to be developed, the other half of the street shall be dedicated. Reserve strips and street plugs may be required to preserve the objectives of half-streets. The City Engineer may require additional width beyond the half street when warranted for safety reasons and accordance with the Engineering Design Standards.

- (H) Cul-de-sacs. Cul-de-sacs are not encouraged and allowed only where no other reasonable alternative exists. Where permitted, a cul-de-sac shall have maximum lengths of 800 feet and terminate with a circular turn-around. Cul-de-sacs over 400 feet in length shall provide accessways to provide connectivity to adjacent streets and uses, unless physical constraints preclude a pedestrian/bicycle accessway. The Fire Code may establish additional standards.
- (I) Street Names. Street names and numbers shall conform to the established pattern in the City.
- (J) Grades and Curves. Grades shall conform with City of Millersburg Engineering Standards.
- (K) Marginal Access Streets. If a development abuts or contains an existing or proposed arterial street, the City may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (L) Lots Abutting a Partial Street. Development of property abutting an existing public street which does not meet the minimum right-of-way standards, shall include sufficient yard setback equal to the minimum yard requirements of the zoning district, plus, the additional land required to meet the minimum right-of-way width.
- (M) Unimproved Street. Development of property adjacent to an unimproved right-of-way shall require the installation of an improved surface to meet fire code requirements and the payment of connection charges. At the City's option, submittal of a non-remonstrance agreement to participate in future street improvements may be required in lieu of connection charges.
- (N) Street Cross Section Design Guidelines. Unless modified per Section 3.102.05 the following cross-section design guidelines shall apply:

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

CITY OF MILLERSBURG CROSS-SECTION DESIGN GUIDELINES – Table 3.2

Functional Classification	Right-of-Way ¹	Design Widths						
		Minimum Curb-To-Curb Paving ²	Within Curb-To-Curb Area				Landscape Buffer (Both Sides)	Sidewalks (Both Sides)
			Motor Vehicle Travel Lane	Median and/or Center Turn Lane	Bike Lane (Both Sides)	On-Street Parking		
Arterial								
2 Lanes	60 ft	36 ft	12 ft	N/A	6 ft	N/A	5 ft	5 ft
2 Lanes + Center Turn	80 ft	50 ft	12 ft	14 ft	6 ft	N/A	5 ft	5 ft
Collector – Residential								
No parking	60 ft	36 ft	12 ft	N/A	6 ft	N/A	0-5 ft	5 ft
Parking both sides	60 ft	50 ft	12 ft		6 ft	7 ft	N/A	5 ft
Local – Residential								
Parking one side	50 ft	32 ft	Unstriped	N/A	N/A	Unstriped	4 ft	5 ft
Parking both sides	50 ft	36 ft	Unstriped			Unstriped	None or 4 ft	5 ft
Alley ⁴	20–24 ft	18–20 ft	N/A			N/A	N/A	optional
Local – Industrial								
Parking both sides	60 ft	40 ft	Unstriped	N/A	N/A	Unstriped	Behind ⁵	5-6 ft
Local – Commercial Service/Alley								
No Parking	30 ft	20 ft	Unstriped	N/A	N/A	N/A	N/A	4 ft ⁶
Parking one side	40 ft	28 ft	Unstriped			Unstriped		
Trails and Shared-Use Path								
Collector with Shared-Use Path ³	60 ft	36 ft	12 ft	N/A	6 ft	N/A	4.5 ft	5 ft one side, 10 ft multi-use path other side
Trails	10–20 ft	10–12 ft	N/A	N/A	N/A	N/A	2–7 ft	N/A

Notes:

1. Right-of-way may be wider than the suggested cross-section; this limits fences from abutting the sidewalk and allows for flexibility in cases of unforeseen growth or development.
2. Curbs are generally 6 inches wide.
3. Collector with Shared-Use Path includes sidewalk on one side of street and path on other side of street.
4. Not appropriate standards for commercial streets.
5. Street trees shall be located on the outside edges of the right-of-way.
6. Sidewalk required on one side only.

3.102.04 Access Spacing

Table 3.3

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

Functional Classification	Posted Speed	Minimum Spacing between Driveways^{1,2}	Minimum Spacing between Intersections^{1,2}
State Managed Arterial	35-45 mph	ODOT Standard	ODOT Standard
Arterial	35-45 mph	300 feet ³	600 feet
Collector	25-30 mph	50 feet ³	300 feet
Local Residential	25 mph	Access to each lot permitted <u>subject to provisions below</u>	125 feet
Local Industrial	25 mph	Access to each lot permitted	300 feet
<u>Local Residential</u>	<u>25 mph</u>	<u>Access to each lot permitted subject to the provisions below</u>	<u>125 feet</u>

Notes:

1. Desirable design spacing; existing spacing will vary. Each parcel is permitted one driveway regardless of the minimum driveway spacing standard although shared access is encouraged.
2. Spacing standards are measured centerline to centerline.
3. Circular driveways ~~can be considered when warranted to satisfy safety concerns~~ are allowed. In this case there shall be no more than two driveway and each ~~the~~ driveway width shall not exceed 15 feet.

Single Family Residence and Duplex Access Standards:

- (A) For the frontage of a lot of at least 10,000 square feet and abutting a residential street: Two 20' parking spaces must be available on the street frontage. Driveways must be set back at least 5' from the side property line. Driveways must be set back 20' from the tangent of the property lines as they intersect adjacent to a corner lot. Driveways shall be at least 10' in width. All other frontage may be used for driveways.
- (B) For the frontage of a lot less than 10,000 square feet or abutting a collector or arterial street: One 26' driveway or a circular driveway with the lane 12-15 feet wide.
- (C) Driveways shall be limited to off-street parking and the parking and storage of recreational vehicles.
- (D) Driveway grades shall not exceed 15%.

3.102.05 Modification of Right-of-Way and Improvement Width

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

The City may allow modification to the public street standards of Section 3.102.04 when **both** of the following criteria are satisfied:

- (A) The modification is necessary to provide design flexibility in instances where:
 - (1) Unusual topographic conditions require a reduced width or grade separation of improved surfaces; or
 - (2) Parcel shape or configuration precludes accessing a proposed development with a street which meets the full standards of this Chapter; or
 - (3) A modification is necessary to preserve trees or other natural features determined by the City to be significant to the aesthetic character of the area.

- (B) Modification of the standards of Section 3.102.04 shall only be approved if the City finds that the specific design proposed provides adequate vehicular access based on anticipated traffic volumes.

3.102.06 Construction Specifications

Construction specifications for all public streets shall comply with the criteria of the most recently adopted public works/street standards of the City of Millersburg.

3.102.07 Sidewalks

Public sidewalk improvements are required for all property development in the City ~~of Millersburg and along Arterial and Collector streets.~~

(A) Sidewalks may be deferred:

- (1) by At the discretion of the City where future road or utility improvements will occur are planned and expected to be completed within ten years. and
- (2) On property where a new dwelling is being constructed, there are no sidewalks existing on properties on either side, and no elevations or profiles have been established for future street or sidewalk improvements along the adjacent or the subject property's frontage. in the rural fringe of the City where urban construction standards have not yet occurred.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

~~(1)(3)~~ The property owner is obligated to provide the sidewalk when requested by the City or is obligated to pay their fair proportionate share if sidewalks are installed by the City at a later date. ~~The cost of deferred improvements will be paid by the owner and shall be placed into the City's Street Fund to pay for future improvements.~~

- (BA) Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the City Engineer determines that full right-of-way acquisition is impractical.
- (CB) Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval process.
- (DG) Sidewalks width and location, including placement of any landscape strip, shall comply with City of Millersburg Engineering Standards.
- (ED) Planter strips and the remaining right-of-way shall be landscaped and maintained as part of the front yard of abutting properties. Maintenance of sidewalks and planters shall be the continuing obligation of the abutting property owner.
- (EE) Mid-block Sidewalks. The City may require mid-block sidewalks for long blocks or to provide access to schools, parks shopping centers, public transportation stops or other community services.
- (GF) Internal pedestrian circulation and accessways shall be provided within all commercial, multifamily and planned unit developments.

3.102.08 Bikeways

Bikeways are required along Arterial and Collector streets. Bikeways shall comply with City Engineering Standards. Developments adjoining existing or proposed bikeways shall include provisions for connection and extension of such bikeways through dedication of easements or rights-of-way.

3.102.09 Private Streets

Streets and other rights-of-ways that are not dedicated for public use shall comply with the following:

- (A) Application. At least three, and no more than sixteen, dwelling units may be served by a private street. Private street standards shall also apply if at

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

least three, and no more than sixteen, dwelling units may be created through a series of separate partitions.

- (B) Construction Standards. Private streets shall be subject to the following construction standards:
- (1) Construction Standards. All private streets shall be constructed in conformance with public street cross-section requirements, the City of Millersburg Engineering Standards, and adopted Standard Construction Specifications (3.102).
 - (2) Public and Private Utilities. Unless otherwise required by the City Engineer, the private street shall include easements for public and private utilities.
 - (3) Turn-around. Private streets serving more than one ownership shall provide a turn-around if in excess of 150 feet and having only one outlet. Turn-arounds shall comply with the design provisions of the applicable fire district.
 - (4) Maintenance. Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, homeowners association, or another instrument acceptable to the City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.

3.102.10 Private Access Easement

A private access easement created as the result of an approved land division shall conform to the following.

- (A) Width. Private access easement shall only be allowed where the applicable criteria of Chapter 3.108 are satisfied. The access easement shall comply with the following standards:
- (1) Minimum easement width: 25 feet
 - (2) Minimum paved width: For private access of 150' or less and serving one dwelling - 12 feet; serving two dwellings - 16 feet. For private access of more than 150' – 20 feet.
 - (3) Maximum length: 200 feet
 - (4) No more than ~~three~~ **two** dwelling units shall have their sole access to the easement. Easements serving more than two homes shall comply with provisions for a private street.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (B) Surface Improvement. The surface width noted in (A)(2) above shall be improved with either asphalt or concrete for the entire length of the private access easement.
- (C) Maintenance. Provision for the maintenance of a private access driveway shall be provided in the form of a maintenance agreement, homeowners association, or similar instrument acceptable to the City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.
- (D) Turn-around. A turn-around shall be required for any access easement which is the sole access, and which is either in excess of 150 feet or which serves more than one dwelling. Turn-arounds shall comply with the design provisions of the applicable fire district.
- (E) Fire Lanes. All private access easements shall be designated as fire lanes and signed for "no parking."

3.102.11 Lots and Parcels Served by Private Streets and Access Easements

The following shall apply to all lots and parcels that are accessed by either a private street or private access easement:

- (A) Lot and Parcel Size. The easement containing the private street or private access easement shall be excluded from the lot or parcel size calculation.
- (B) Setbacks. The line fronting along a private street or private access easement shall be considered a property line. Setbacks to the garage and home shall be measured from this easement line.
- (C) Lot Depth and Width. Where required by the underlying zone, the lot width shall be measured along the easement boundary and the lot depth shall be measured from the easement boundary to the rear lot line.

3.102.12 Traffic Impact Study

The purpose of this subsection is to coordinate the review of land use applications with roadway authorities and to implement Section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application

ARTICLE III DEVELOPMENT REQUIREMENTS

in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a Traffic Impact Analysis; and who is qualified to prepare the analysis.

- (A) When a Traffic Impact Analysis is Required. The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:
 - (1) A change in zoning or a plan amendment designation;
 - (2) Operational or safety concerns documented in writing by a road authority;
 - (3) An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more;
 - (4) An increase in peak hour volume of a particular movement to and from a street or highway by 20 percent or more;
 - (5) An increase in the use of adjacent streets by vehicles exceeding the 20,000-pound gross vehicle weights by 10 vehicles or more per day;
 - (6) Existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;
 - (7) A change in internal traffic patterns that may cause safety concerns; or
 - (8) A TIA required by ODOT pursuant to OAR 734-051.

- (B) Traffic Impact Analysis Preparation. A professional engineer registered by the State of Oregon, in accordance with the requirements of the road authority, shall prepare the Traffic Impact Analysis.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.103 OFF-STREET PARKING AND LOADING

3.103.01 Purpose

The purpose of this Chapter is to provide adequate areas for the parking, maneuvering, loading and unloading of vehicles for all land uses in the City of Millersburg.

3.103.02 Scope

- (A) Application. Except as modified or restricted elsewhere within this Code, the provisions of this Chapter shall apply to the following types of development:
 - (1) Any new building or structure erected after the effective date of this Code.
 - (2) The construction or provision of additional floor area, seating capacity, or other expansion of an existing building or structure.
- (B) Change of Use Exception. A change in the use of an existing building or structure to another use identified in the zone **shall not** require additional parking spaces or off-street loading areas, if according to the parking space requirements, the new use requires 150% of the same amount of parking as the prior use, or less.

3.103.03 Location

Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use except that:

- (A) Yards. Off-street parking areas may be located in a required yard setback for multi-family residential, commercial and industrial uses with an approved 10-foot landscaped buffer.
- (B) Residential. In residential zones, automobile parking for dwellings and other uses permitted in a residential zone may be located on another lot if such lot is within 200 feet of the lot containing the main building, structure or use. In no case shall the parking requirements at the off-site location be reduced, unless otherwise approved as joint-use parking.
- (C) Parking. Driveways may be used for off-street parking for single-family and two-family dwellings.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (D) Non-Residential. In non-residential zones, parking may be located off the site of the main building, structure or use if it is within 500 feet of such site. In no case shall the parking requirements at the off-site location be reduced, unless otherwise approved as joint-use parking.

3.103.04 Joint Use

Parking area may be used for a loading area during those times when the parking area is not needed or used. Parking areas may be shared between uses where hours of operation or use are staggered such that peak demand periods do not occur simultaneously. The requirements of this Chapter may be reduced accordingly. Such joint use shall not be approved unless satisfactory evidence is presented which demonstrates the access and parking rights of all parties.

3.103.05 General Provisions Off-Street Parking and Loading

- (A) Parking Required. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Code.
- (B) Interpretation of Parking Requirements. Requirements for types of buildings and uses not specifically listed herein shall be determined by the City [Planner-Manager or designee](#) based upon the requirements of comparable uses listed and expectations of parking and loading need.
- (C) Multiple Use Facilities. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the uses computed separately, unless a reduction is approved for shared parking pursuant to Section 3.103.04.
- (D) Storage Prohibited. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials.

3.103.06 Off Street Vehicle and Bicycle Parking Requirements

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

(A) Vehicle Parking Spaces. Provisions for off street vehicle and bicycle parking shall comply with the following minimum requirements:

VEHICLE AND BICYCLE PARKING SPACE REQUIREMENTS

	Land Use Activity	Vehicle Spaces	Bicycle Spaces	Measurement
A.	1, 2, and 3 family dwellings	2 spaces per dwelling unit	0	None
B.	Multi-family dwellings (4 or more units)	Studio – 1 space/unit 1-2 bedroom – 1.5 spaces/unit 3+ bedroom – 2 spaces/unit	0.25	Per dwelling unit
C.	Hotel, motel, boarding house	1 space per guest room plus 1 space for the owner or manager	1	Per 20 guest rooms
D.	Club, lodge	Spaces sufficient to meet the combined minimum requirements of the uses being conducted, such as hotel, restaurant, auditorium, etc.	2	Per 20 vehicle spaces
E.	Hospital, nursing home	1 space per two beds and 1 space per 2 employees	0.5	Per five beds
F.	Churches, auditorium, stadium, theater	1 space per 4 seats or every 8 feet of bench length, or 36 sq. ft. of area w/o fixed seats	1	Per 20 vehicle spaces
G.	Elementary, junior high school	2 spaces per classroom	2	Per classroom
H.	High school	1 space per classroom and one space per employee	1	Per classroom
I.	Bowling alley, skating rink, community center	1 space per 100 sq. ft. plus 1 space per two employees	1	Per 20 vehicle spaces
J.	Retail store, except as provided in "K"	1 space per 500 sq. ft. plus 1 space per 2 employees	1	Per 20 vehicle spaces
K.	Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles or furniture	1 space per 800 sq. feet of gross floor area, plus 1 space per 2 employees	1	Per 30 vehicle spaces
L.	Bank; office buildings; medical and dental clinic	1 space per 400 sq. ft. of gross floor area, plus 1 space per 2 employees	1	Per 20 vehicle spaces

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

M.	Eating and drinking establishment	Greater of 1 space per 4 seats, or, 1 space per 400 sq. ft. of gross floor area	1	Per 20 vehicle spaces
N.	Wholesale establishment	1 space per 1,000 sq. ft. of gross floor area, plus 1 space per 800 sq. ft. of retail area	1	Per 30 vehicle spaces
O.	Municipal and governmental	1 space per 800 square feet, plus 1 space per 2 employees	1	Per 20 vehicle spaces
P.	Manufacturing and processing:			
	0-24,900 sq. ft.	1 space per 600 sq. ft.	1	Per 20 vehicle spaces
	25,000-49,999 sq. ft.	1 space per 700 sq. ft.	1	Per 20 vehicle spaces
	50,000-79,999 sq. ft.	1 space per 800 sq. ft.	1	Per 20 vehicle spaces
	80,000-199,999 sq. ft.	1 space per 1,000 sq. ft.	1	Per 20 vehicle spaces
	200,000 sq. ft. and over	1 space per 2,000 sq. ft.	1	Per 20 vehicle spaces
Q.	Warehousing and storage distribution, terminals			
	0-49,999 sq. ft.	1 space per 3,000 sq. ft.	1	Per 30 vehicle spaces
	50,000 sq. ft and over	1 space per 5,000 sq. ft.	1	Per 30 vehicle spaces

(B) Bicycle Spaces. Bicycle parking development requirements

- (1) Space Size. Each bicycle parking space shall be a minimum of six feet long and two feet wide and be accessible by a minimum five-foot aisle.
- (2) Location. All bicycle parking shall be within 100 feet of a building entrance(s) and located within a well-lit area. Any long-term bicycle parking spaces shall be sheltered from precipitation.

(C) Maximum Vehicle Parking Spaces. The minimum spaces identified under item (A) in this Section, shall not be increased by more than 30%.

3.103.07 Off-Street Loading Requirements

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

Commercial or industrial buildings between 10,000 to 25,000 square feet in area shall require a loading space. ~~This initial loading space may incorporate the parking area.~~ One additional space shall be required for each additional 25,000 square feet of gross floor area, or any portion thereof. The minimum loading space dimensions shall be 12 feet wide, 30 feet long, and 14 feet high.

3.103.08 Parking and Loading Area Development Requirements

All parking and loading areas shall be developed and maintained as follows:

- (A) Surfacing. All driveways, parking and loading areas shall have a durable hard surface of asphaltic cement or concrete. Surface improvements shall conform to the following:
 - (1) Paving Improvements. Paving shall comply with adopted Engineering Standards of the City of Millersburg.
 - (2) Timing. Unless modified by a variance or a site development review, or, bonded per City requirements, all driveways and off-street parking and loading areas shall be improved prior to occupancy of the primary structure.
 - (3) Surfacing Options for Industrial Zone – The City Engineer may allow the use of a graveled parking area in the industrial zones, provided all customer and employee parking areas are paved and provided surface drainage is addressed per Engineering Standards and at least 20-feet of each access driveway connecting with a public street is paved.

- (B) Parking Spaces. Parking spaces shall be a minimum 9-feet wide and 20-feet in length. Up to 20% of the parking area may contain “compact spaces” with dimensions of 8.5-feet in width and 18-feet in length.

- (C) Driveways. The following standards shall apply to all driveways:
 - ~~(1) Access spacing shall be in compliance with Section 3.102.04 - Access Spacing~~

 - ~~(1) Single Family Residence and Duplex~~
 - ~~(a) No driveway width shall be less than 12 feet nor exceed 24 feet as measured at the property line. For lots or parcels exceeding 100 feet in width, the driveway width shall not exceed 36 feet.~~

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- ~~(b) Driveways shall be limited to off-street parking, and, the parking and storage of recreational vehicles.~~
- ~~(c) The driveway grade shall not exceed 15%.~~

(2) Internal Driveways for Multi-Family, Commercial, Industrial and Public Uses

- (a) Without adjacent parking:
 - (i) One-way: 12 feet
 - (ii) Two-way: 26 feet
- (b) With adjacent parking:

<u>Parking Angle</u>	<u>Driveway Width</u>
0 to 40	12 feet*
41 to 45	13 feet*
46 to 55	15 feet*
56 to 70	18 feet*
71 to 90	24 feet

*One-way only driveways

- (D) Lighting. Any light used to illuminate a parking or loading area shall be arranged to be directed entirely onto the loading or parking area, shall be deflected away from any residential use and shall not cast a glare or reflection onto moving vehicles on public rights-of-way.
- (E) Driveway Required. Groups of more than four parking spaces shall be so located and served by a driveway that their use will require no backing movements or maneuvering within a street right-of-way.
- (F) Traffic Safety. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.
- (G) Curbing. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or a bumper rail at least 4" high, located a minimum of 3 feet from the property line, to prevent a motor vehicle from extending over an adjacent property or a street.
- (H) Landscaping.

- ~~(1) Trees in parking areas shall be dispersed throughout the lot to provide a canopy for shade and visual relief.~~

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

(21) Parking lots abutting residential districts shall be screened from abutting residential districts by a combination of fences, walls, and landscaping adequate to screen lights, provide privacy and provide separation for the abutting residences.

(32) See Chapter 3.109 for additional landscaping requirements. ~~Parking lots shall have curbed landscaped islands and trees at the ends of parking rows to facilitate movement of traffic and to break large areas of parking surface. The minimum dimension of the landscaped area excluding the curbs shall be 4 feet and the landscaping shall be protected from vehicular damage by wheel guards.~~

~~(4) — Parking lots containing more than 16 parking spaces shall have a minimum of 5 percent of the area devoted to landscaping and trees. Landscaping shall be evenly distributed throughout the parking lot and long rows of parking spaces shall be interrupted by landscaped islands. The 5 percent landscaping shall be within or abutting the parking area and shall be in addition to required yard landscaping.~~

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.104 STORM DRAINAGE AND GRADING

3.104.01 Purpose

To provide for the drainage of surface water from all residential, commercial and industrial development; to minimize erosion; to reduce degradation of water quality due to sediments and pollutants in storm water runoff.

3.104.02 Scope

The provisions of this Chapter shall apply to all partitions, subdivisions, multi-family developments, commercial developments and industrial development; and to the reconstruction or expansion of such developments.

3.104.03 Plan for Storm Drainage and Erosion Control

It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except within a continuous drainage way. Paving and catch basin outflows may require detention cells and/or discharge permits. Maintaining proper drainage is a continuing obligation of the property owner.

No construction of any facilities in a development included in Chapter 3.101 shall be permitted until a storm drainage and erosion control plan, designed in accordance with the City's Engineering Standards, for the project is prepared by an engineer registered in the State of Oregon and is approved by the City. This plan shall contain at a minimum:

- (A) The methods to be used to minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
- (B) Plans for the construction of storm sewers, open drainage channels and other facilities which depict line sizes, profiles, construction specifications and other such information as is necessary for the City to review the adequacy of the storm drainage plans.
- (C) Calculations used by the engineer in sizing storm drainage facilities.

3.104.04 General Standards

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (A) Design Standards. All development shall be planned, designed, constructed and maintained to:
- (1) Protect and preserve existing natural drainage channels to the maximum practicable extent;
 - (2) Protect development from flood hazards;
 - (3) Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;
 - (4) Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeding, phasing of grading, and water quality facilities;
 - (5) Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;
 - (6) Avoid placement of surface detention or retention facilities in road rights-of-way.
- (B) Public Easements. In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for storm drainage purposes shall be provided to the City. This shall not imply maintenance by the City.
- (C) Obstruction of Channel. Channel obstructions are not allowed except as approved for the creation of detention or retention facilities approved under the provisions of this Code and in compliance with City Engineering Standards. ~~Conveyance of Flows. All new development within the City shall make provisions for the continuation or appropriate projection of existing storm sewer lines or drainage ways serving surrounding areas. Drainage extensions may be required through the interior of a property to be developed where the City determines that the extension is needed to facilitate upstream flows~~
- (D) Conveyance of Flows. All new development within the City shall make provisions for the continuation or appropriate projection of existing storm sewer lines or drainage ways serving surrounding areas. Drainage extensions may be required through the interior of a property to be developed where the City determines that the extension is needed to facilitate upstream flows

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (E) City Inspection. Prior to acceptance of a storm sewer system by the City, the storm sewers shall be flushed and inspected by the City. All costs shall be borne by the developer.

3.104.05 Grading

- (A) Grading Permits are required for the following activities and shall be subject to City of Millersburg Public Works Standards.
- (1) Grading in excess of 50 cubic yards;
 - (2) Grading potentially impacting, Riparian Areas, Drainage ways, Flood Hazard Areas or Greenways;
 - (3) Grading that could possibly impact adjacent properties;
 - (4) Grading proposed over public storm drains, sanitary sewers or water lines;
 - (5) Grading requiring tree removal;
 - (6) Other areas with potential impacts as determined by the City;
 - (7) Land partitions and subdivisions.
- (B) Building Permit: If the approved grading activity is associated with a building permit, a final grading inspection shall be required prior to issuance of certificate of occupancy.
- (C) NDPES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb 1 or more acres of land

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.105 UTILITY LINES AND FACILITIES

3.105.01 Purpose

To provide adequate services and facilities appropriate to the scale and type of development.

3.105.02 Standards

- (A) Design and Location. The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.
- (B) Private Utilities. All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.
- (C) Water Service Required. All development which has a need for public water shall install the facilities pursuant to the requirements of the City. Installation of such facilities shall be coordinated with the extension of necessary sanitary sewer services and storm drainage facilities.
- (D) Sanitary Sewer Required. All development which has a need for public sanitary sewers shall install the facilities pursuant to the requirements of the City. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.
- (E) Subsurface Sewage Disposal. Installation of sub-surface disposal systems shall only be allowed per City's Municipal Code regulations.
- (F) Street Lights. When required, the installation of street lights shall be pursuant to the requirements of the City Engineering Standards and the requirements of the utility company serving the development.
- (G) Easements, General. Easements shall be provided along property lines as deemed necessary by the City, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions and partitions.

3.105.03 Public Facility Improvements

ARTICLE III DEVELOPMENT REQUIREMENTS

All public facility improvements shall be designed and constructed in compliance with adopted City of Millersburg Engineering Standards. The City Engineer (or his/her designee) shall determine compliance with these standards. These standards are considered requirements and may not be altered pursuant to provisions in this Development Code.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.106 SIGNS

3.106.01 Purpose

The purpose of this Chapter is to provide equitable rights, reduce conflicts, promote traffic and pedestrian safety, increase the aesthetic value and economic viability of the city, all by classifying and regulating the location, size, type and number of signs and related matters, in a content-neutral manner.

3.106.02 Definitions

For the purposes of this Chapter, the following definitions shall apply:

Alteration or Altered: Any change in the size, shape, method of illumination, position, location, construction, or supporting structure of a sign. A change in sign copy or sign face alone shall not be considered an alteration.

Awning: A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for the supporting framework.

Building Frontage: The portion of a building face most closely in alignment with an adjacent right-of-way or fronting a parking lot when so defined, as allowed in this chapter. A gasoline service station may use the overhanging canopy as a substitute for building frontage when computing the allowable sign area. The longest side of the building or canopy shall be used to compute the allowable sign area.

Canopy Sign: A sign hanging from a canopy or eve, at any angle relative to the adjacent wall.

Flashing Sign: A sign any part of which pulsates or blinks on and off, except time and temperature signs and message signs allowed by conditional use.

Free-Standing Sign: A sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

Height: Height is measured from the grade of the curb line lowest to the base of the sign to the highest point of the sign. In the absence of a curb line, the edge of the street pavement shall be used. In the absence of street pavement, the ground level shall be used to measure the height.

ARTICLE III DEVELOPMENT REQUIREMENTS

Incidental Signs: A sign which is normally incidental to the allowed use of the property but can contain any message or content. Such signs can be used for, but are not limited to, nameplate signs, warning or prohibition signs, and directional signs not otherwise allowed.

Indirect Illumination: A source of illumination directed toward such sign so that the beam of light falls upon the exterior surface of the sign.

Integrated Business Center: A group of two or more businesses which are planned or designed as a center, and share a common off-street parking area or access, whether or not the businesses, buildings or land are under common ownership.

Internal Illumination. A source of illumination from within a sign.

Message Sign: A sign which can change its message electronically including, but not limited to, signs displaying time and temperature.

Multi-faced Sign: A sign which has two or more identical sign faces, contained in a single sign structure.

Mural: A covering of the surface area of a wall with paint or other artistic medium, that creates a pictorial or abstract design and usually without advertising or commercial symbolism - such as logos or trademarks - or any representation of a product or business, except to identify the artist.

Nonconforming Sign: Any sign which lawfully exists prior to the effective date of this Chapter but, which due to the adopted requirements, no longer complies with the height, area and placement regulations or other provisions of these regulations.

Owner: The owner or lessee of the sign. If the owner or lessee of the sign cannot be determined, then "owner" means owner or purchaser of the land on which the sign is placed.

Portable Sign: Any sign that is not originally designed to be permanently affixed to a building, structure, or the ground; a sign originally designed, regardless of its current modification, to be moved from place to place. These signs include, but are not limited to, A-frame or sandwich board signs, signs attached to wood or metal frames and designed to be self supporting and movable, and also including trailer reader boards. Portable signs are not to be considered temporary signs as defined and used in this Code.

ARTICLE III DEVELOPMENT REQUIREMENTS

Projecting Signs: A sign projecting from a structure, the face of which is not parallel to the wall on which it is mounted.

Roof Line: Either the eaves of the roof, or, the top of the parapet, at the exterior wall. A "mansard roof" is below the top of a parapet and is considered a wall for sign purposes.

Roof Sign: A sign or any portion of which is displayed above the highest point of the roof, whether or not such sign also is a wall sign.

Rotating/Revolving Sign: A sign, all or a portion of which, moves in some manner.

Sign: Any writing, including letter, word, or numeral; pictorial presentation, including illustration or decoration; emblem, symbol or trademark; flag, including banner or pennant; or any other device, figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building, structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way.

Sign Area: The area of a sign shall be the entire area within any type of perimeter or border which encloses the outer limits of any writing, representation, emblem, figure, or character. If the sign is enclosed in a frame or cabinet, the area is based on the inner dimensions of the frame or cabinet surrounding the sign face. When a sign is on a base material and attached without a frame, such as a wood board or plexiglass panel, the dimensions of the base material are to be used. The area of a sign having no such perimeter, border, or base material shall be computed by enclosing the entire area within a parallelogram or a triangle of the smallest size sufficient to cover the entire message of the sign and computing the area of the parallelogram or a triangle. For the purpose of computing the number of signs, all writing included within such a border shall be considered one sign, except for multi-faced signs on a single sign structure, which shall be counted as one sign per structure. The area of multi-faced signs shall be calculated by including only one-half the total area of all sign faces.

Sign Face: Surface of a sign containing the message. The sign face shall be measured as set forth in the definition for "Sign Area."

Sign Structure: The supports, uprights, braces, framework and other structural components of the sign.

Temporary Business: A business of a temporary nature authorized through a Temporary Business Permit issued by the City of Millersburg.

ARTICLE III DEVELOPMENT REQUIREMENTS

Temporary Sign. A sign not permanently affixed to a structure on a property. These signs primarily include, but are not limited to, canvas, cloth, or paper banners or posters hung on a building wall or on a permanent pole such as on a free-standing sign support.

Wall Sign: A sign attached to, erected against or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall.

3.106.03 Review Procedures

- (A) Permit Required. Unless otherwise authorized by provisions in this Chapter, sign permits shall be required for all residential, commercial, industrial and public/semi-public uses. No property owner, lessee or contractor shall construct or alter any sign without first obtaining a valid sign permit.
- (B) Current Signs. Owners of conforming or nonconforming signs existing as of the date of adoption of this Code are not required to obtain a permit.
- (C) Application Requirements. An application for a sign permit shall be made on a form provided by the City. The application shall include, at a minimum, a sketch drawn to scale indicating the proposed sign, identifying existing signs on the premises, the sign's location and graphic design and other information established by the City to process the request.

The City shall issue a permit for a sign unless the sign is in violation of the provisions of these or other provisions of the Millersburg Development Code. Sign permits mistakenly issued in violation of these or other provisions of the Development Code are void. The City may revoke a sign permit if it finds there was a material and misleading false statement of fact in the application for the permit.

3.106.04 General Provisions

- (A) Conflicting Standards. Signs shall be allowed subject to the provisions of this Chapter, except when these provisions conflict with the specific standards for signs in the subject district.
- (B) Signs Subject to State Approval. All signs visible to the traveling public from State highways are subject to the regulations and permit requirements of the Highway Division of the State of Oregon Department

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

of Transportation. Where the regulations of the State and City differ, the more restrictive regulations shall govern.

- (C) Design, Construction, and Maintenance. All signs shall be designed, constructed, and maintained according to the following standards:
- (1) All signs shall comply with the applicable provisions of Uniform Building Code in effect at the time of the sign permit application and all other applicable structural, electrical and other similar regulations. The issuance of a sign permit under these regulations does not relieve the applicant of complying with all other permit requirements.
 - (2) Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of these regulations, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure.
 - (3) All signs shall be maintained in a good structural condition and readable at all times.
 - (4) The owner shall be responsible for its erection and maintenance and its compliance with the provisions of these regulations or other laws or Codes regulating signs.
- (D) Holiday Displays. Nothing in these regulations shall prohibit the displays during holidays.

3.106.05 Nonconforming Signs

- (A) Alteration of Nonconforming Sign Faces. When a nonconforming sign face is damaged or destroyed by fire, flood, wind, or similar calamity, such sign face may be restored to its original condition within 180-days of such calamity. However, a sign structure or support mechanisms so damaged shall not be replaced except in conformance with the provisions of these regulations.
- (B) Permits for Properties with Nonconforming Signs. No permits shall be issued for new or altered signs unless all signs of the individual property or business comply with these regulations.

3.106.06 Signs Generally Permitted

ARTICLE III DEVELOPMENT REQUIREMENTS

The following signs and sign work are permitted in all zones. No permit shall be required and the sign shall not be included when determining compliance with total allowed area:

- (A) Painting, change of sign face or copy and maintenance of signs legally existing on the effective date of this Code. If structural changes are made, the sign shall conform in all respects with these regulations.
- (B) Signs posted by or under governmental authority including legal notices, traffic, danger, no trespassing, emergency and signs related to public services or safety.
- (C) Incidental signs that do not exceed six square feet in area.
- (D) Flags on permanent flag poles which are designed to allow raising and lowering of the flags.
- (E) Signs within a building.
- (F) Signs painted or hung on the inside of windows.
- (G) One residential name plate not exceeding three square feet in area.
- (H) Murals for commercial and industrial uses. Otherwise, that portion of the mural considered advertising shall be included in the sign area calculation. The calculation shall be in accordance with provisions in the “sign area” definition.
- (I) Temporary signs placed on private property used in conjunction with political campaigns and elections. Political signs shall be displayed no earlier than 90-days before an election and shall be removed within three days after the election.

3.106.07 Prohibited Signs

The following signs are prohibited in all zones:

- (A) Balloons or similar types of tethered objects.
- (B) Portable signs, except where allowed as a part of a permitted temporary business or otherwise permitted by Municipal Code.
- (C) Roof signs.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (D) Signs that emit odor, visible matter, or sound; however, an intercom system for customers remaining in their vehicles, such as used in banks and "drive through" restaurants, shall be allowed.
- (E) Signs that use or employ side guy lines of any type.
- (F) Signs that obstruct any fire escape, required exit, window or door opening used as a means of egress.
- (G) Signs closer than 36-inches horizontally or vertically from any overhead power line or public utility guy wire.
- (H) The use of a vehicle or trailer parked on a public right-of-way or public property, or on private property so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity. This provision applies where the primary purpose of the vehicle is for advertising purposes and is not intended to prohibit any form of vehicular sign, which is primarily used for business purposes other than advertising.
- (I) Rotating/revolving signs, except by conditional use permit per Section 3.106.12.
- (J) Flashing signs, except by conditional use permit per Section 3.106.12.
- (K) Private signs that project into or over driveways and public right-of-ways, except signs under a canopy that project over a public sidewalk and the bottom of the sign is at least 8-feet above the sidewalk.
- (L) Signs that obstruct a required vision clearance area, obstruct a vehicle driver's view of official traffic control signs, or which present a traffic hazard.
- (M) Signs that interfere with, imitate, or resemble any official traffic control sign, signal or device, emergency lights, or appear to direct traffic.
- (N) Signs attached to any pole, post, utility pole or placed on its own stake and placed into the ground in the public right-of-way.
- (O) Message signs, except by conditional use permit per Section 3.106.12.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (P) Any sign on unimproved property, unless as an incidental sign.
- (Q) Signs mounted on fences in accordance with Section 3.107.08

3.106.08 Residential Signs - Single Family and Duplex

- (A) Area and Number. Only one sign shall be permitted per dwelling unit. The maximum sign area shall be eight square feet.
- (B) Location. The sign may be located on a wall or within any yard area. Signs placed within a yard shall be limited to a maximum height of 4 feet as measured from the adjacent ground level to the highest point of the sign and shall not interfere with the clear vision area.
- (C) Lighting. The use of interior lighted signs and flashing lights shall be prohibited. No light may be directed onto an adjacent residence.

3.106.09 Residential Signs – Other Developments

The following sign regulations shall apply to multi-family developments, manufactured home parks and subdivisions:

- (A) Area and Number. Any combination of signs not exceeding 32 square feet in area, provided the total sign area on a free-standing sign shall be limited to a maximum of 24 square feet.
- (B) Sign Height. The maximum sign height for a free-standing sign shall be 5-feet.
- (C) Lighting. Signs shall be illuminated only by indirect lighting. The use of interior lighted signs and flashing lights shall be prohibited.

3.106.10 Public and Semi-Public Signs

The following regulations apply to signs for public and semi-public uses:

- (A) Area and Number. Any combination of signs not exceeding 120 square feet in area, provided the total sign area on a free-standing sign shall be limited to a maximum of 80 square feet.
- (B) Sign Height. The maximum sign height for a free-standing sign shall be 12-feet.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (C) Lighting. Signs shall be illuminated only by indirect lighting. The use of interior lighted signs and flashing lights shall be prohibited.

3.106.11 Commercial and Industrial Signs

The following regulations apply to signs for commercial and industrial uses:

(A) Signs for Businesses not in Integrated Business Centers:

- (1) Total Sign Area. One and one-half square feet of total allowed sign area for each lineal foot of building frontage facing the street, up to a maximum total allowed area of 150 square feet.
- (2) Type, Number and Sign Size. Within the total allowed area, one free standing sign per street frontage, and a total of no more than two wall or canopy signs. Regardless of total allowed area, each free-standing sign shall be limited to a maximum of 48 square feet in area.
- (3) Sign Height. The maximum sign height shall be as follows:
 - (a) Wall and canopy signs: Shall not project above the parapet or roof eaves.
 - (b) Free-standing signs: Maximum height of 12 feet above grade.
- (4) Sign Location. Signs shall be located as follows:
 - (a) Wall signs: May project up to 1.5 feet from the building.
 - (b) Free-standing sign - no limitation except shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks.

(B) Signs for Integrated Business Centers:

- (1) Total Sign Area. For wall and canopy signs on individual businesses within an integrated business center, one and one-half square feet of total allowed sign area for each lineal foot of building frontage for the individual business, up to a total maximum of 150 square feet per business. Individual businesses may not assign their unused allowed area to other businesses in the integrated business center.
- (2) Free-standing Sign. In addition to this allowed area, for each integrated business center, one free-standing sign per street frontage not exceeding 100 square feet in area.
- (3) Sign Height. The maximum sign height shall be as follows:
 - (a) Wall and canopy signs: Shall not project above the parapet or roof eaves.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (b) Free-standing signs: Maximum total height of 12 feet above grade.
- (4) Sign Location. Signs shall be located as follows:
 - (a) Wall signs: May project up to 1.5 feet from the building.
 - (b) Free-standing sign: No limitation except shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks.
- (C) Additional Signs. Within the limitations of this subsection, the signs below do not require a permit and are not included in calculating allowed area and number of signs:
 - (1) Directional signs, such as "Exit" or "Entrance", are allowed either as wall or freestanding signs. Such signs shall be limited to 4 square feet in area and 2 per driveway. Free standing directional signs shall be limited to a height of 4 feet.
 - (2) Order signs describing products and/or order instructions to a customer, such as menu boards on the exterior of a drive-thru restaurant are allowed as follows: One per business limited to 32 square feet in area and a maximum height of 8 feet. Any order sign greater than 10 square feet in area and/or 6 feet in height must be screened from adjacent streets by a sight obscuring fence, wall or hedge.
- (D) Temporary Business Signs. Temporary businesses may display temporary or portable signs, other than trailer mounted reader boards or any sign that includes flashing or rotating lights or moving parts. The cumulative size of all such signs may not exceed 32 square feet. All temporary signs must be placed within 10 feet of the structure or vehicle used for the temporary business and may not be placed within any public right-of-way.

3.106.12 Conditional Use Permits - Signs

A conditional use approval shall be required for rotating/revolving signs, flashing signs, or message signs located in a Commercial, Industrial, or Public Facility zones, or Mixed Use Zone within 100 feet of the Interstate-5 right-of-way. A conditional use to Chapter 3.106 shall be processed according to the conditional use procedures in Chapter 4.107, but shall be subject to the following criteria:

- (A) The proposed sign, when conditioned, will not significantly increase or lead to street level sign clutter, or to signs adversely dominating the visual image of the area.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (B) The proposed sign, as conditioned, will not adversely impact the surrounding area to a significant degree.
- (C) The proposed sign will not present a traffic or safety hazard.
- (D) If the application is for a flashing and/or message sign, no rotary beacon lights, zip lights, strobe lights, or similar devices shall be allowed. No chaser effect or other flashing effects consisting of external lights, lamps, bulbs or neon tubes are allowed. Only flashing effects by way of internal illumination are allowed.
- (E) If the application is for a rotating/revolving sign, such sign cannot flash or be illuminated by intermittent light. Rotating/revolving signs shall revolve at a speed no greater than 5 revolutions per minute.
- (F) The total allowed sign area for a business shall be reduced by 25% if the business has a flashing, rotating/revolving, or message sign.
- (G) The proposed sign will comply with all other regulations, including, but not limited to height and placement restrictions.

3.106.13 Variances - Signs

Any allowance for signs not complying with the standards set forth in these regulations shall be by variance. Variances to Chapter 3.106 shall be processed according to the variance procedures in Chapter 4.106 but shall be subject to the following criteria:

- (A) There are unique circumstances of conditions of the lot, building or traffic pattern such that the existing sign regulations create an undue hardship;
- (B) The requested variance is consistent with the purpose of the Chapter as stated in Section 3.106.01; and
- (C) The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to the business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this Chapter.
- (D) The granting of the variance shall not decrease traffic safety nor detrimentally affect any other identified items of public welfare.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (E) The variance will not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, franchise store signs) shall not be listed or considered as a reason for a variance.

- (F) The variance request shall not be the result of a self-imposed condition or hardship.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.107 FENCING AND SCREENING

3.107.01 Placement of Fencing on Public Rights-of-Way or Easements

Fences may be constructed on public rights-of-way and/or easements subject to certain restrictions. Construction of fences on public rights-of-way or easements requires permission from the appropriate public agency. The City allows placement of fences on public rights-of-way and certain easements, provided that action does not impair the City's ability to address its public functions and the permit holder agrees to remove the fence upon request.

3.107.02 General Requirements

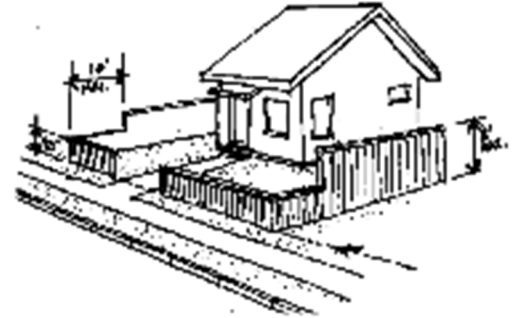
- (A) A wall is considered a fence and shall be built consistent with the applicable fencing requirements.
- (B) No fence shall be permitted in the sidewalk area or in a location which may impair the construction of a public sidewalk, pathway or walkway.
- (C) Fences greater than six feet in height requires the owner to secure a building permit.
- (D) In the event any fence restricts access to or use of rights-of-way and easements, it shall be the fence owner's responsibility to provide access upon City request or other affected agency or utility provider request.
- (E) A property owner who restricts access to any utility meter or fire hydrant shall provide access through the fence by a hand gate.
- (F) Fence installation shall not impair the clear vision triangle clearance requirements at street and alley intersections.
- (G) Fence heights shall be measured from undisturbed ground level, top of sidewalk, or street grade (crest or crown of the road), whichever is highest. Height of fences or walls within 20-feet of a street right-of-way shall include the measured height of the fence or wall and any retaining wall, berm, or other structure within the same 20-feet.

3.107.03 Fencing Requirements for the Residential Zones

- (A) [Height, location: Fences, walls and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of any required vision clearance area.](#)

ARTICLE III
DEVELOPMENT REQUIREMENTS

(B) Fences and walls shall not exceed a height of three and one-half feet within ten feet of any property line adjacent to the street, except— corner properties, which by definition have two front yards, may have a fence no taller than 6 feet in the front yard adjacent to the street that does not contain the main door entrance when the fence does not extend in front of the building and one of the following conditions is met:



(a) If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.

(b) If the adjoining street is improved with sidewalks but no planter strip, the fence is located a minimum of three feet from the sidewalk.

(c) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located ten feet from the face of the curb.

(d) If the adjoining street is unimproved, the fence is no closer than three feet from the property line.

A sight-obscuring fence that is placed in the rear yard or side yard may encroach within this 10-foot setback area but shall be placed no closer than 3 feet to the property line along a street and may exceed the three and one-half feet height restriction.

(C) —A fence, or wall, may not exceed six feet in height. A fence or wall over six feet in height will require a building permit.

Interior lot: fences to a height of four feet may be built within the front yard setback outside of the public right-of-way. A fence of up to six feet in height may be built behind the front dwelling setback along the property boundary.

(A) —Corner lot: fences to a height of four feet may be built within the front dwelling and street side yard setbacks to the inside of the right of way line. A fence of up to six feet in height may be built along the side property lines adjacent to an interior lot from the front dwelling setbacks.

(B) —Back to back corner lot: where two corner lots are back to back, with no vehicle access to the roadway adjacent to the side yard of either residence, the side

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

~~yard fence may be solid, or open to a maximum height of six feet, except within the clear vision sight triangle.~~

3.107.04 Fencing Requirements for Commercial and Industrial Zones

- (A) Industrial or commercial fencing installed adjacent to residential areas must be sight obscuring. Fences that do not exceed six feet in height may be located or maintained on any property line within this zone, except within the clear vision triangle area and along the frontage of presentation streets. Commercial or industrial fencing intended to be placed on Old Salem Road or Conser Road frontage is subject to design review.
- (B) Fences intended for security purposes may be installed to a height of eight feet on any property line within the commercial and industrial zones, except within vision triangle areas and along the frontage of presentation streets. Barbed wire may be used as the top section for security fences, provided the barbed wires are a minimum of 72-inches above grade and do not project over public rights-of-way.

3.107.05 Pathway Fencing

- (A) When residential construction includes a pathway or walkway intended to be constructed adjacent to these pedestrian type features, the Applicant shall install along the full length of the property frontage intersecting or encountering these features, a fence composed of metal, rock or vinyl material with the supporting wood treated posts placed on an adequate concrete footing. Pathway or walkway type fencing shall be installed in such a fashion as to provide better visibility from adjacent homes or buildings and to assure public safety and avoid a tunneling effect associated with tall fences bordering narrow pathways.
- (B) See-through pathway fencing shall not exceed five feet in height and solid fencing shall not exceed four feet in height the length of the property frontage intersecting or encountering the pathway, walkway or greenbelt.

3.107.06 Fences Required for Sight-Obscuring Purposes

- (A) Sight obscuring fences shall be constructed of an aluminum mesh fencing with slats or other solid non-vision-type fencing of such design and material that will retain its attractiveness with nominal maintenance.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (B) The following uses are declared to require sight obscuring fences: junkyards, wrecking yards, equipment or vehicle salvage storage yards, auction blocks, lumberyards, sanitary landfills, recycling collection stations and other uses determined to be similar in nature to the aforementioned as determined by the planning director or designate.
- (C) Presentation Streets: Fencing placed along Old Salem Road or Conser Road is subject to site plan design review.

3.107.07 Walls Serving Fencing Purposes

- (A) Wall materials shall be constructed of impervious concrete or stucco or other appropriate sound attenuating material.
- (B) Wall heights shall be in accordance with zoning height prescriptions.
- (C) Wall[s] shall be offset by a minimum relief distance of three feet every 100 linear feet. Relief shall be by materials, color, structural elements, or off-sets and jogs. If walls are used in combination with a berm, the wall shall be placed behind the berm, and under no circumstances, placed on the berm. A proposed wall is subject to design review where it will be evaluated for design, color and texture. The wall and/or wall and berm combination shall be located outside the public rights-of-way.
- (D) Walls may require a building permit. Wall installation is also subject to the site plan review~~City design review~~ and appropriate building codes, permits and inspections.

3.107.08 Fence Advertising or Signage

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

3.107.09 Swimming Pools Fencing

All swimming pools shall be enclosed by a locking fence of at least 6 feet in height. An existing structure or structures may be incorporated into the fence design.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.108 YARD AND LOT STANDARDS

3.108.01 New Buildings Shall be on a Lot

Every building erected shall be located on a lot as herein defined.

3.108.02 Yards Apply Only to One Building

No required yard or other open space or required driveway provided around or for any building or structure for the purpose of complying with the provisions of this Code shall be considered as providing a yard or open space for any other building. No yard or other required space on an adjoining lot shall be considered as providing a yard or open space on the lot whereon the building is to be erected.

3.108.03 Front Yard Projections

The following features, when not more than one story high, may project into the front yard setback area, provided the projection shall come no closer than 10 feet from the property line: planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features, uncovered porches, covered but unenclosed porches.

3.108.04 Side Yard Projections

- (A) Cornices, eaves, gutters and fire escapes may project into a required side yard not more than one-third of the width of the required side yard.
- (B) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels and ornamental features may project not more than 1.5 feet into a required side yard, provided the chimneys and flues shall not exceed 6 feet in width.
- (C) Uncovered decks and patios attached to the main building, and no more than 3-feet in height when measured directly beneath the outside edge of the deck or patio, may be extended to the side yard property line.

3.108.05 Rear Yard Projections

- (A) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters and other ornamental features, may project not more than 1.5 feet into a required rear yard, provided the chimneys and flues shall not exceed 6 feet in width.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (B) A fire escape, balcony, outside stairway, cornice or other unenclosed, unroofed projections may project not more than 5 feet into a required rear yard.
- (C) The following features, when not more than one story high, may project into the rear yard setback area: planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features, uncovered porches, covered but unenclosed porches.
- (D) No permitted projection into a required rear yard shall extend within 10-foot of the center line of an alley or within 5-feet of a rear lot line if no alley exists.

3.108.06 Vision Clearance

A clear vision area shall be maintained where streets and private points of access intersect. The clear vision area shall conform to the following:

- (A) Measurement. A clear vision area at an intersection shall be the triangular area established according to the following procedure:
 - (1) A line extending a certain number of feet, as identified in the sections (B), (C), (D), and (E) below, from the intersection along a public street right-of-way;
 - (2) A line extending a certain number of feet from the intersection along the intersecting access;
 - (3) A third line that creates the triangular clear vision area by connecting the ends of the lines described in (1) and (2), above.
- (B) Street-Driveway. The clear vision area for a street-driveway intersection shall be 10 feet along the driveway from its intersection with the street right-of-way and 20 feet along the street right-of-way at the point of intersection with the driveway.
- (C) Street-Alley. The clear vision area for street-alley intersections shall be 10 feet along the alley from its intersection with the street right-of-way and 20 feet along the street right-of-way at the point of intersection with the alley.
- (D) Street-Private Access Easement. The clear vision area for street-access easement intersections shall be 10 feet along the access easement from

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

its intersection with the street right-of-way and 20 feet along the street right-of-way at the point of intersection with the access easement.

- (E) Corner Lots (Street-Street Intersection). The clear visions area for corner lots on local residential streets shall be 20 feet along the right-of-way of each intersecting street. For collector and arterial streets, the measurement along the right-of-way of the collector or arterial street shall be 30 feet.
- (F) Prohibited Development. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 24 inches in height, measured from the top of the curb or, where no curb exist, from the established street centerline grade, except that the following may be allowed in the clear vision area:
 - (1) Trees, provided all branches and foliage are removed to a height of eight feet above grade;
 - (2) Telephone, power, and cable television poles; and
 - (3) Telephone switch boxes provided they are less than ten inches wide at the widest dimension.

~~(G) Exemption. Clear visions areas shall not be required at intersections containing traffic signals.~~

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.109 LANDSCAPING STANDARDS

3.109.01 Purpose

Natural vegetation, landscaping, street trees, fences, and walls, together, these elements of the natural and built environment contribute to the visual quality, environmental health, and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic. Walls, fences, trees, and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces. A well landscaped and maintained yard or property promotes a sense of community wellbeing.

3.109.02 Applicability

(A) Whenever landscaping is required in a zone, it shall be installed in accordance with these standards. When the standards of a zone specify locations or amounts of landscaping, those locations or amounts can be used to meet the standards of this section.

3.109.03 Standards

(A) General Requirements. Landscaping requirements by type of use are listed below:

(1) Landscaping Required – Residential other than in the Mixed Use (MU) zone. All front setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with this Code before an occupancy permit will be issued or final building permit approved. In all residential districts except Rural (RU), the minimum landscaping acceptable for every 50 lineal feet of street frontage (or portion thereof, deducting the width of the driveway) is:

- (a) One tree at least six feet tall.
- (b) Four one-gallon shrubs or accent plants.
- (c) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).

(2) Landscaping Required – Mixed Use and Non-Residential zones. All required front and interior setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

in accordance with this Code before an occupancy permit will be issued. Minimum landscaping acceptable for every 1,000 square feet of required setbacks in all commercial-industrial districts is as follows:

- (a) One tree at least six feet tall for every 30 feet of street frontage.
- (b) Five 5-gallon or eight 1-gallon shrubs, trees or accent plants.
- (c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
- (d) When the yard adjacent to a street of an industrially zoned property is across a right-of-way (excluding Old Salem Road right-of-way) from other industrially or commercially zoned property, only 30% of such setback area must be landscaped.

(3) Alternate Plan – Non-Residential – As part of a Site Design Review application approval, placement of the required setback landscaping in public right-of-way may be approved when the following conditions are met:

- (a) The site contains existing development that includes substantial building(s), and is subject to improvement requirements due to a change of use or vacancy; and
- (b) The appropriate government agency grants written permission for use of the right-of-way; and
- (c) The applicant provides written assurance that on-site setback landscaping will be installed within 90 days in the event permission to use the right-of-way is revoked; and
- (d) The Commission finds the required setback landscaping can feasibly be installed on the property without creating other violations of this Code; and
- (e) The Commission finds providing the landscaping in the public right-of-way in the interim fulfills the intent this Code established in Section 3.109.01.

(B) Parking Lot Landscaping. The purpose of landscaping in parking lots is to provide shade, reduce stormwater runoff, and direct traffic. Incorporation of approved vegetated post-construction stormwater quality facilities in landscaped areas is encouraged. Parking lots must be landscaped in accordance with the following minimum standards:

- (1) Planter Bays. Parking areas shall be divided into bays of not more than 12 parking spaces. At both ends of each parking bay, there shall be curbed planters at least five feet wide, excluding the curb. Gaps in the curb may

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

be allowed for connections to approved post-construction stormwater quality facilities. Each planter shall contain one canopy tree at least ten feet high and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Neither planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.

- (2) Entryway Landscaping. Both sides of a parking lot entrance shall be bordered by a minimum five-foot-wide landscape planter strip meeting the same landscaping provisions as planter bays, except that no sight-obscuring trees or shrubs are permitted.
 - (3) Parking Space Buffers. Parking areas shall be separated from the exterior wall of a structure by pedestrian walkways or loading areas or by a five-foot strip of landscaping materials.
 - (4) Alternate Plan. An alternate plan may be submitted as part of a site design review application providing landscaping of at least 5% of the total parking area exclusive of required landscaped yard areas and that separates parking areas of more than 100 spaces into clusters divided by landscape strips. Each planter area shall contain one tree at least ten feet tall and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Landscaping may not impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.
 - (5) Landscape Protection. Required landscaped areas adjacent to graveled areas must be protected by large boulders or by another acceptable means of protection.
- (C) Irrigation of Required Landscaping. All required landscaped areas must be provided with an irrigation system unless a licensed landscape architect, landscape construction professional, or certified nurseryman submits written verification that the proposed plants do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit.
- (D) Identification of Existing Trees. In all proposed developments, existing trees over 25 inches in circumference (8 inches in diameter) as measured 4.5 feet above mean ground level from the base of the trunk shall be noted on all development plans, with notations indicating whether they are to be removed or utilized in the development. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference. Clusters of trees in open space and floodplain areas may be

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

noted in approximate locations. No trees 6.5 feet in circumference (approximately 25 inches in diameter) or greater may be removed without a permit per Millersburg Municipal Code Section 7.30.040.

3.109.04 Landscape Plans

- (A) With the exceptions noted below, all development applications involving buildings and parking areas must include landscape plans. The following uses are required to meet the landscaping requirements of this code but are not required to submit landscape plans:
- (1) Single-family dwellings, duplexes, and triplexes.
 - (2) Accessory buildings.
 - (3) Changes internal to an existing structure.
 - (4) Building additions involving less than 500 square feet.
- (B) Street Tree Species allowed within Right-of-Ways. Only trees included in the list of approved City street trees are allowed.
- (C) Trees Requiring Approval. It is unlawful to plant willow, cottonwood, or poplar trees anywhere in the City unless the City Engineer approves the site as one where the tree roots will not be likely to interfere with public sewers.
- (D) Height Requirements in Rights-of-Way. Trees or shrubs growing in the right-of-way or on private property adjacent to a street right-of-way must be trimmed to maintain a minimum canopy height of eight feet above sidewalks or 14 feet above streets or alleys. No trees, shrubs, or plants more than 18 inches tall shall be planted in the public right-of-way abutting roads having no established curb and gutter.
- (E) Planting in Roadways Having No Gutter, Curb. No trees, shrubs, or plantings more than 18 inches tall shall be planted in the public right-of-way abutting roadways having no established curb and gutter.
- (F) Completion Guarantees. Final occupancy of a development that required land use approval may be allowed prior to the complete installation of all required landscaping and irrigation only under the following circumstances:
- (1) A security guarantee is provided to the City in accordance with this Code.
 - (2) The required landscaping and irrigation shall be installed within six months of the date the final occupancy permit is issued. If an occupancy permit is not required, the landscaping and irrigation shall be installed within six months of the date of the land use approval.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (3) To verify that the landscaping, and irrigation, if required, has been installed per the approved plan, an inspection shall be made prior to any security being returned.
- (4) Required post-construction stormwater quality facilities incorporated into the required landscaped areas have been completed (or financially assured) consistent with the requirements of the Municipal Code and applicable post-construction stormwater quality permits.

3.109.05 Maintenance of Landscaped Areas.

It shall be the continuing obligation of the property owner to maintain required landscaped areas in an attractive manner free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained. Private post- construction stormwater quality facilities located in landscaped areas shall be maintained consistent with the terms of any operation and maintenance agreements between the property owner and the City.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.201 SPECIAL USE STANDARDS

3.201.01 Applicability of Special Use Standards

Special uses included in Chapter 3.202 to Chapter 3.21~~7~~³ are uses which, due to their effect on surrounding properties, must be developed in accordance with special standards. These special use standards may differ from the development standards established for other uses for property within the same zone. When a dimensional standard for a special use differs from that of the underlying zone, the standard for the special use shall apply.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.202 MANUFACTURED DWELLING PARKS

3.202.01 Development Standards

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918, and Chapter 10 of the Oregon Manufactured Dwelling and Park Specialty Code (OMDS) specify the standards and regulations for Manufactured Dwelling Parks in the State of Oregon.

- (A) Permitted Housing. Only Class "A" Manufactured Dwellings are permitted in Manufactured Dwelling Parks adjacent to areas that are predominantly developed with single-family residential dwellings. Class "A" or "B" Manufactured Dwellings are permitted in all other Manufactured Dwelling Parks. No manufactured dwelling shall be more than 10 years in age at time of placement.
- (B) Minimum Site Area. The minimum area for a park shall be one acre.
- (C) Density. Maximum density of the park shall not exceed 7 units per gross acre.
- (D) Access. Manufactured Dwelling Park access shall occur from a public Collector or Arterial street.
- (E) Permitted Uses: Manufactured Dwelling Parks may contain manufactured dwellings and accessory structures, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured dwelling for the use of a caretaker or a manager responsible for maintaining or operating the park.
- (F) Conditions. Upon granting site plan approval for a manufactured dwelling park, the Planning Commission may require establishment of deed covenants, conditions and restrictions (CC&Rs) or other conditions including but not limited to any of the following where such are deemed necessary for the mitigation of adverse impacts on an adjacent area:
 - (1) Limit the type of units to be installed.
 - (2) Additional landscaping or screening on the park boundary.
 - (3) Increased setbacks from park boundaries.
- (G) Improvement Standards. Park standards shall conform to The Oregon Manufactured Dwelling and Park Specialty Code within the Park boundary and shall conform to City Standards when abutting public streets.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (H) Streets. Public streets located within the Park and the first 100 feet of private Park streets connecting to a public street shall conform to City standards. Other private streets within the Park shall be no less than 30 feet in paved width in accordance with Table 10-C of the OMDS.
- (I) Perimeter Setbacks. Distance of a manufactured dwelling or accessory structure from an exterior park boundary shall be 20 feet.
- (J) Landscaping. All common areas within a Manufactured Dwelling Park shall be landscaped and maintained by the Park owner in conformance with an approved landscape and irrigation plan submitted as part of the application. This plan shall be drawn to scale. The plan will show the location of existing trees, vegetation proposed to be removed, vegetation proposed to be retained, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted, contour lines indicating any earth sculpting to be used, approved vegetated post-construction stormwater quality facilities within the landscape area and other pertinent landscape information.

All common areas within a manufactured home park, exclusive of required buffer areas, buildings, and streets, shall be landscaped and maintained in accordance with the following minimum standards per each 1,000 square feet of open area.

1. One 10-foot tree or two trees at least 5 feet in height.
 2. Three shrubs or perennials.
 3. The remaining area must be landscaped in an attractive ground cover. ~~(see Article 9).~~
 4. Long expanses of fence or wall along public streets shall be designed to prevent visual monotony through the use of offsets, landscaping, and change in materials. Fencing closer than 15 feet to the public right-of-way shall be subject to the zoning district's restrictions on front yard fencing. Landscaping shall include street trees within a public right-of-way in accordance with adopted street tree regulations of the City.
- (K) Perimeter Property Screening. The entire perimeter of the manufactured dwelling park shall be screened except for driveways and Clear Vision Areas. The following minimum standards shall apply:
1. One row of evergreen shrubs shall be planted which will grow to form a continuous hedge at least six feet in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within two years of planting; or

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

2. A minimum of a six-foot high wood fence or masonry wall shall be constructed, measured as provided in Chapter 3.107, providing a uniform sight obscuring screen; or
 3. An earth berm combined with evergreen plantings or wood fence or masonry wall shall be provided which shall form a sight and noise buffer at least six feet in height.
 4. The remaining area treated with attractive, living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.).
- (L) Utilities. All manufactured dwelling parks must provide each lot or space with storm drainage, municipal sanitary sewer, electric, telephone, and municipal water, with easements dedicated where necessary to provide such services. All such utilities shall be located underground. Utilities shall be connected in accordance with state requirements and the manufacturer's specifications.
- (M) Design and Submission Requirements. The submittal shall include sufficient information to indicate compliance with the requirements in Chapter 3.203.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.203 DESIGN STANDARDS FOR HOMES ON INDIVIDUAL LOTS

3.203.01 Scope

The provisions of this Chapter are applicable to all site built, modular and manufactured homes sited on individual lots in the City of Millersburg. Manufactured homes sited in approved mobile/manufactured home parks or manufactured home subdivisions are not affected by the provision of this Code.

3.203.02 General Standards – All [Single Family and Duplex Homes](#)

All new site built [single family and duplex homes](#) and modular homes constructed or located within the City shall have a two-car garage [for each dwelling unit](#) and shall also utilize at least two of the following design features to provide visual relief along the front of the dwelling:

- (A) Dormers
- (B) Gables
- (C) Recessed entries
- (D) Covered porch entry
- (E) Cupolas
- (F) Pillars or posts
- (G) Bay or bow windows
- (H) Eaves (minimum 12" projection)
- (I) Off-set on building face or roof (minimum 16")

3.203.03 General Standards – Manufactured Homes

Manufactured homes are permitted in all residential zones, in accordance with the following general standards, and the design standards set forth in Section [3.203.02](#). The minimum lot area, setback, and height standards of the subject zone shall also apply to manufactured homes sited on individual lots.

- (A) Size. The manufactured home shall be multi-sectional and have at least 1,000 square feet of gross floor area.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (B) Performance Standards. The exterior thermal envelope must meet the standards specified by state law for single family dwellings, as defined in ORS 455.010.
- (C) Removal of Towing Equipment. All towing hitches, wheels, running lights, and other towing related equipment shall be removed within 30 days after installation of the manufactured home.
- (D) Foundations. The manufactured home shall be placed on an excavated and back filled foundation with no more than 12 inches of inclosing material exposed above grade. Where the building site has a sloped grade, no more than 12 inches of the inclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 12-inch limitation shall not apply. Furthermore, the 12-inch limitation shall not apply if the requirements of the Flood Hazard District mandate that the home be elevated more than 12 inches above grade.

The foundation shall meet building code and Flood Hazard Area (if applicable) standards. The base of the manufactured home shall be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or a combination thereof.

- (E) Utilities. The manufactured home shall be provided with storm drainage, sanitary sewer, electric, telephone, and potable water utility services with easements dedicated where necessary to provide such services. All such utilities shall be located underground unless waived by the City Building Official where underground service would require an exception to local prevalent conditions. Manufactured homes shall not be occupied purposes unless connected to local water, sewer, and electrical systems.
- (F) Historical Sites. No manufactured home shall be located on property containing a historic landmark, or, on a lot or parcel immediately adjacent to property containing a historic landmark. For the purpose of this Chapter, a historic landmark is property designated by the Millersburg Comprehensive Plan as containing a significant historical resource.
- (G) Roofing. The manufactured home must have a composition asphalt, fiberglass, shake, or tile roof with a nominal pitch of four feet in height for each twelve feet in width.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (H) Exterior Siding and Finish. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings.
- (I) Garage. A garage of like material and color of the manufactured home is required. The garage shall be placed on the property prior to occupancy of the manufactured home.
- (J) Off-Street Parking. Parking and improvements shall be as specified in Chapter 3.103.

3.203.04 General Standards – Multi-Family Housing

For multifamily dwellings the site design plan submitted to the Planning Commission for its approval shall demonstrate compliance with the following design criteria:

- (A) Gross housing density shall not exceed 16 dwelling units per acre.
- (B) No single building shall contain more than eight dwelling units.
- ~~(C) Multifamily dwellings shall be either attached or detached townhouses, or townhouses/stacked flats.~~
- (D) All buildings will have architectural features breaking up expanses of wall so that no wall is longer than 30 feet without an intervening architectural feature. Features may include porches, stairways, recessed doors, off-sets in the building façade of at least 5 feet, and other features found by the Planning Commission to meet this intent.
- (E) A variety of building materials will be used to break up large lengths of wall and add architectural interest. This can include different paint colors and different materials such as masonry, rock, flagstone, varying wood styles, wood features such as columns and trim.
- ~~(EG) Impervious surface shall not cover more than 75% of the lot. All non-impervious land shall be permanently landscaped.~~
- ~~(FD) Side and rear yards shall be buffered from adjacent uses by fencing or hedges built, planted, and maintained in accordance with the Landscaping Section of this Article.~~
- ~~(GD) The plan shall show the location of all existing and proposed buildings and structures, parking areas, drainage facilities, utility services, access points,~~

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

lighting, signs, landscaping and other such data as may have a bearing on the adjacent properties.

3.204 HOME OCCUPATIONS

3.204.01 Standards

Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:

- (A) Staffing.
 - (1) If no person is employed other than a member of the family residing on the premises, the home occupation is allowed as a permitted use
 - (2) If persons other than a member of the family residing on the premises are proposed to be employed, a Conditional Use Permit is required.
 - (3) Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work, pick up, or deliver at the home occupation site.
 - (4) The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations.
- (B) Character. The character and primary use function of the residence and premises shall not be changed by the use of colors, materials design, construction, lighting, landscaping, or lack of landscaping.
- (C) Noise. A home occupation shall not create noise of a type, duration or intensity that is detectable to normal sensory perception, off the premises of the home occupation.
- (D) Equipment and Process Restrictions. No home occupation conducted within a single-family detached residence or an accessory structure shall create vibration, glare, fumes, odors, or electrical interference detectable to the normal sensory perception, off the property. In the case of electrical interference, nothing shall be used which creates visual or auditory interference in any radio or television off the premises.
- (E) Hazards. No equipment, process or material shall be used which will change the fire rating or structure separation, fire wall, or ventilation requirements for the structure in which the home occupation is located. No

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

hazardous materials shall be used or stored on the property on which a home occupation located in quantities not typical of those customarily used in conjunction with activities or primary uses allowed in the zoning district.

- (F) Signs. Signing shall be as provided in Chapter 3.106
- (G) On-Premise Client Contact. Customer and client contact shall be primarily by telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring, counseling or personal services, which cannot be conducted except by personal contact. Services or sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic.
- (H) Prohibited Businesses. The repair and/or maintenance of automobiles, trucks, recreational vehicles, trailers, motorcycles, farm equipment, boats, and, lawn mowers and other small engine equipment shall be prohibited.
- (I) Vehicles. Only one vehicle associated with the home occupation may be parked on the property or adjacent street.
- (J) Storage and Use of Yard Areas. Storage of tools, equipment and materials, and display of merchandise and all other activities associated with a home occupation, except as provided above for parking, shall be contained and conducted wholly within covered and enclosed structures and shall not be visible from the exterior of the containing structure(s). Home occupations which involve the care of children by a baby sitter, as defined in Section 1.200, may use yard areas for playground equipment.
- (K) Day Care. Day care facilities with 12 or fewer children shall not be subject to the provisions in this Section.

3.204.02 Process

Home occupations are allowed as an accessory use to any residential use in the City, subject to provisions in Chapter 4.103. The standards of this Section shall govern all home occupations.

3.204.03 Non-Compliance

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

Any home occupation which does not comply with the requirement of this Section and the provisions of the underlying district shall be a violation of this Ordinance and shall be subject to the penalties and remedies of this Code.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

**3.205 MANUFACTURED HOME, TRAILER, AND VEHICULAR
SALES, SERVICE, AND RELATED USES**

3.205.01 Scope

The provisions of this Chapter shall apply to the following uses:

- (A) Automobile service stations;
- (B) Automobile, truck, manufactured home, recreation vehicle or trailer sales;
- (C) Boat and marine accessory sales;
- (D) Motorcycle sales;
- (E) Retail tire shop, sales, service and repair;
- (F) Towing service.

3.205.02 Standards

In addition to other development standards established elsewhere in this Code, the following standards shall apply to the development of the uses listed in Section 152.315.01:

- (A) Paving Required. All parking areas, loading areas or areas used for storage of boats, automobiles, manufactured homes, recreational vehicles, trucks, trailers, motorcycles or other vehicles shall be paved with a concrete or asphalt surface. Alternative surfaces can be considered through a conditional use process.
- (B) Screening. The lot shall be screened from adjoining residentially zoned properties in accordance with the provisions of Chapter 3.107.
- (C) Outdoor Display Restrictions. All merchandise and supplies, other than vehicles, mobile homes, trailers and other vehicles for sale, shall be stored within a building.

**3.205.03 Yard Exceptions for Accessory Service Station Structures and
Equipment**

In a district where automobile service stations are permitted, free standing gasoline pumps and pump islands, identification signs and lighting standards

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

may occupy a required front or street side yard exclusive of a clear vision zone unless otherwise prohibited by this Code. In any zone, gasoline pumps and pump islands shall not be located so that any part of a vehicle being served shall extend into any public street right-of-way, alley or private drive used for access or egress to private property. Where an interior yard is not required and a structure is not located at the property line, it shall be set back at least 5 feet from the property line to accommodate access to the building.

3.205.04 Process

The uses listed in this Chapter shall be reviewed for compliance with the standards of this Chapter pursuant to the Site Development Review process set forth in Chapter 4.108.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.206 RESIDENTIAL ACCESSORY STRUCTURES

3.206.01 Single Family Residences

~~Residential accessory structures for attached or detached single family homes and duplexes shall be subject to the following regulations.~~

Residential accessory structures for attached or detached single family homes and duplexes, excluding Accessory Dwelling Units as defined in Section 3.207, shall be subject to the following regulations.

- (A) Dimensions and Design Requirements. Residential accessory structures shall be subject to the following requirements:

Structure Size (1)	Exterior Finish	Location on Property	Area Coverage for Accessory Structure (4)	Maximum Height
Up to 200 sf	No requirements	Side or Rear Yard	No Maximum	10 feet
200 to 600 sf	(2)	Side or Rear Yard	50% of Yard	20 feet
Over 600 sf	(2)	Rear Yard Only	35% of Yard	(3)
All	N/A	N/A	Total lot coverage standards as required per zone also apply to all accessory structures, including those not requiring a building permit.	N/A

- (1) Up to 11,000 square feet of lot size, maximum accessory structure size is 1,200 square feet; over 11,000 square feet of lot size, the structure may be increased an additional 100 square feet for each 1,000 square feet of lot size.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (2) For any accessory structure located on a lot of 11,000 or less, the exterior siding shall have the same general materials and color as the primary dwelling. Otherwise, there are no restrictions.
 - (3) The greater of 20 feet, or the height of the primary residence.
- (E) Setbacks. Accessory structures shall comply with the following setbacks:
- (1) Front and/or Street Side Yard: Comply with requirements of underlying zone.
 - (2) Side Yard: 5-feet plus 1-foot for every foot above 8-feet.
 - (3) Rear Yard: 10-feet plus 1-foot for every foot above 15-feet.
- (C) Multiple Accessory Structures. There shall be no limit to the number of structures, provided the structures in combination comply with the area coverage requirements. When there is more than one accessory structure within a yard, all provisions in this Chapter shall apply and shall be based on the total square footage of all accessory structures within the yard.
- (A) Prohibited Structures. The use of metal shipping containers or semi-truck trailers as an accessory structure shall be prohibited.

3.206.02 Multiple Family Developments

There shall be no limit to the size, number, location or exterior finish of accessory structures for multiple family developments, provided, the accessory structures shall comply with all setback, height restrictions and other dimensional and design requirements for the primary structure(s) and lot coverage requirements.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.207 SPECIAL RESIDENTIAL DWELLINGS

3.207.01 Accessory Dwelling Units

Where permitted as a special use, an ~~an residential~~ accessory dwelling unit (ADU) shall meet the following use and development standards:

- (A) Location. The ~~accessory residence~~ADU shall be located within the side or rear yard and physically separated from the primary residence by a minimum distance of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the setback requirements.
- (B) Number. Only one ~~accessory residence~~ADU shall be permitted per lot or parcel.
- (C) Design. The ~~accessory residence~~ADU must be the same roof pitch and material, color, and siding material as the primary residence. As an alternative, an applicant who wishes to use a design that differs from these requirements, may apply for a conditional use permit.
- (D) Area. The ~~accessory residence~~ADU shall contain the lesser of 25% of the floor area of the primary residence or 800 square feet. The minimum size is 250 square feet.
- (E) Setbacks. The minimum rear yard setback for a free-standing ~~accessory structure~~ADU shall be 10 feet; the minimum side yard setback shall 5 feet.
- (F) Height. The maximum height shall be 25 feet but in no case shall the height exceed the height of the primary residence.
- (G) Lot Coverage – The ~~accessory residence~~ADU shall be included in the lot coverage calculation.

3.207.02 Attached Dwellings

Attached dwelling units are single family homes on individual platted lots that are attached to a similar unit on one or two sides. Where permitted as a special use, attached dwelling units shall meet the following use and development standards:

- (A) Permitted Development. Any number of attached dwellings may be built contiguous with one or both sides of a separate platted lot with one dwelling per lot.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (B) Setbacks
 - (1) Zero side yard units shall comply with the setback requirements for the front yard, rear yard and yard adjacent to a street in the applicable zone.
 - (2) Interior side yard requirements of the applicable zone shall be met when any part of an exterior wall faces, but is not contiguous to, a side lot line. Otherwise, the interior side yard requirements shall not apply.

- (C) Building Separation. Buildings on adjacent properties, but not attached to each other, shall be separated by a distance of at least ten feet.

- (D) Accessory Buildings. The provisions of this section apply to accessory as well as main buildings.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.208 PERMITTED TEMPORARY USES

3.208.01 Purpose

The purpose of these regulations is to provide standards for the establishment of temporary businesses and similar uses within the City of Millersburg.

3.208.02 Permitted Uses

Where allowed, the following temporary uses shall be permitted subject to the following limitations and requirements:

- (A) Tree and Fireworks. Christmas tree or fireworks sales are permitted subject to the following:
 - (1) The sales shall be limited to Commercial or Industrial zones, except that sales may occur on those properties containing public or semi-public uses, such as schools or churches, regardless of the underlying zone.
 - (2) Unless otherwise excepted by provisions in this Section, the sales activity shall be subject to provisions in Section 3.208.02(B).
 - (3) Temporary uses located within Residential zones shall not operate beyond 9:00 PM.

- (B) Mobile Food Units. Mobile Food Units of all types are subject to the provisions of Section 3.215

- (B) Non-Food Related Commercial Activities. Amusement and recreational services and retail sales and services are permitted in the Commercial zone, subject to the following:
 - (1) The business may be operated from a vehicle, temporary structure or a vacant building.
 - (2) The activity is located on the same lot for no more than 90 days in any calendar year.
 - (3) The required parking for the primary uses on the same lot is not reduced below Code requirements.
 - (4) The use does not block driveways, driveway entrances or parking aisles.
 - (5) The activity conforms to all signage requirements in Section 3.106.
 - (6) The activity conforms to all setback requirements applicable to the lot and zone.
 - (7) The operator of a temporary use shall obtain all permits required by

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

other agencies including those required for food handling and sales, and the sale of fireworks.

~~(C) Food Services. Food services shall be subject to the requirements in (D) except that they may be located on the same lot for 180 days with unlimited renewals and provided the appropriate health certificates are obtained.~~

(D) Temporary Construction Facilities. Mobile offices, temporary power equipment and temporary structures used by personnel and to store equipment during construction, provided the structures are located on the construction site and not used as dwellings. There is no restriction as to the zoning.

(E) Yard Sales and Auctions. Yard sales or auctions in any zone, provided there are not more than four sales in a calendar year, with each sale not to exceed three consecutive days. Merchandise and signs shall remain on private property. This Section does not limit the number of times, or duration, that public agencies may conduct sales or auctions regard agency land, equipment, supplies or other materials.

(F) Additional Permitted Temporary Uses. The City Council may, by resolution, authorize additional permitted temporary uses during a specific event or festival and set forth reasonable types of uses, appropriate zones for such uses, and any time restrictions the Council finds necessary to protect the health, safety and welfare of the public.

(H) RVs as Temporary Habitation. The use of boats, trailers, detached campers, recreational vehicles, fifth-wheelers, motorized dwellings, travel trailers, tent trailers, tents and similar recreational facilities for temporary habitation is limited to 30 consecutive days or a total of 60 days in a calendar year within the City limits. ~~Exceptions and~~ shall require written authorization from the City.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.209 BED AND BREAKFAST ESTABLISHMENTS

3.209.01 Purpose

The purpose of this Chapter is to provide development guidelines and operating requirements for a bed and breakfast establishment within the City.

3.209.02 General Land Use Provisions

The following general development provisions shall apply:

- (A) Location. The establishment shall be located along, or within 300 feet, of a collector or arterial street.
- (B) Rooms. The bed and breakfast establishment shall be limited to a maximum of two guest rooms in the RL zones and four guest rooms in the RM and Commercial zones.
- (C) Room Restrictions. No guest room shall be located within a basement.
- (D) Building Modification. The guest rooms utilized by the establishment shall be part of the primary residential use and not specifically constructed for rental purposes. In no case shall the residential character be modified or altered to accommodate an establishment.
- (E) Parking. In addition to the parking requirements for the residence, one additional parking space shall be required for each guest room. The parking space(s) shall comply with the following improvement provisions:
 - (1) No parking shall be permitted within the designated front yard setback.
 - (2) Parking located within the side yard or rear yards shall be screened from adjacent residential zoned property shall be screened. Screening shall be provided by a six-foot sight-obscuring wood or chain-link fence; or, vegetative hedge.
- (F) Signs. Signs shall be limited to one non-illuminated wall-mounted sign not to exceed eight (8) square feet in area.

3.209.03 Operation Requirements

The following shall continually apply to the operation of the establishment:

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (A) Owner/Operator. The establishment shall be maintained and operated solely by the on-premise owner of the residence containing the bed and breakfast.
- (B) Retail Activity. No retail or other sales shall be permitted unless clearly incidental and directly related to the conduct of the establishment (e.g., coffee cups or t-shirts with the business logo).
- (C) Receptions. The establishment shall not be used by the public or paying guests for the hosting of receptions, weddings, private parties or similar functions.
- (D) Meals. Meals shall be limited to breakfast and snacks and shall be served only to overnight guests. The operator shall be responsible for obtaining necessary food service permits.
- (E) Safety. The improvements, maintenance and operation of the establishment shall continually comply with applicable building code, fire safety and health regulations.

3.209.04 Approval Process

Establishment of a bed and breakfast operation shall require approval of a Site Development Review per Chapter 4.108; a separate Home Occupation application or permit shall not be required.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.210 _____ HOUSES OF WORSHIP

3.210.01 Development Provisions

Where permitted as a special use, a house of worship shall meet the following use and development standards:

- (A) Setbacks. In, or abutting, every residential zone or use there shall be a 20-foot setback.
- (B) Landscaping. All required yard areas shall be landscaped.
- (C) Street Access. Unless permitted by the City, no more than two vehicle driveways per street frontage shall be permitted.
- (D) Parking. No off-street parking shall be permitted within a required yard area of within 10-feet of a residential zone or use.
- (E) Lighting standard. Shielding from adjacent residential property.
- (F) Screening of Off-street Parking. Where any portion of an off-street parking area is within 15-feet of a lot zoned or used for residential purposes, the perimeter of the parking area facing such residential zone or use shall be screened by a site obscuring fence, wall or hedge.
- (G) Bus Storage. The storage of buses used to transport members of the congregation is permitted, provided the buses are not parked closer than 20 feet to a property that is lot zoned or used for residential purposes.

3.210.02 Approval Process

Establishment of a house of worship shall require approval of a Site Development Review per requirements in Chapter 4.108

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.211 GENERAL STANDARDS

3.211.01 Lots of Record

- (A) A parcel is a legal lot of record for purposes of this Code when the lot conforms to all zoning requirements, subdivision requirements, and Comprehensive Plan provisions, if any, in effect on the date when a recorded separate deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract.
- (B) Lots in recorded plats may be combined under a single ownership for the purpose of developing the combined property, subject to approval of a property line adjustment.
- (C) The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use is commenced, irrespective of the lot width, street frontage, depth or area, but subject to all other regulations.

3.211.02 Lots Abutting a Partial Street

New structures which are proposed to be constructed on lots abutting an existing public street which does not meet the minimum standards of Section 3.102 for right-of-way width shall provide setbacks sufficient to allow for the future widening of the right-of-way. Building permits shall not be issued unless a yard setback equal to the minimum yard requirements of the zoning district plus the required minimum additional right-of-way width is provided.

3.211.03 Protection of Runoff Capacity of Natural Drainage Channels

A property owner shall not allow the water carrying capacity of any drainageway within his property to deteriorate and subsequently contribute to flood hazard. The property owner shall remove excess debris from the channel including dead vegetation and sediment. Neither shall any fill or garbage be dumped in any drainageway. Failure to maintain the water carrying capacity of the drainageway shall empower the City to enter the property and take whatever action is necessary to ensure that the carrying capacity of the drainageway is not impaired and then assess the real property and improvements for the cost of the City's actions. Grading permits may be required and are subject to provisions in Chapter 3.104.

3.211.04 Farm Uses and Livestock

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

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

- (A) Crops, Orchards and Gardens. The growing of crops, orchard products, vegetables or similar food items for personal use shall be permitted.
- (B) Livestock. The breeding, raising, boarding, or selling of horses, cows, bulls, mules, sheep, goats, alpacas, llama, emus, bees, or other similar farm animals, with the exception of swine which are not allowed, for domestic or commercial purposes, shall be allowed in accordance with the limitations below. The following animal use area regulations shall apply on lots of less than five acres:
- (1) Cows, horses, sheep, or goats cannot be kept on lots having an area of less than one acre.
 - (2) The minimum area for such animals (other than their young under the age of six months) on less than five acres shall be as follows:
 - a. Horses: One per acre, plus one additional for every 15,000 square feet.
 - b. Cows: One per acre, plus one additional for every 10,000 square feet.
 - c. Goat or sheep: Five per acre, plus one additional for every 2,000 square feet.
 - (3) The area of a property may be utilized one time only for the computation of the above allowable animal usage.
 - (4) When there is a residence on the property, 10,000 sf shall be deducted from the square footage of the property for calculation of allowable animal usage.
 - (5) Animal runs, stables, barns, and corrals shall not be located closer than 100 feet from property lines.
 - (6) Animals, shall be appropriately contained, or housed and proper sanitation shall be maintained at all times. All animal food (not including hay) shall be stored so as to be rodent proof.
- ~~The breeding, raising, boarding, or selling of horses, cows, bulls, mules, sheep, goats, alpacas, llama, emus, bees, or other similar farm animals, with the exception of swine which are not allowed, for domestic or commercial purposes shall be allowed on properties of 2.5 acres or larger. Smaller lot sizes require a conditional use permit.~~
- (C) Chickens and Rabbits. The keeping of chickens or rabbits in the Rural Zone, RU, may be approved subject to the following provisions.
- (1) The minimum property size is 10,000 square feet
 - (2) No person shall keep any rooster or other animals that produce annoying sounds.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (3) Products generated by the housed animals, other than eggs as regulated in (D) below, shall not be sold from a residential property.
- (4) Each property shall be allowed no more than five animals. Animals cannot be housed within a residence or garage, except that young chickens less than 12 weeks of age may be housed in a garage.
- (5) The animals shall be provided with a covered, predator-proof housing that is thoroughly ventilated, of sufficient size to admit free movement of the of the animals, designed to be easily accessed, cleaned and maintained by the owners.
- (6) The housing shall be at least 3 square feet per animal in size and shall conform to the requirements of a non-habitable one-story accessory structure specified in Section 3.206 with the exception that the height of the animal housing shall not exceed an eve height of 10 feet.
- (7) The housing shall be so constructed or repaired as to prevent mice or other rodents from being harbored underneath, within, or within the walls of the enclosure.
- (8) The animals shall be shut into the housing at night, from sunset to sunrise.
- (9) During daylight hours the adult animals shall have access to the housing and, weather permitting, shall have access to an outdoor enclosure adequately fenced to contain the animals and to prevent access to the animals by dogs or other predators.
- (10) The outdoor, open-air portion of the enclosure shall provide at least 10 square feet per animal.
- (11) Animals shall be kept in a fenced enclosure at all times. Fencing shall comply with Section 3.107.
- (12) A sight-obscuring fence shall be used to visually screen the housing and fenced enclosure from any adjacent property or abutting street.
- (13) All portions of the housing and fenced enclosure shall be located in the rear yard and setback as follows:

 - (a) At least 8 feet behind the rear building plane
 - (b) At least 10 feet from any side or rear property line; and
 - (c) At least 25 feet from any abutting sidewalk or road right-of-way.
- (14) A property owner that houses animals shall not cause, permit or allow a nuisance to others. Any nuisance violation that is not abated upon notification may be cause for removal of all animals.
- (15) A property owner's non-compliance with these standards is subject to citation and/or removal of all animals. A property owner who has been ordered by the City to remove all animals on their property

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

may not be allowed to keep livestock or poultry on that property in the future.

(16) It is the continuing responsibility of the owner to properly contain and restrain all animals and to maintain proper sanitation at all times, and further provided that such raising activities are not part of nor conducted in conjunction with any live stock sales yard, slaughter house, or animal by-product business.

(17) The above standards are the minimum. Additional site area or other standards may be required to comply with specific site conditions or Health and Sanitation Standards.

~~The raising of chickens or rabbits for on-site home consumption or use in the Rural Zone, RU may be approved by the City Manager in accordance with Code Section 1.170.~~

~~(1) Any person seeking to keep chickens or rabbits in the City of Millersburg's Rural Zone, RU, shall apply for and obtain approval from the City Manager in accordance with Code Section XXXXX prior to acquiring the animals.~~

~~(2) Any person seeking to keep other animals of a similar type may also apply for consideration. The term "animal" as used herein refers to mammals, fowl and livestock. The keeping of pets such as dogs or cats are not addressed in this Code Section.~~

~~(3) The minimum property size is 10,000 square feet~~

~~(4) The application shall include a map or sketch showing the location of the proposed chicken house and fenced pen area and all adjacent lots, sidewalks, road rights-of way and adjacent dwellings.~~

~~(6) The application shall include the property owner's consent to allow any city official access to the exterior portions of the applicant property for the purposes of investigating complaints, observation of raising facilities, or ensuring continued compliance with these standards.~~

~~(7) The City Manager may approve or deny the permit based upon the documentation received, provided that there have been no documented violations of any City Animal Control Ordinances or Agricultural Use Standards by the applicant or property owner.~~

~~(8) No person shall keep any rooster or other animals that produce annoying sounds.~~

~~(9) Products generated by the housed animals, other than eggs as regulated in (D) below, shall not be sold from a residential property.~~

~~(10) Each applicant shall be allowed no more than five animals. Animals cannot be housed within a residence or garage, except that young chickens less than 12 weeks of age may be housed in a garage.~~

~~(11) The animals shall be provided with a covered, predator-proof housing that is thoroughly ventilated, of sufficient size to admit free movement of the of the animals, designed to be easily accessed, cleaned and maintained by the owners.~~

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

~~(12) The housing shall be at least 3 square feet per animal in size and shall conform to the requirements of a non-habitable one-story accessory structure specified in Code Section XXXXX with the exception that the height of the animal housing shall not exceed an eave height of 10 feet.~~

~~(13) The housing shall be so constructed or repaired as to prevent mice or other rodents from being harbored underneath, within, or within the walls of the enclosure.~~

~~(14) The animals shall be shut into the housing at night, from sunset to sunrise.~~

~~(15) During daylight hours the adult animals shall have access to the housing and, weather permitting, shall have access to an outdoor enclosure adequately fenced to contain the animals and to prevent access to the animals by dogs or other predators.~~

~~(16) The outdoor, open-air portion of the enclosure shall provide at least 10 square feet per animal.~~

~~(17) Animals shall be kept in a fenced enclosure at all times. Fencing shall comply with Code Section XXXXX.~~

~~(18) A sight-obscuring fence shall be used to visually screen the housing and fenced enclosure from any adjacent property or abutting street.~~

~~(19) All portions of the housing and fenced enclosure shall be located in the rear yard and setback as follows:~~

~~(a) At least 8 feet behind the rear building plane~~

~~(b) At least 10 feet from any side or rear property line; and~~

~~(c) At least 25 feet from any abutting sidewalk or road right-of-way.~~

~~(19) A property owner that houses animals shall not cause, permit or allow a nuisance to others. Any nuisance violation that is not abated upon notification may be cause for removal of all animals.~~

~~(20) A property owner's non-compliance with these standards is subject to citation and/or removal of all animals. A property owner who has been ordered by the City to remove all animals on their property may not be allowed to keep livestock or poultry on that property in the future.~~

~~(21) It is the continuing responsibility of the owner to properly contain and restrain all animals and to maintain proper sanitation at all times, and further provided that such raising activities are not part of nor conducted in conjunction with any live stock sales yard, slaughter house, or animal by product business.~~

~~(22) The above standards are the minimum. Additional site area or other standards may be required to comply with specific site conditions or Health and Sanitation Standards.~~

(D) Stands selling produce or eggs produced on-site are permitted subject to the following standards:

(1) The stand is no more than 200 square feet in size.

(2) The stand may not be located in the right-of-way or block a driveway.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.211.05 General Exception to Building Height Limitations

Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar objects not used for human occupancy may be constructed to a height not to exceed 1.25 times the height limit for the zone.

3.211.06 Height Exceptions for Public Buildings

Public or quasi-public buildings, religious buildings, hospitals, and educational institutions when permitted in a zone may be constructed to a height not to exceed 1.75 times the height limit for the zone, provided all the required yards are increased one foot for each two feet of additional building height above the height regulation for the zone.

3.211.07 Additions to Existing Structures

When structures exist at the time a zone is adopted which do not comply with an individual yard setback restriction, additions to such structures not conforming to the yard setbacks shall be allowed, provided:

- (A) The setback distance will not be decreased by the addition.
- (B) The addition conforms to all other provisions of the zoning district.
- (C) The addition shall not be greater than forty ~~(40)~~ percent of the square footage on the ground level of the existing structure.

3.211.08 Miscellaneous Exceptions to Setback Requirements

Setback limitations stipulated elsewhere in this Code may be modified as follows:

- (A) Bus Shelters. Bus shelters which are intended for use by the general public and are under the ownership and/or control of a city, county, state or municipal corporation shall be exempt from setback requirements, provided they do not violate clear-vision provisions in Section 3.108.06~~XX~~.
- (B) Underground Structures. Side and rear yards of underground structures may be reduced to 3 feet except:
 - (1) Where the perimeter wall of the structure is above the natural elevation of the adjacent ground, in which case the setback provisions of the district shall apply.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (2) All openings into the structure, including doors, windows, skylights, plumbing, intake and exhaust vents, shall meet the minimum setbacks of the district.
- (C) Public Dedication. Setback restrictions of this Code shall not apply to existing structures where the setback is reduced by a public dedication.
- (D) Special Right-of Way. The placement of buildings and the establishment of yards shall conform the right-of-way widths for existing and proposed street alignments shown on the Millersburg Street Plan as follows:

<u>TYPE OF STREET</u>	<u>RIGHT-OF-WAY WIDTHS</u>
Arterials:	
Old Salem Road	80 feet
Conser Road	60 feet
Millersburg Drive	60 feet
Morning Star Road	60 feet
Future Arterial Streets	60 feet
Collectors:	
Woods Road	60 feet
Alexander Lane	60 feet
Future Collector Streets	60 feet
Local Access Streets	50-60 feet
Existing and Future Local Access Streets	
Industrial Service Streets	60 feet
Existing and Future Industrial Service Streets	

- (E) Commercial & Industrial Setbacks. In commercial or industrial districts where an interior yard is not required and a structure is not located at the property line, it shall be set back at least ~~five (5)~~ feet from the property line to accommodate access to the building.
- (F) Drainageway Setback Provisions
 - (1) All fish-bearing streams and all year-round flowing streams shall have a minimum setback of 50 feet from the top of each bank. Additional setbacks may be required for riparian areas, wetlands.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

and floodplains. Building Permit applications and land use applications to the City shall clearly indicate the boundary limits for riparian areas, wetlands, and floodplains. Alteration of these areas, other than for continuation of agricultural use, by grading or placement of structures or impervious surfaces is prohibited unless approved by the City in accordance with the procedures of this Code and State Law.

- (2) All other intermittent drainageways and watercourses shall have a minimum setback that includes the vegetative fringe, top of bank or a minimum 15 feet from the center of the drainageway whichever is greater.

3.211.0910 Permitted Uses - All Zones

The following uses and activities are permitted in all zones:

- (A) Placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains, and detention basins within rights-of-ways by public agencies and utility companies for telephone, TV cable, or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, wastewater, sewage and rainwater.
- (B) Railroad tracks and related structures and facilities located within rights-of-ways controlled by railroad companies.
- (C) Surfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, transit stops, landscaping and related structures and facilities located within rights-of-ways controlled by a public agency.
- (D) Expansion of public right-of-way and widening or adding improvements within the right-of-way, provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan.

3.211.104 Nonconforming Uses

- (A) Continuation. A nonconforming use may be continued although not in conformity with the regulations for the zone in which the use is located.
- (B) Discontinuation. If a nonconforming use is discontinued for a period of more than one year, the use shall not be resumed unless the resumed use conforms with the requirements of the Code.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

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

- (D) Alteration and Change of Use. Alterations or changes in a nonconforming use may be permitted to reasonably continue the use. Such alterations or changes are subject to the Nonconforming Use provisions in Chapter 4.110.

- (E) Exemptions. Non-conforming single-family homes may be ~~modified,~~ expanded or expanded in compliance with development requirements of the Residential MixedLow Density zone without the need to comply with the requirements and procedures in Chapter 4.110.

3.212 WETLAND AND RIPARIAN AREAS ~~S-OVERLAY (WRO)~~

3.212.01 Definitions

Wetland Areas are defined as those areas that are inundated or saturated often enough to support a prevalence of vegetation adapted for life in standing water or saturated soil. Wetlands include swamps, bogs, marshes and similar areas.

Riparian Areas are those areas adjacent to a water resource that display transitions between terrestrial and aquatic zones. These areas are beneficial to a large number of organisms and provide for flood storage amelioration, erosion control and bank or slope stabilization. This is the zone where vegetative material is deposited, where significant shading of streams can occur, where humidity is typically higher and temperatures typically cooler. Thermal regulation, erosion control, flood control, water quality, and wildlife habitat are primary functions of riparian areas.

3.212.02 Development Requirements and Process

- (A) Regulation. Development within significant wetland or riparian areas is prohibited unless replacement or enhancement mitigation is accepted by the regulatory agencies. The Oregon Division of State Lands (DSL) is the coordinating agency for wetland permits. The US Army Corp of Engineers (Corps) is the federal regulatory agency administering Section 404 of the National Clean Waters Act. There are also other state and federal coordinating agencies including DLCD.
- (B) Applicant Notice. All Applications for development of land within the City of Millersburg shall provide the City with information on the possible presence of wetlands or riparian areas on the property in conformance with **Section 2.140 (15)**. The City shall provide written notice to the Applicant that there may be a potential need for state and federal permits due to the possible presence of wetlands or riparian areas on the property.
- (C) City Notice. **ORS 227.350** specifies that cities shall provide notice of proposed wetlands development to the Division of State Lands.

The city shall provide notice to the DSL, the applicant and the owner of record, within 5 working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory Map or other sources utilized by the City

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

1. Subdivisions;
 2. Building permits for new structures;
 3. Other development permits and approvals that allow physical alteration to the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
 4. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
 5. Planned unit development approvals.
- (D) The provisions of Subsection (C) of this Section do not apply if a permit from the division has been issued for the proposed activity.
- (E) Approval of any activity described in Sub-section (2) above shall include one of the following notice statements:
1. Issuance of a permit under **ORS 196.600 to 196.905** by the division required for the project before any physical alteration takes place within the wetlands;
 2. Notice from the division that no permit is required; or
 3. Notice from the division that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.
- (F) If the division fails to respond to any notice provided under Subsection (2) of this section within 30 days of notice, City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.
- (G) The City may issue conditional local approval for property identified as having wetlands or riparian areas by providing the applicant and the owner of record of the affected property a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the division with a copy of the notification.
- (H) Notice of activities authorized within an approved wetland conservation plan shall be provided to the division within five days following local

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

approval.

- (I) Failure by the City to provide notice as required in this section will not invalidate City approval.
- (J) The WRO requirements shall apply to the property in addition to the standards of Primary Zone when a designated wetland or riparian area has been identified on the property.

3.213 PLANNED UNIT DEVELOPMENT (P.U.D.)

3.213.01 Purpose

The purpose of Planned Unit Development regulations is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. Planned Unit Developments are intended to allow substantial flexibility in planning and designing a proposal. This flexibility often is in the form of relief from compliance with conventional zoning ordinance site and design requirements. This flexibility must result in a development that is better planned, contains more amenities, and ultimately more desirable to live in than one produced in accordance with typical subdivision controls.

While greater density or more lenient siting requirements may be granted, the Planned Unit Development should contain features not normally required of traditional developments. This requires greater scrutiny on the part of the City to assess a proposal. To realize these objectives and enable thorough analysis of a Planned Unit Development, more information is demanded about the proposal than would be required if development were being pursued under conventional subdivision requirements.

3.213.02 Objectives

Through proper planning and design, each PUD should include features which further, and are in compliance with, the following objectives:

- (A) To design developments that are architecturally and environmentally innovative, and that achieves better utilization of land than is possible through strict application of standard zoning and subdivision controls.
- (B) To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural conditions.
- (C) To combine and coordinate architectural styles, building forms, and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner.
- (D) To provide for abundant, accessible, and properly located open and recreation space.
- (E) To ensure that development occurs at proper locations, away from

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

environmentally sensitive areas, and on land physically suited to construction.

- (F) To enable land developments to be completely compatible and congruous with adjacent and nearby land developments.

3.213.03 Ownership

The site of the Planned Unit Development must be under single ownership and/or unified control.

3.213.04 Uses Permitted

A Planned Unit Development is allowed only in the Mixed Use Zone. In a Planned Unit Development only the following uses are permitted:

- (A) Residential Uses.
- (B) Recreational facilities including, but not limited to, tennis courts, swimming pools, and playgrounds.
- (C) Open space.
- (D) Schools, libraries, community halls, and houses of worship.
- (E) Offices, buildings, and facilities required for the operation, administration, and maintenance of any Planned Unit Development and for recreation purposes, such as golf courses, recreation rooms, and vehicle storage areas.
- (F) Commercial uses identified as permitted uses in the Mixed Use Zone provided:
 - (1) Commercial establishments shall be designed to be an integral part of the general plan of development for the Planned Unit Development and provide facilities related to the needs of the prospective residents.
 - (2) Commercial establishments and their parking areas shall not occupy more than one ~~(1)~~ acre per fifty ~~(50)~~ dwelling units.
 - (3) Commercial establishments will be located, designed, and operated to efficiently serve frequent trade and to serve the needs of persons

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

residing in the Planned Unit Developments.

- (4) Commercial establishments will not, by reason of their location, construction, or operation, have adverse effects on residential uses within or adjoining the district, or create traffic congestion or hazards to vehicular or pedestrian traffic.

3.21302.05 Development Requirements

Planned Unit Developments shall comply with the following requirements:

- (A) Relationship to Standards of the Underlying Zoning District. In cases of conflict between standards of the underlying zone and the Planned Unit Development provisions, the PUD provisions shall apply.
- (B) Minimum Site Area. If the Planned Unit Development will result in common open space being privately maintained, the PUD shall contain sufficient area to provide a minimum of fifty ~~(50)~~ residential units based on the density requirements of this Section.
- (C) Site Adaptation: To the maximum extent possible, the plan and design of the development shall assure that natural or unique features of the land and environment is preserved.
- (D) Residential Density: Permitted density of development in all PUDs shall be determined in accordance with the following procedures:
 - (1) Determine total gross site area (G.S.A.)
 - (2) Multiply the G.S.A. by .85 to determine the Net Site Area (N.S.A.).
 - (3) Deduct from the N.S.A. any proposed commercial areas or nonresidential uses to determine Net Developable Site Area (N.D.S.A). Open space areas and hillside areas which will be in open space areas are not required to be deducted.
 - (4) Determine maximum density of development in accordance by multiplying the NDSA by 10 units per acre.
- (E) Lot Area. Except as otherwise required by these provisions, the minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a Planned Unit Development is proposed do not apply within a PUD.
- (F) Lot Arrangement: All residential buildings shall be located adjacent to an open space area, recreational area or recreational facility. If direct access

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

to these areas is not provided for each residential building, then a walkway or sidewalk accessing such facilities shall be located no more than 200-feet from any residential building.

- (G) Housing Types. With the exception of manufactured homes, single family homes, and duplexes, which are not allowed in the Mixed Use Zone, there are no restrictions as to housing types, provided, multiple family units shall be limited to no more than 350% of the units.
- (H) Structure Setback Provisions: Yard setbacks for lots on the perimeter of the project shall be a minimum of 20-feet. Detached structures on individual lots shall maintain a minimum front, side or rear yard setback of five feet. A minimum yard setback of 20-feet shall be required for any garage structure whose opening faces onto a public street. Otherwise, the minimum setbacks of the underlying zone do not apply.
- (I) Common Open Space: At least 20% of the gross acreage shall be devoted to open space, outdoor recreational areas or recreational facilities. At least one-half of the designated open space shall contain slopes less than 10%. Open space may include pedestrian access routes, bicycle trails, natural or landscaped buffer areas, recreational facilities and buildings and similar areas reserved for common use. Streets and on-street parking spaces shall not be considered open space.

If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.

- (J) Circulation:
 - (1) Roads and pedestrian and bikeway paths shall be an integrated system designed to provide efficient and safe circulation to all users. Pedestrian/bikeway paths shall be integrated into the open space areas.
 - (2) Pedestrian/bikeways shall be clearly signed and have adequate crossing facilities where warranted.
- (K) Off-Street Parking. Off-street parking requirements shall be as specified in Chapter 3.1036 of this Code. Parking may be provided on each lot or in clustered parking areas. Additional off-street parking for guests and

ARTICLE III DEVELOPMENT REQUIREMENTS

recreational vehicles may be required if warranted by reduced lot sizes and/or traffic volumes.

- (L) Utilities. In addition to other requirements set forth herein, the following shall apply:
- (1) All sewer and water provisions shall be approved by the City before construction of such improvements.
 - (2) All utility services shall be placed underground.
 - (3) Provisions shall be made for fire prevention, including service water lines, fire hydrant location, and emergency access for fire-fighting equipment.
 - (4) Provision shall be made for control of site storm water drainage in accordance with the City Engineering Standards.
- (M) Homeowners Association - A non-profit incorporated homeowner=s' association, or an alternative acceptable to the City, shall be required for improving, operating, and maintaining common facilities, including open space, drives, service and parking areas, and recreation areas. The following shall be observed in the formation of a homeowner's association:
- (1) A homeowner's association shall be set up before approval of the final plat, or any portion thereof.
 - (2) Membership shall be mandatory for each home owner and any successive buyer.
 - (3) The open space restrictions shall be in perpetuity.
 - (4) The homeowner's association shall be responsible for liability insurance, applicable taxes, and the maintenance of recreational and other facilities.
 - (5) ~~Home owners~~Homeowners shall pay their pro-rated share of the cost or the assessment levied by the association shall become a lien on the property.
 - (6) The association shall be able to adjust the assessment to meet changes needed.
 - (7) No change in open space use or dissolution of homeowner's association shall occur without a public hearing before the Planning Commission and approval by the City Council.
 - (8) The property, all lots and owners thereof, the association and all members thereof, shall be subject to the Oregon Planned Community Act, ORS 94.550.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.213.06 Conditions of Approval

The Planning Commission may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to ensure that public services and facilities are available to serve the proposed development; to protect the natural environment and conserve natural resources; to ensure compatibility with adjacent uses of land; to ensure compliance with the design standards contained within this Section; and, to ensure the Planned Unit Development will be developed as approved by the City.

3.213.07 Modification of an Approved PUD

A new public hearing shall be required if any one of the following changes is proposed to an approved planned unit development site plan:

- (A) An increase or decrease in the number of dwelling units.
- (B) An increase or decrease in the open space or recreational space.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.214 RECREATIONAL VEHICLE PARK STANDARDS

Oregon Revised Statutes Chapter 446 and Oregon Administrative Rules Chapter 918, Division 650 specify the standards and regulations for Recreational Vehicle (RV) use in the State of Oregon. Approved RV parks shall comply with the State of Oregon Standards and the standards of this Section:

- (A) **Where Permitted:** RV Parks may be permitted in the Limited Industrial Zone - LI adjacent to a City Arterial Street in accordance with the Conditional Use procedures of **Section 5.1072.500.**
- (B) Each RV space shall be not less than one thousand square feet exclusive of any common park areas.
- (C) Roadways shall be paved and designed to permit easy access to each RV space. Road widths shall **meet the requirements for local residential streets. All other design features shall meet fire apparatus access road requirements.**~~be not less than 30 feet if street parking is permitted on one side, or less than 20 feet if street parking is not permitted.~~
- (D) Each RV space shall be paved and designed to provide runoff of surface water. All unpaved areas shall be landscaped, and the park shall be screened on all sides by a 6-foot-high sight-obscuring hedge or fence.
- (E) The total number of parking spaces in the park shall be equal to 1.25 spaces per RV space. All parking spaces shall be paved.
- (F) Each RV space shall be provided with electrical service, piped potable water and sewage disposal service. All RV's with service connections staying in the park shall be connected to these services.
- (G) The park shall be maintained in a neat appearance at all times. There shall be no outside storage of materials or equipment. Trash receptacles shall be provided at convenient locations and in adequate number and capacity.
- (H) RV's are limited to a stay of no more than six months in any 12 month period.
- (I) The park shall provide toilets, lavatories, and showers for each sex in ratios specified by the State of Oregon for each recreational vehicle space. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in separate buildings, or, if in the same building, shall be separated by a soundproof wall.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

(J) The park shall provide one utility building or room containing three clothes washing machines, one clothes drying machine, and 50 square feet of space for each 50 recreational vehicle spaces.

(K) Public building spaces shall be lighted at all times of night and day; shall be ventilated; shall be provided with heating facilities which shall maintain a room temperature no lower than 65° F; shall have floor of waterproof material; shall have sanitary ceiling, floor, and wall surfaces; and shall be provided with adequate floor drains to permit easy cleaning.

(L) **Design and Submission Requirements:**

(1) Professional Design Team: The applicant for proposed for Recreational Vehicle (RV) Parks shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.

(2) Plot Plans Required: The Site Plan Review application for a new or expansion of an existing RV Park ~~shall be accompanied by twelve copies of the plot plan of the proposed park and~~ shall contain the following information in addition to that required in **Section 5.1082.400** for Site ~~Development~~Plan Reviews:

1. Name and type of Park, address, owner, Design Team members, scale, date and north point of plan.
2. A vicinity plan showing streets and properties within 500 feet of the development site.
3. Plot plan of park boundaries and the location, dimensions and number of RV spaces. Number each space and demonstrate that planned spaces can reasonably accommodate a variety of ~~MH or~~ RV types.
4. Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas.
5. Location and dimensions of roads, accessways, parking, loading facilities, garbage receptacles and walkways.
6. Extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
7. Location of lighting fixtures for park spaces and grounds.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

8. Location and area of recreation spaces and buildings in square feet.
9. Locations where park water, sewer, drainage and utility systems connect to City systems.
10. Location of existing and proposed fire and irrigation hydrants.
11. Enlarged plot plan of a typical RV space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalk, utility connections, and landscaping.
12. Architectural drawings and sketches demonstrating the planning and character of the proposed development.
13. A construction time schedule and development phasing plan.
14. Detailed plans required. Prior to application for a building permit to construct a new Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:
 1. A legal survey.
 2. Plans of new structures.
 3. Water and sewer systems.
 4. Utility easements.
 5. Road, sidewalk, and patio construction.
 6. Drainage system, including existing and proposed finished grades.
 7. Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.
 8. Landscaping and irrigation plans.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.215 MOBILE FOOD UNITS AND VENDORS

Food Vendor Classifications and Vendors

(A) All vendors shall meet these requirements and regulations of the City.

1. The use shall be limited to the preparation and/or sale of food and beverages.
2. The structure shall retain the ability to be moved and will not involve any structure requiring a building permit except a Food Kiosk or Food Pod.
3. The use shall not be conducted within public rights-of-way unless a permit is issued by the City for this purpose.
4. The use shall be conducted on private or public property only with written consent of the property owner.
5. Business operations for a food stand or a food cart shall only be conducted between 7:00 AM and 7:00 PM except the hours can be extended earlier or later by the City Manager upon a finding the extended hours will not create negative impacts on surrounding properties due to noise, light, traffic, and similar factors.
6. The use shall conform to all setback standards, vision clearance requirements, and other standards of the zone in which it is located.
7. The use shall not block driveways, entrances, fire lanes, or parking aisles. Food trucks or trailers may not be placed in a landscaped area required by this code.
8. The use may be connected to water and sewer by approved temporary connections only. No discharge will be made into any stormwater system.
9. Signs associated with the mobile food unit use shall be limited to six square feet total surface area of all sign faces. Menu boards are not signs, but are limited to six square feet total surface area. All other signs must be approved per the requirements of Section 3.106.
10. A trash receptacle shall be located within 10 feet of the use and shall be emptied and maintained by the operator of the mobile food cart.
11. The operator of the uses shall possess valid county certification of compliance with health and sanitation standards as applicable.

Failure to comply with these standards may result in the Mobile Vendor Permit being revoked by the City Manager, which will require the business operation to cease and the stand, cart, or vehicle to be removed from the site.

(B) The Location and Development Standards are summarized in the following tables:

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

<u>Location Standard</u>	<u>Food Stand</u>	<u>Food Carts and Food Vans/Trailers</u>	<u>Food Van/Trailer and Food Pods</u>	<u>Food Kiosks</u>
<u>Permitted in RL – Low Density</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>
<u>Permitted in RU – Rural</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>
<u>Permitted in RM – Mixed Density</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>Permitted in MU – Mixed Use</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>Permitted in CP – Office</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>Permitted in GC - Commercial</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Permitted in LI – Industrial</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Permitted in GI - Industrial</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Permitted in P – Public</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>

<u>Development Standard</u>	<u>Food Stand</u>	<u>Food Carts and Food Vans/Trailers</u>	<u>Food Van/Trailer and Food Pods</u>	<u>Food Kiosks</u>
<u>Permitted in landscape areas</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>Permitted on paved areas</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Permitted on gravel areasⁱ</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Permitted in parking lot aisles, driveways, or fire lanes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>
<u>Permitted on undeveloped lots</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Drive Through allowedⁱⁱ</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>
<u>Utility Connection allowedⁱⁱⁱ</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Utility Connection Required³</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Yes</u>
<u>Required to meet design standards of zone</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Yes</u>

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

<u>Development Standard</u>	<u>Food Stand</u>	<u>Food Carts and Food Vans/Trailers</u>	<u>Feed Van/Trailer and Food Pods</u>	<u>Food Kiosks</u>
<u>Parking Required</u>	<u>No</u>	<u>No</u>	<u>Yes^{iv}</u>	<u>Yes⁴</u>
<u>Limited daily duration^{5v}</u>	<u>Yes</u>	<u>Yes</u>	<u>N/A^{Yes}</u>	<u>N/A</u>
<u>Limited number of days^{6vi}</u>	<u>Yes</u>	<u>Yes</u>	<u>N/A^{Yes}</u>	<u>N/A</u>
<u>Site Development Review Required</u>	<u>No</u>	<u>No</u>	<u>No for Food Van/Trailer, except Yes if a drive-through is proposed. Yes for Food Pod</u>	<u>Yes</u>

¹ Parking on gravel surfaces limited to a maximum of 180 days in any 365 day period

² Subject to approval through Site Development Review process

³ No discharge of liquids onto the ground or into the stormwater system allowed

⁴ See parking standards – Section 18.05.R

⁵ Business operations for a food stand or a food cart shall only be conducted between 7:00 AM and 7:00 PM except the hours can be extended earlier or later by the City Manager upon a finding the extended hours will not create negative impacts on surrounding properties due to noise, light, traffic, and similar factors.

⁶ The use and structure may only be in place 90 days in any 180-day period

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

Section 3.216 **COMMERCIAL DESIGN STANDARDS**

3.216.01 **Purpose**

The purpose of Commercial Design Standards is to create commercial developments and areas presenting a relatively attractive vista to those passing by or patronizing the commercial businesses, thereby enhancing the ability to attract business investment and the livability of the community.

3.216.02 **Applicability**

(A) The Commercial Design Standards apply to:

- (1) all new construction of commercial and office buildings in all zones,
- (2) all additions to existing commercial or office buildings exceeding 25% of the floor area of the existing building,
- (3) all remodels, resurfacing, or repainting of existing building facia,
- (4) all paving or expansion of existing parking lots, and
- (5) all revisions to existing landscaping when the revision involves more than 25% of the existing landscaped area.

3.216.03 **Commercial Design Standards**

(A) Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using the installation of a combination of architectural features and a variety of building materials. Walls that can be viewed from adjacent public streets including Interstate 5 shall be designed with windows totaling a minimum of 10 percent of the wall area and using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.

(B) Architectural features include, but are not limited to, the following: recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures, or other features that complement the design intent of the structure and are approved in the Site Design Review process.

(C) The predominant building materials shall be brick, wood, stone, and tinted/textured concrete masonry units, or glass products, or a combination thereof. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or prefabricated steel panels shall not exceed 25% of the material used for walls adjacent to the street or 75% of any other wall. All roof

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

types are allowed including metal roofs, however, flat roofs shall be surrounded by a vertical extension of the adjacent wall.

(D) Exterior colors shall be of low reflectance and shall be earth tone or dark shades of primary or secondary colors. The use of high intensity colors such as black, neon, metallic or fluorescent for the facade and/or roof of the building is prohibited except as approved for building trim.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

| z

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

3.217 WIRELESS COMMUNICATION FACILITIES

73.217.01 Introduction and Purpose

- (A) This section provides the standards and regulations for Wireless Communication Facilities (WCFs), including antennas and all the structures associated with the receiving or capturing of incoming and/or transmitting outgoing communications transmitted from, or to be received by, other antennas. Wireless Communications Facilities will often be referred to as “WCFs” and/or “facilities” within this Chapter.
- (B) The provisions of this chapter do not apply to radio or television reception antennas, satellite or microwave parabolic antennas not used by wireless communications service providers, to any antenna support structure or antenna lawfully in existence within the City on the effective date of this chapter, receiving antennas for Direct Broadcast Service (DBS) thirty-nine inches or less in diameter, or commercial radio or television broadcasting facilities.
- (C) The purposes of this Chapter include the following:
- (1) To establish standards that regulate the placement, appearance and impact of wireless communication facilities (WCFs), while providing residents with the ability to access and adequately utilize the services that these facilities support. Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities may affect not only the neighboring residents, but the community as a whole. The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially in or near sensitive areas and environments, including residential areas.
 - (2) To minimize potential adverse health, safety, public welfare, or visual impacts of WCFs, through careful design, siting, construction, landscaping, and innovative visual compatibility techniques.
 - (3) To encourage shared use/co-location of WCFs as a primary option rather than construction of additional single-use towers.
 - (4) To encourage utilization of technology and business practices that will either eliminate or reduce the need for construction of new tower facilities.
 - (5) To protect the health, safety, public welfare, and property of the community, by ensuring that WCFs are sound and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound.
 - (6) To protect the public interest and existing public and private investment in infrastructure for Wireless Communications services. For example, the introduction of new non-regulated WCFs may not adversely affect (e.g., interfere with signal transmitted by) a previously existing use.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

(7) To promote investment in new WCFs and technology that will benefit local end users (consumers) of Wireless Communications services.

73.217.02 Technical Definitions And Terminology For Wireless Communications

“Antenna” for Wireless Communications means a specific device used to receive or capture incoming and/or to transmit outgoing communications transmitted from, or to be received by, other antennas. Antennas regulated by this chapter include omni-directional (or “whip”) antennas, directional (or “panel”) antennas, parabolic (or “dish”) antennas, and any other devices designed for the reception and/or transmission of radio-frequency (RF) signals or other communication technologies, except as otherwise limited in this Chapter.

“Attached Wireless Communications Facility” means a wireless communications facility that is affixed to an existing structure, other than a Wireless Communications Tower.

“Co-Location” means a wireless communications facility comprised of a single communications tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one provider.

“Lattice Tower” means a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

“Monopole” means a support structure constructed of a single, self-supporting hollow tube securely anchored to a foundation.

“Provider” means a company, which may or may not hold a Federal Communications Commission (FCC) license, that is in business to provide wireless communications services.

“Wireless Communications” means the transmission, via radio frequency electromagnetic waves, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

“Wireless Communications Accessory Structure/Equipment” means equipment shelters or radio equipment necessary for the operation of wireless communications in addition to the antenna and tower.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

“Wireless Communications Facility (WCF)” means a facility consisting of the equipment and structures involved in receiving and or transmitting communications or radio signals.

“Wireless Communications Equipment Shelter” means the structure in which the electronic radio equipment, electronic equipment, relay equipment and other supporting equipment for a wireless communications facility is housed.

“Wireless Communications Tower (WCT) Support Facility” means a structure intended to support equipment used to transmit and/or receive communications signals including monopoles, guyed and lattice towers, but not excluding any other approved structure.

“Visual Compatibility Characteristics” means characteristics that minimize the visual impact of a tower or antennas.

73.217.03 Review Procedures: Use Permits and Review Processes

As noted in the Table below, Wireless Communications Facilities are permitted by a variety of Use Permits and Review Processes, depending on the type or scope of development activity.

<u>Types of Use Permits and Review Processes Required for WCF;’s According to Type or Scope of Development Activity</u>	
<u>Type of Use Permit and Review Process</u>	<u>Type or Scope of Development Activity</u>
<u>Outrighted Permitted other than required building permits</u>	<ul style="list-style-type: none"> • <u>Co-Location on an existing WCF</u>
<u>Administrative Review (Type I)</u>	<ul style="list-style-type: none"> • <u>Attachment to an existing structure within the parameters of the zone requirements</u> • <u>Modifications to an existing WCF accessory structure or equipment within the parameters of the zone requirements</u>
<u>Conditional Use (Type III)</u>	<ul style="list-style-type: none"> • <u>New WCF</u> • <u>Modifications of an existing WCFR that exceed the standards of the zone</u>
<u>Conditional Use and Variance (Type III)</u>	<ul style="list-style-type: none"> • <u>New WCF or modification of an existing WCF that exceeds the height standard of a zone</u>
<u>Notes:</u>	

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- Height Standards for each zone are found in Chapter 2
- The maximum permissible height, even through the variance process, is 150 feet for a WCF in any zone
- In the Industrial zones, the maximum permissible height for a WCF is 150 which does not require a variance

73.207.04 Siting Requirements

WCFs shall be sited in accordance with the following priorities. If the applicant proposes a facility of lower priority, the applicant shall demonstrate that each of the higher priorities has been considered and found to be not feasible.

- (A) Priority #1: Co-location on an existing WCF.
- (B) Priority #2: Use of an Attached WCF.
- (C) Priority #3: Siting of a new Wireless Communications Tower (WCT), in a visually obscure location, using design techniques maximizing “Visual Compatibility Characteristics.”
- (D) Priority #4: Siting of a new WCT in a visually prominent location (e.g., along arterials and collectors, on hills and ridges), using design techniques maximizing “Visual Compatibility Characteristics.”
- (E) Priority #5: Siting of a tower in a visually prominent location (e.g., along arterials and collectors, on hills and ridges), not employing design techniques maximizing “Visual Compatibility Characteristics.”
- (F) Exemptions: Wireless communications facilities for emergency services (police, fire, and emergency management) are exempt from the above requirements if the siting agency can demonstrate the need for an exemption based on public safety and welfare issues. The review authority may also exempt local, state, and federal facilities, as well as facilities owned and operated by federally licensed amateur radio station operators (i.e., “ham” radio operations).

73.1098.05 Standards and Requirements

- (A) Code Compliance Requirements: All WCFs shall meet all requirements established by the provisions of this Code, the LMC, and other applicable City codes, and other applicable standards.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

(B) State and Federal Requirements: All WCFs shall comply with all applicable federal (e.g., Federal Communication Commission and Federal Aviation Administration) and state standards.

(C) Height:

- (1) A WCF may not exceed the height standards of a zone, except where permitted through the variance process.
- (2) Except in the Industrial Zones, the maximum permissible height (even through the variance process) is 150 feet for a WCF in any zone.
- (3) In the Industrial Zones, the maximum permissible height for a WCF is 150 feet which does not require a variance.
- (4) The Height of a WCF shall be measured as per building code standard procedures from the center of the base of the proposed facility to the topmost portion of the WCF (e.g., the tip of the highest antenna or other transmission or reception device).
- (5) Airport Overlay Zones: All lands within the airport overlay zones (e.g., Approach Surface, Transitional Zone) shall be subject to additional height restrictions and development standards.

(D) Co-Location:

- (1) New WCFs, if technically feasible, will be designed and constructed for at least three antennas/providers to co-locate on the facility and to allow antennas mounted at varying heights. At a minimum, WCFs up to 120 ft in height shall accommodate at least two facilities/providers.
- (2) A facility may be attached to any existing structure as long as the height of that structure is not increased by more than 10' and so long as it meets all relevant requirements of this Chapter, consistent with applicable Building Codes.
- (3) A freestanding WCF shall be approved only if the applicant demonstrates that it is not feasible to site the facility on an existing structure. The application shall contain documentation that alternative sites within a radius of least 2,000 ft have been considered and are technologically unfeasible or unavailable. The application also must document why co-location is impractical on existing structures for one or more of the following reasons: structural support limitations; safety considerations; lack of available space; failure to meet service coverage area needs; or unreasonable economic constraints.

(E) Construction:

ARTICLE III DEVELOPMENT REQUIREMENTS

- (1) All facilities must meet the requirements of the Uniform Building Code (UBC), the International Building Code (IBC) and/or the Oregon Structural Specialty Code, and all other relevant and applicable building codes.
 - (2) Noise-generating equipment shall be sound-buffered by means of baffling, barriers or other suitable means to reduce the sound level measured at the property line to no more than 30 dBA above the level of ambient background noise when adjacent to residential uses and 45 dBA above the level of ambient background noise in other areas.
 - (3) It is prohibited to attach any communications facility or portion thereof to a tree.
 - (4) WCFs shall be set back at least twenty-five percent (25%) of the tower height from all property lines or shall meet the setbacks of the underlying zone, whichever is greater.
 - (5) Design: Where possible new facilities will be located in such a manner that they blend in with the background around them, using techniques to ensure visual compatibility characteristics.
 - a. All new WCF towers shall be a monopole or lattice tower structure constructed out of metal or other nonflammable material. The height and mass of the structure shall not exceed that which is essential for its intended use and public safety.
 - b. All accessory structures (i.e., vaults, equipment rooms, utilities, and equipment enclosures) shall be concealed, buffered or screened with mature vegetation and/or sight obscuring fencing, shall be consistent with the underlying zone, or may be placed underground. Underground placement of equipment shelters is encouraged and should be considered in each case.
 - c. WCFs shall be painted in a non-reflective color to match the existing or attached structure and/or to blend into the surrounding environment to the greatest extent possible as seen from abutting uses, roadways or other public ways. Alternative colors or treatments of the external surfaces of any and all components of a WCF may be approved through the Conditional Use process to minimize the visual impact of the facilities, and such approved alternatives shall become part of the conditions of approval.
- (F) Landscaping/Screening: All ground-level facilities associated with a WCF shall be landscaped and/or screened in accordance with the provisions of Article 3 of this Code. The facilities must be fully screened before operations can begin.
- (G) Lighting: No lighting shall be permitted on a WCF except as required for security and as required by the Federal Aviation Administration.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (H) Location: No communications facility shall be installed on an exposed ridge line unless it blends with the surrounding existing natural and man-made environment in such a manner as to be visually compatible with the environment.
- (I) Signs: Signs shall comply with the requirements set forth in this Code.
- (J) Twenty-four Hour Emergency Contact Information: As part of the submittal requirements, all owners of WCFs shall provide 24 hour contact information to the City so as to facilitate emergency response. Such information must be kept current and on file with the City, Sherriff's Office, and Fire District.
- (K) Facilities on City-owned property: When a proposed WCF would be sited on property owned by the City, the City shall exercise its zoning authority under this Code independently from and without regard to the terms and conditions of any agreement allowing the facility.

3.217.06 Attached Communications Facilities

All attached facilities shall be located and designed to appear an integral part of the structure.

- (A) Roof mounted antennas and all building mounted accessory equipment shall be located no closer to the nearest edge of the roof than the height of the antenna or accessory equipment, whichever is greater.
- (B) Wall mounted antennas shall be architecturally integrated into the building.
- (C) Wall mounted antennas shall protrude no more than 4' from the face of the wall.
- (D) Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques, as defined in this Section to the greatest extent possible.
- (E) All proposals shall demonstrate adequate structural strength to support the additional weight and stress of a proposed antenna attachment in compliance with all applicable building code provisions.

~~73.109~~ 8.07 Abandonment Of Facilities

- (A) When a WCF ceases to operate, the owner or service provider shall provide notice to the City within thirty days. Failure to notify the City within 30 days, may

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

result in removal of such a facility 90 days following the cessation of operations or thereafter.

- (B) An antenna support structure that has not had an antenna or antenna array mounted upon it for a period of 170 successive days, or if the antenna or antenna array mounted thereon are not operated for a period of 170 successive days, shall be considered abandoned, and the owner thereof shall remove such structure and any accompanying equipment enclosure to a depth of four feet below the surface of the ground within 90 days from the date of written notice from the City. During this 90-day period, the owner may apply, and, for good reason, be granted an extension of time on such terms as the City Manager shall determine.
- (C) If such structure and equipment enclosure are not so removed, the City may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which the structure(s) are situated in an amount equal to the City's cost of removal.
- (D) The City may also declare such an abandoned facility a nuisance and pursue enforcement and all available remedies under the appropriate provisions of this Code.

3.2187.07 Application

- (A) Application Requirements. The applicable submittal requirements for the type of land use review process that is necessitated by the specific proposal submitted, and the requirements of the zone of the subject property, apply to applications for the siting of communications facilities. In addition, the following information is required.
- (B) Development Plan Required. All applications shall be accompanied by a Development Plan drawn to scale showing the following:
 - (1) Use or uses.
 - (2) Location of the proposed facility and relevant dimensions.
 - (3) Height of the proposed facility
 - (4) Setbacks for the proposed facility.
 - (5) A photosimulation of the proposed WCF for the maximum number of provider antenna arrays.
 - (6) Dimensions and location of areas to be reserved for vehicular and pedestrian access and circulation.
 - (7) A landscaping plan that indicates how the facility will be screened from adjoining uses.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (8.) A fencing plan that indicates the location, height, and design of any proposed fencing.
- (9) A lighting plan that indicates the type and location of any proposed lighting.
- (10) A sign plan that indicates the size, location, and design of any proposed signage.
- (11) Drawings demonstrating the materials, color and design of the proposed facility.
- (12) A map showing all existing wireless communication facility sites operated by the provider within two miles of the Lebanon boundary, or the top of the nearby ridges, whichever is greater, including a description of the facility at each location.
- (13) A propagation study indicting proposed facility and the adjacent hand-off sites.
- (14) If provider proposes to construct a new facility (tower), the application shall include findings demonstrating it is not legally or technically feasible to co-locate.

(C) Additional Documentation

- (1) Documentation of the efforts that have been made to co-locate on existing or previously approved towers.
- (2) Each provider shall make a good faith effort to contact the owner(s) of all existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form of contact and the result of contact.
- (3) Documentation as to why co-locating on an existing or proposed tower or attachment to existing structures within 2000 feet of the proposed site is not feasible.

(D) Narrative Required

A written statement shall include the following information:

- (1) The name and contact information for the provider;
- (2) Twenty-four Hour Emergency Contact Information (during construction, and after the WCF becomes operational) to facilitate emergency response
- (3) A description of the character of the proposed facility;
- (4) Analysis of how the application meets the review criteria for all applicable application processes;
- (5) Applicants/providers shall provide evidence of legal access to the proposed WCF.
- (6) The applicant/provider shall provide evidence that legal access to the facility site will be maintained for the duration of the facility's operation.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (7) Where a proposed WCF is located on a property not owned by the provider, the applicant/provider shall present documentation that the owner of the property has granted an easement or entered into a lease or other authorization for the proposed facility and that vehicular access is provided to the facility.
- (8) For new free standing towers, the applicant shall provide evidence that describes the WCF's structural capacity to carry the antennas of at least three Wireless Communications providers.
- (9) The applicant shall provide evidence of steps the provider will take to avoid interference with normal radio and television reception in the surrounding area, with other communications service providers' signals, and communications of any public safety agency or organization, per FCC requirements.
- (10) The applicant shall demonstrate that the WCF will provide service within the City.
- (11) If the applicant/provider proposes a new tower or co-located facility, the applicant shall provide evidence that the facility's height is the lowest height at which the gap in coverage can be filled.
- (12) All applications shall include evidence that at least one provider will use the proposed facility to provide wireless communications service to City residents immediately upon construction completion of the facility.
- (13) All applications shall include a statement recognizing the Grounds for Denial of Permits and Removal of Facilities listed below:

 - a. Applications shall include a written agreement that Wireless Communications Facilities owned by the provider, that do not have operating antennas for a period of 6 months, shall be considered abandoned and shall be removed by the operator within 60 days thereafter.
 - b. Applications shall include a written agreement from the property owner that if the provider fails to remove an abandoned WCF, the property owner has full legal and fiscal responsibility for the WCF removal.

**ARTICLE IV
LAND DIVISIONS**

ARTICLE IV – LAND DIVISIONS

Chapter 4.101	LAND DIVISION PROVISIONS	IV-2
4.101.01	Applicability of Land Division Provisions	IV-2
Chapter 4.102	LAND DIVISIONS	IV-3
4.102.01	Purpose.....	IV-3
4.102.02	Scope	IV-3
4.102.03	Standards for Lots or Parcels.....	IV-3
4.102.04	Additional Standards for Subdivisions.....	IV-4
4.102.05	Improvement Requirements - Partition.....	IV-6
4.102.06	Improvement Requirements - Subdivision	IV-7
4.102.07	Improvement Procedures.....	IV-9
Chapter 4.103	PLANNED UNIT DEVELOPMENT	IV-11
4.103.01	Purpose.....	IV-11
4.103.02	Objectives	IV-11
4.103.03	Ownership.....	IV-12
4.103.04	Uses Permitted.....	IV-12
4.103.05	Development Requirements.....	IV-13
4.103.06	Conditions of Approval.....	IV-16
4.103.07	Modification of an Approved PUD	IV-16

4.101 LAND DIVISION PROVISIONS

4.101.01 Applicability of Land Division Provisions

Special uses included in Chapter 4.102 and Chapter 4.103 address specific requirements related to the division of land, including partitions, subdivisions and planned unit developments. These provisions concern the process of dividing land and do not alter the requirements and standards of the underlying zone(s).

Procedures related to land divisions, including Property Line Adjustments, are contained in Article V – Review Procedures.

4.102 LAND DIVISIONS

4.102.01 Purpose

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

4.102.02 Scope

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

- (A) Partition. A land division creating two or three parcels within a calendar year shall be processed as a Partition and subject to the design and improvement standards for a Partition.
- (B) Subdivision. A land division creating four or more lots within a calendar year shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision.
- (C) Serial Partition. If a Partition results in the creation of a large parcel that can be subsequently divided so that there is the potential to create more than three parcels from the original, the request shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision.

4.102.03 Standards for Lots or Parcels

The following standards shall apply to all partitions and subdivisions.

- (A) Minimum Lot Area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located. Access easements, or the access strip to a flag lot, shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Code.
- (B) Lot Width and Depth. The depth of a lot or parcel shall not be more than three times the width. Lots or parcels created for commercial, industrial or public uses shall be exempt from width to depth ratio provisions.

**ARTICLE IV
LAND DIVISIONS**

- (C) Access. All new lots or parcels shall provide a minimum of 40-feet of frontage on an existing or proposed public street, or 25-feet of frontage along a cul-de-sac. Except that, residential lots or parcels may be accessed by a private street or private access easement developed in accordance with the provisions of Chapter 3.102 when it is determined that a public street access is:
- (1) Infeasible due to parcel shape, terrain, or location of existing structures; and
 - (2) Unnecessary to provide for the future development of adjoining property.
 - (3) No more than 10% of the lots within a subdivision may be accessed by a private street or private access easement.
- (D) Flag Lots. Flag lots shall be subject to the following development standards:
- (1) The access strip shall be a minimum of 20 feet in width. The improved surface shall be a minimum of 14 feet in width.
 - (2) The access strip shall not be included in the lot area calculation.
 - (3) If the length of the access strip exceeds 150 feet, the parcel or lot shall include a turn-around area per Section 3.102.
- (E) Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from traffic arteries, adjacent non-residential activities, or to overcome specific disadvantages of topography. Screening or buffering, pursuant to the provision of Chapter 3.109, may be required during the review of the land division request.
- (F) Lot Side Lines. The side lines of lots, as far as practicable, shall run at right angles to the public street, private street or private access easement upon which the lot or parcel faces.
- (G) Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Easement width shall conform to adopted Engineering Standards.

4.102.04 Additional Standards for Subdivisions

- (A) General. The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic - including pedestrian and bicyclist - and recognition of limitations and opportunities of topography.

**ARTICLE IV
LAND DIVISIONS**

- (B) Sizes. Blocks shall not exceed 1,000 feet in between street lines with a preferred length of 500 feet. Exceptions are permitted for blocks adjacent to arterial streets, or, if the previous development pattern or topographical conditions justify a greater length. The recommended minimum distance between collector street intersections with arterial streets is 1,800 feet.
- (C) Traffic Circulation. The subdivision shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas; neighborhood activity centers (e.g., schools and parks); shopping areas; and employment centers; and provide safe, convenient and direct traffic circulation. At a minimum, “nearby” means the distance from the subdivision boundary – 1/4 mile for pedestrians, and one mile for bicyclists.
- (D) Connectivity. To achieve the objective in “(C) Traffic Circulation” above, the City shall may require the following:
- (1) Stub-end Streets: Where the potential exists for additional residential development on adjacent property.
 - (2) Accessways: Public accessways to provide a safe, efficient and direct connection to cul-de-sac streets, to pass through oddly shaped or blocks longer than 600-feet, to provide for networks of public paths creating access to nearby residential areas, neighborhood activity centers (e.g., schools and parks); shopping areas; and employment centers.
- (E) Collector and Arterial Connections. Accessway, bikeway, or sidewalk connections with adjoining arterial and collector streets shall be provided if any portion of the site’s arterial or collector street frontage is over 600 feet from either a subdivision access street or other accessway. The placement of an accessway may be modified or eliminated if natural features (e.g., adverse topography, streams, wetlands) preclude such a connection.
- (F) Design Standards. Pedestrian/bicycle accessways shall meet the following design standards:
- (1) Minimum dedicated width: 15 feet
 - (2) Minimum improved width: 12 feet

**ARTICLE IV
LAND DIVISIONS**

- (3) Pedestrian scale lighting fixtures shall be provided along walkways and adequately lighted so the system can be used at night. Lighting shall either conform to adopted Public Works Standards or be approved by the decision authority.
- (4) The accessway shall be designed to prohibit vehicle traffic.

4.102.05 Improvement Requirements - Partition

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

- (A) Private Access. Where included, private driveways serving flag lots, or private streets shall be surfaced per the requirements of this Code.
- (B) Street Frontage Improvements. The following improvements shall be required:
 - (1) Consistent with the adopted transportation plans, sufficient land shall be dedicated to establish the appropriate right-of-way width.
 - (2) If the street frontage of the subject property is less than or equal to 250 feet and does not connect to existing improvements, the applicant shall [pay connection fees in accordance with the City's adopted Connection Charges ordinance in lieu of construction the required frontage improvements. At City's option, sign](#) a non-remonstrance agreement [acceptable to](#)with the City of Millersburg [may be allowed](#). This agreement shall stipulate that the applicant, or future property owner, will agree to participate in right-of-way improvements. The agreement may include provisions for the following: street paving, curbing, sidewalks, water lines, storm sewer facilities and sanitary sewer facilities. The agreement shall be recorded at the County Clerk's Office at the time of the recording of the final plat.
 - (3) If the street frontage of the subject property exceeds 250 feet, or extends an existing dedicated right-of-way, the applicant shall improve the following:
 - (a) Public streets upon which the property fronts to public standards, including: surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines and other necessary public utilities per approved master plans. [In some cases surfacing additional road width may be required](#). Where a master plan has not been

**ARTICLE IV
LAND DIVISIONS**

- adopted, or the City deems it to be in the City's best interest, the developer shall pay connection charges~~enter into a non-remonstrance agreement~~ consistent with item (B)(2), above.
- (b) Sidewalks, meeting City standards, along public street frontage. Sidewalk construction may be deferred until such time a building permit is issued.
 - (c) The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve parcels accessing off of the new street.
- (C) Public Facilities. Sewer, Water, and Storm Drainage facilities may be required on and adjacent to the project. The developer shall submit engineering plans or facility improvement plans to the City for review. The plans shall address the required improvements contained in this Article, and any conditions of approval, and shall conform with City Engineering Design Standards. Improvement work shall not commence until plans are approved by the City~~The plans shall be reviewed and approved prior to the recording of the final partition plat.~~
- (D) Completion Requirements. All required improvements shall be completed prior to recording the final partition plat and the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to the City prior to the approval of the final plat of the partition.

4.102.06 Improvement Requirements - Subdivision

- (A) Improvements. The following improvements shall be required for all subdivisions:
- (1) Frontage Improvements. Half-street improvements designed to the City's Engineering Standards shall be required for all public streets on which a proposed subdivision fronts. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood. If the street frontage of the subject property does not connect to existing improvements, at the City's discretion the applicant may be required to pay connection charges in accordance

**ARTICLE IV
LAND DIVISIONS**

with the City's adopted Connection Charges ordinance in lieu of constructing any portion of the required frontage improvements.

- (2) Project Streets. Public or private streets within the subdivision shall be constructed as required by City Engineering Standards. In the circumstance where existing streets are adjacent to or within the project, a connection charge is required in accordance with the City's adopted Connection Charges ordinance.
- (3) Monuments. Monuments shall be established as required by the Engineering Design Standards.
- (4) Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainageways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall be constructed in accordance with the Engineering Design Standards. In the circumstance where existing storm sewer lines are adjacent to or within the project, a connection charge is required in accordance with the City's adopted Connection Charges ordinance.
- (5) Sanitary Sewers. Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided conforming to Engineering Design Standards. The City may require that the developer construct sewage lines of a size in excess of that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is ultimately developed. The City may also require that the construction take place as an assessment project with such arrangement with the developer as is desirable to assure his share of the construction. In the circumstance where existing sanitary sewer lines are adjacent to or within the project, a connection charge is required in accordance with the City's adopted Connection Charges ordinance.
- (6) Water System. Water lines with valves and fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed in conformance with the Engineering Design Standards. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is fully developed. However, the City will not expect the developer to pay for the extra cost of mains exceeding eight inches in size. In the circumstance where existing water lines are adjacent to or within the project, a connection charge is

**ARTICLE IV
LAND DIVISIONS**

required in accordance with the City's adopted Connection Charges ordinance.

- (7) Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. This improvement may be deferred until prior to occupancy of a dwelling.
 - (8) Street Lights. The installation of street lights is required at locations, and of a type required by City standards.
 - (9) Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards.
 - (10) Other Requirements:
 - (a) Curb cuts and driveway installations are not required of the developer at the time of development, but if installed, shall be according to the City standards.
 - (b) Street tree planting is not required of the developer, but, if planted, shall be according to City requirements and of a species compatible with the width of the planting strip and underground facilities. At least one tree will be located in the planting strip unless infeasible due to required sight clearances and/or offsets from utilities. No tree shall be located in the planting strip within 10 feet of a water or sewer service line. An additional tree shall be planted either in the planting strip or yard adjacent to the street or streets. Trees must be planted and viable prior to occupancy.
- (B) Completion of Improvements. All improvements required under this Chapter shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision. In no case shall the bond exceed 5% of the remaining project improvements as determined by the City Engineer.

4.102.07 Improvement Procedures

In addition to Engineering Design Standards, improvements installed by a developer for any land division, either as a requirement of these regulations or the developer's option, shall conform to the requirements of this Code, the improvement standards and specifications adopted by the City, and shall be installed in accordance with the following procedures:

**ARTICLE IV
LAND DIVISIONS**

- (A) City Approval Required. Improvement work shall not commence until plans are approved by the City. All plans shall be prepared in accordance with requirements of the City.
- (B) Notification. Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
- (C) Inspections. Improvements shall be constructed under the inspection and to the satisfaction of the [City Engineer](#)~~Public Works Director~~ or his/her designee. The City may require changes in typical street sections and improvements if unusual conditions arise during construction to warrant ~~the~~ such changes.
- (D) Installation of Utilities. All underground utilities, sanitary sewers, and storm drains installed by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.
- (E) As-Built Drawings. A map or plan showing all public improvements as built shall be filed with the [City of Millersburg](#)~~Department of Public Works~~ upon completion of the improvements.

~~4.103 PLANNED UNIT DEVELOPMENT (P.U.D.)~~

~~4.103.01 Purpose~~

~~The purpose of Planned Unit Development regulations is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. Planned Unit Developments are intended to allow substantial flexibility in planning and designing a proposal. This flexibility often is in the form of relief from compliance with conventional zoning ordinance site and design requirements. This flexibility must result in a development that is better planned, contains more amenities, and ultimately more desirable to live in than one produced in accordance with typical subdivision controls.~~

~~While greater density or more lenient siting requirements may be granted, the Planned Unit Development should contain features not normally required of traditional developments. This requires greater scrutiny on the part of the City to assess a proposal. To realize these objectives and enable thorough analysis of a Planned Unit Development, more information is demanded about the proposal than would be required if development were being pursued under conventional subdivision requirements.~~

~~4.103.02 Objectives~~

~~Through proper planning and design, each PUD should include features which further, and are in compliance with, the following objectives:~~

- ~~(A) To design developments that are architecturally and environmentally innovative, and that achieves better utilization of land than is possible through strict application of standard zoning and subdivision controls.~~
- ~~(B) To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural conditions.~~
- ~~(C) To combine and coordinate architectural styles, building forms, and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner.~~
- ~~(D) To provide for abundant, accessible, and properly located open and~~

~~recreation space.~~

- ~~(E) To ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction.~~
- ~~(F) To enable land developments to be completely compatible and congruous with adjacent and nearby land developments.~~

4.103.03 Ownership

~~The site of the Planned Unit Development must be under single ownership and/or unified control.~~

4.103.04 Uses Permitted

~~In a Planned Unit Development only the following uses are permitted:~~

- ~~(A) Residential Uses.~~
- ~~(B) Recreational facilities including, but not limited to, tennis courts, swimming pools, and playgrounds.~~
- ~~(C) Open space.~~
- ~~(D) Schools, libraries, community halls, and houses of worship.~~
- ~~(E) Offices, buildings, and facilities required for the operation, administration, and maintenance of any Planned Unit Development and for recreation purposes, such as golf courses, recreation rooms, and vehicle storage areas.~~
- ~~(F) Commercial uses identified as permitted uses in the Mixed Use Zone provided:
 - ~~(1) Commercial establishments shall be designed to be an integral part of the general plan of development for the Planned Unit Development and provide facilities related to the needs of the prospective residents.~~
 - ~~(2) Commercial establishments and their parking areas shall not~~~~

**ARTICLE IV
LAND DIVISIONS**

~~occupy more than one (1) acre per fifty (50) dwelling units.~~

- ~~(3) Commercial establishments will be located, designed, and operated to efficiently serve frequent trade and to serve the needs of persons residing in the Planned Unit Developments.~~
- ~~(4) Commercial establishments will not, by reason of their location, construction, or operation, have adverse effects on residential uses within or adjoining the district, or create traffic congestion or hazards to vehicular or pedestrian traffic.~~

4.103.05 Development Requirements

Planned Unit Developments shall comply with the following requirements:

- ~~(A) Relationship to Standards of the Underlying Zoning District. In cases of conflict between standards of the underlying zone and the Planned Unit Development provisions, the PUD provisions shall apply.~~
- ~~(B) Minimum Site Area. If the Planned Unit Development will result in common open space being privately maintained, the PUD shall contain sufficient area to provide a minimum of fifty (50) residential units based on the density requirements of this Section.~~
- ~~(C) Site Adaptation: To the maximum extent possible, the plan and design of the development shall assure that natural or unique features of the land and environment is preserved.~~
- ~~(D) Residential Density: Permitted density of development in all PUDs shall be determined in accordance with the following procedures:
 - ~~(1) Determine total gross site area (G.S.A.)~~
 - ~~(2) Multiply the G.S.A. by .85 to determine the Net Site Area (N.S.A.).~~
 - ~~(3) Deduct from the N.S.A. any proposed commercial areas or nonresidential uses to determine Net Developable Site Area (N.D.S.A). Open space areas and hillside areas which will be in open space areas are not required to be deducted.~~
 - ~~(4) Determine maximum density of development in accordance by multiplying the NDSA by 10 units per acre.~~~~

**ARTICLE IV
LAND DIVISIONS**

- ~~(E) Lot Area. Except as otherwise required by these provisions, the minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a Planned Unit Development is proposed do not apply within a PUD.~~
- ~~(F) Lot Arrangement: All residential buildings shall be located adjacent to an open space area, recreational area or recreational facility. If direct access to these areas is not provided for each residential building, then a walkway or sidewalk accessing such facilities shall be located no more than 200-feet from any residential building.~~
- ~~(G) Housing Types. With the exception of manufactured homes, there are no restrictions as to housing types, provided, multiple family units shall be limited to no more than 30% of the units.~~
- ~~(H) Structure Setback Provisions: Yard setbacks for lots on the perimeter of the project shall be a minimum of 20-feet. Detached structures on individual lots shall maintain a minimum front, side or rear yard setback of five feet. A minimum yard setback of 20 feet shall be required for any garage structure whose opening faces onto a public street. Otherwise, the minimum setbacks of the underlying zone do not apply.~~
- ~~(I) Common Open Space: At least 20% of the gross acreage shall be devoted to open space, outdoor recreational areas or recreational facilities. At least one half of the designated open space shall contain slopes less than 10%. Open space may include pedestrian access routes, bicycle trails, natural or landscaped buffer areas, recreational facilities and buildings and similar areas reserved for common use. Streets and on-street parking spaces shall not be considered open space.~~
- ~~If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.~~
- ~~(J) Circulation:~~
- ~~(1) Roads and pedestrian and bikeway paths shall be an integrated system designed to provide efficient and safe circulation to all users. Pedestrian/bikeway paths shall be integrated into the open~~

**ARTICLE IV
LAND DIVISIONS**

- ~~space areas.~~
- (2) ~~— Pedestrian/bikeways shall be clearly signed and have adequate crossing facilities where warranted.~~
- (K) ~~— Off Street Parking. Off street parking requirements shall be as specified in Chapter 3.106 of this Code. Parking may be provided on each lot or in clustered parking areas. Additional off street parking for guests and recreational vehicles may be required if warranted by reduced lot sizes and/or traffic volumes.~~
- (L) ~~— Utilities. In addition to other requirements set forth herein, the following shall apply:~~
- ~~(1) — All sewer and water provisions shall be approved by the City before construction of such improvements.~~
- ~~(2) — All utility services shall be placed underground.~~
- ~~(3) — Provisions shall be made for fire prevention, including service water lines, fire hydrant location, and emergency access for fire fighting equipment.~~
- ~~(4) — Provision shall be made for control of site storm water drainage.~~
- (M) ~~— Homeowners Association — A non-profit incorporated homeowner=s association, or an alternative acceptable to the City, shall be required for improving, operating, and maintaining common facilities, including open space, drives, service and parking areas, and recreation areas. The following shall be observed in the formation of a homeowner’s association:~~
- ~~(1) — A homeowner’s association shall be set up before approval of the final plat, or any portion thereof.~~
- ~~(2) — Membership shall be mandatory for each home owner and any successive buyer.~~
- ~~(3) — The open space restrictions shall be in perpetuity.~~
- ~~(4) — The homeowner’s association shall be responsible for liability insurance, applicable taxes, and the maintenance of recreational and other facilities.~~
- ~~(5) — Home owners shall pay their pro-rated share of the cost or the assessment levied by the association shall become a lien on the property.~~
- ~~(6) — The association shall be able to adjust the assessment to meet changes needed.~~
- ~~(7) — No change in open space use or dissolution of homeowner’s association shall occur without a public hearing before the Planning~~

~~Commission and approval by the City Council.~~

4.103.06 ~~Conditions of Approval~~

~~The Planning Commission may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to ensure that public services and facilities are available to serve the proposed development; to protect the natural environment and conserve natural resources; to ensure compatibility with adjacent uses of land; to ensure compliance with the design standards contained within this Section; and, to ensure the Planned Unit Development will be developed as approved by the City.~~

4.103.07 ~~Modification of an Approved PUD~~

~~A new public hearing shall be required if any one of the following changes is proposed to an approved planned unit development site plan:~~

- ~~(A) — An increase or decrease in the number of dwelling units.~~
- ~~(B) — An increase or decrease in the open space or recreational space.~~

**ARTICLE V
REVIEW PROCEDURES**

ARTICLE V – REVIEW PROCEDURES

Chapter 5.101	APPLICATION TYPES	V-5
5.101.01	Summary of Application Types.....	V-5
5.101.02	Type I Actions	V-5
5.101.03	Table of Land Use Application Procedures Type II Actions	V-5
5.101.04	Type III Actions	V-6
5.101.05	Type V Actions	V-6
5.101.046	Expiration of Approval and Time Extensions.....	V-6
5.101.057	Exercising a Land Use Approval	V-6
5.101.08	Table of Land Use Application Procedures	V-9
Chapter 5.102	PROCESS FOR PROPERTY BOUNDARY ADJUSTMENTS ...	V-10
5.102.01	Applicability Purpose and Scope	V-10
5.102.02	Process	V-10
5.102.03	Application	V-10
5.102.04	Submittal Requirements.....	V-10
5.102.05	Decision Criteria.....	V-11
5.102.06	Implementation.....	V-11
Chapter 5.103	PROCESS FOR HOME OCCUPATIONS	V-12
5.103.01	Applicability	V-12
5.103.012	Process	V-12
5.103.03	Application	V-12
5.103.04	Decision Criteria	V-12
5.103.05	Conditions of Approval	V-12
Chapter 5.104	PROCESS FOR PARTITIONS	V-13
5.104.01	Applicability	V-13
5.104.02	Process	V-13
5.104.03	Application	V-13
5.104.04	Submittal Requirements.....	V-13
5.104.05	Decision Criteria.....	V-14
5.104.06	General Provisions.....	V-14
5.104.07	Final Plat Approval.....	V-14
5.104.08	Expedited Land Division.....	V-15
Chapter 5.105	PROCESS FOR ADJUSTMENTS	V-16
5.105.01	Applicability	V-16
5.105.02	Process	V-16
5.105.03	Application	V-16

**ARTICLE V
REVIEW PROCEDURES**

<u>5.105.04</u>	<u>Submittal Requirements</u>	V-16
5.105.0 5 <u>4</u>	Adjustment Applicability	V-16
5.105.0 6 <u>5</u>	Decision Criteria	V-16
Chapter 5.106	<u>PROCESSING VARIANCES</u>	V-18
5.106.01	<u>Applicability Purpose</u>	V-18
5.106.02	Process	V-18
5.106.03	Application	V-18
<u>5.106.04</u>	<u>Submittal Requirements</u>	V-18
5.106.0 5 <u>4</u>	Variance Applicability	V-18
5.106.0 6 <u>5</u>	Decision Criteria	V-18
Chapter 5.107	<u>PROCESSING CONDITIONAL USE PERMITS</u>	V-20
5.107.01	Applicability	V-20
5.107.02	Process	V-20
5.107.03	Application	V-20
<u>5.107.04</u>	<u>Submittal Requirements</u>	V-20
5.107.0 5 <u>4</u>	Decision Criteria	V-20
Chapter 5.108	<u>PROCESSING A SITE DEVELOPMENT REVIEW</u>	V-21
5.108.01	Applicability	V-21
5.108.02	Process	V-21
5.108.03	Application	V-21
5.108.04	Applicability of Provisions	V-21
5.108.05	Submittal Requirements	V-22
5.108.06	<u>Decision Criteria Evaluation of Site Development Plan</u>	V-22
Chapter 5.109	INTERPRETATIONS	V-24
5.109.01	Applicability	V-24
5.109.02	Process	V-24
5.109.03	Application	V-24
5.109.04	Decision Criteria	V-24
Chapter 5.110	NONCONFORMING USES	V-25
5.110.01	Applicability	V-25
5.110.02	Process	V-25
5.110.03	Application	V-25
5.110.04	Decision Criteria	V-25
5.110.05	Conditions of Approval	V-25
Chapter 5.111	<u>SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS (PUD)</u> V-	
	26	
5.111.01	Applicability	V-26

**ARTICLE V
REVIEW PROCEDURES**

5.111.02	Process	V-26
5.111.03	Application	V-26
<u>5.111.04</u>	<u>Submittal Requirements</u>	<u>V-27</u>
5.111.0 <u>54</u>	Decision Criteria	V-27
5.111.0 <u>65</u>	Final Plat Requirements	V-28
5.111.0 <u>76</u>	Process for Final Plat Approval	V-29
5.111.07	Time Extension	V-31
Chapter 5.112	COMPREHENSVE PLAN MAP AMENDMENT	V-32
5.112.01	Applicability	V-32
5.112.02	Process	V-32
5.112.03	Application	V-32
<u>5.112.04</u>	<u>Submittal Requirements</u>	<u>V-32</u>
5.112.0 <u>54</u>	Decision Criteria	V-32
Chapter 5.113	ZONE MAP AMENDMENT	V-34
5.113.01	Applicability	V-34
5.113.02	Process	V-34
5.113.03	Application	V-34
<u>5.113.04</u>	<u>Submittal Requirements</u>	<u>V-34</u>
5.113.0 <u>54</u>	Decision Criteria	V-34
Chapter 5.114	TEXT AMENDMENTS	V-35
5.114.01	Process	V-35
5.114.02	Application	V-35
5.114.03	Decision Criteria	V-35
Chapter 5.115	ANNEXATIONS	V-37
5.115.01	Authority of City to Annex.....	V-37
5.115.02	Process	V-37
5.115.03	Application	V-37
5.115.04	Decision Criteria	V-37
5.115.05	Effective Date of Annexation	V-37
5.115.06	Zone Designation of Annexed Property	V-38
Chapter 5.201	GENERAL ADMINISTRATVE PROVISIONS	V-39
5.201.01	Multiple Applications	V-39
5.201.02	Generalized Area	V-39
5.201.03	Application Forms	V-39
5.201.04	Time Limit	V-39
<u>5.201.05</u>	<u>Nature of Appeal Hearings</u>	<u>V-39</u>
Chapter 5.202	TYPE I APPLICATION AND REVIEW PROCEDURES	V-40

**ARTICLE V
REVIEW PROCEDURES**

5.202.01	Procedure for Type I Action	V-40
5.202.02	Conditions of Approval	V-41
Chapter 5.203	TYPE II APPLICATION AND REVIEW PROCEDURES	V-42
5.203.01	Procedure for Type II Action	V-42
5.203.02	Conditions of Approval	V-45
Chapter 5.204	TYPE III APPLICATION AND REVIEW PROCEDURES	V-46
5.204.01	Procedure for Type III Actions.....	V-46
5.204.02	Conditions of Approval	V-48
Chapter 5.205	TYPE IV APPLICATIONS AND REVIEW PROCEDURES.....	V-49
5.205.01	Procedures for Type IV Actions (Quasi-Judicial).....	V-49
5.204.02	Conditions of Approval	V-51
5.205.03	Procedures for Type IV Actions (Legislative).....	V-51
Chapter 5.206	PUBLIC HEARING BEFORE THE PLANNING COMMISSION	V-53
5.206.01	General Provisions.....	V-53
5.206.02	Planning Commission Hearing Procedures.....	V-53
5.206.03	Evidence	V-54
5.206.04	Record of Hearing	V-55
5.206.05	Limits on Oral Testimony	V-55
5.206.06	Exhibits	V-55
Chapter 5.207	REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL.....	V-56
5.207.01	General Provisions.....	V-56
5.207.02	City Council Review of Appeals	V-56

5.101 APPLICATION TYPES

5.101.01 Summary of Application Types

- (A) General. With the exceptions noted below, all development permits and land use actions are processed under the administrative procedures provided for in this Chapter. There are four types of actions, each with its own procedures.
- (B) Building Permit. Building permits are subject to provisions of the Uniform Building Code and are processed administratively. Therefore, these actions are not considered land use actions and subject to appeal. The procedures in this Chapter only apply if an action is necessary to site the use or vary a requirement of the Development Code.

5.101.02 Type I Actions

(A) **Type I Action**

A ministerial action reviewed by staff based on clear and objective standards. Conditions are limited to those that ensure compliance with Code requirements and implement these standards. Decisions are memorialized on the relevant permit form or other order. Specific Type I processes are shown Section 5.101.03 - Table of Land Use Application Procedures

(B) **Type II Action**

A ministerial action reviewed by staff based on clear and objective standards. Conditions are limited to those that ensure compliance with Code requirements and implement these standards. Notice of the decision is sent to the applicant, and adjacent property owners who submitted comments, after a decision is reached. Appeal is to the Planning Commission. Specific Type II processes are shown Section 5.101.083 - Table of Land Use Application Procedures

(C) **Type III Action**

A Type III action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow discretion. Public notice and a public hearing are provided. Appeal of a Type III decision is to the City Council. Specific Type III processes are shown Section 5.101.038 - Table of Land Use Application Procedures

**ARTICLE V
REVIEW PROCEDURES**

(D) **Type IV Action**

A Type IV action can be either quasi-judicial or legislative actions. The quasi-judicial process applies to map amendments for individual properties. Plan and zone amendments or text amendments that impact larger areas are legislative actions. These later amendments must be initiated by City staff, Planning Commission, or City Council, although a private party may suggest such amendments. Both actions require hearings before both the Planning Commission and City Council with the Commission providing an advisory role and the Council rendering the Final Decision unless appealed. Public notice is provided for both and public hearings. Appeal of the decision is to the Land Use Board of Appeals (LUBA). Specific Type IV processes are shown Section 5.101.08 - Table of Land Use Application Procedures

5.101.03 Table of Land Use Application Procedures

LAND USE APPLICATION PROCEDURES

Land Use Action	Type	Staff	Planning Commission	City Council
Property Line Adjustment	Type - I	Final Decision	No role	No role
Type Temporary Use	Type - I	Final Decision unless appealed	No role	No role
Sign Permit	Type - I	Final Decision unless appealed	No role	No role
Fence Permit	Type - I	Final Decision unless appealed	No role	No role
Partition	Type – II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Adjustment	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Interpretations	Type - II	Final Decision unless appealed	Appeal – Staff Decision	Appeal - Commission Decision
Site Development Review	Type III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Variance	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Conditional Use Permits	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Nonconforming Uses	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision

**ARTICLE V
REVIEW PROCEDURES**

Subdivision	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Comp. Plan Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Zone Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Text Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Annexation	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed

5.101.04 Expiration of Approval and Time Extension

- (A) Time Limit. Unless otherwise specifically stated, Type I and Type II approvals shall be effective for two years following final approval. The applicant or developer shall exercise the approved decision within this time period. Type III time limits shall be dependent upon the type of application and applicable conditions. Type IV approvals shall have no time limits.
- (B) Time Extension. Extensions may be granted in accordance with the original procedure for the application. For a time extension request, the only matter to be considered is the extension.
- (C) Conditions of Approval. During the review of an extension request, the conditions of approval may be revised to reflect Code changes and/or changes in site or area conditions.
- (D) Number of Extensions. No more than two extensions shall be granted.
- (E) Time Extension Provisions for Subdivisions and PUDs. The following provisions apply:
 - (1) The Planning Commission, after holding a hearing, may extend the approval period for any subdivision for not more than one additional year. Requests for extension of approval time shall be submitted, in writing, 30 days prior to the expiration date of the approval period. The Planning Commission may grant the request for extension if the circumstances are the same and the findings of fact are still appropriate. The Planning Commission may modify the original conditions of approval as part of any time extension review.

**ARTICLE V
REVIEW PROCEDURES**

- (2) The City Council, after holding a hearing, may extend the approval period for up to five years if the Council finds there are extenuating circumstances. There is no limit on the number of extensions the Council may consider and approve.
- (3) If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

5.101.05 Exercising a Land Use Approval

Unless otherwise specifically stated, exercising a land use decision shall be subject to the following regulations.

- ~~(A)~~ ~~(A)~~ Building Permit. Except for manufactured home parks, when a building permit is required as part of an approved land use, the decision shall be considered exercised with the first placement or permanent construction of a structure on a site. This may include the pouring of slabs or footings, any work beyond the stage of excavation, including the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; the installation of driveways or walkways; the excavation for a basement, footings, piers or foundations or the erection of temporary forms; the construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure.
- ~~(A)~~~~(B)~~ Subdivision and Partitions. The decision shall be considered exercised with the beginning of construction of public facilities serving the site when a final plat is recorded with the County and when all deferred public and other improvements are completed and accepted by the City.
- ~~(C)~~~~B~~ Manufactured Homes Parks. The decision shall be considered exercised with the beginning of construction of facilities for servicing the site on which the manufactured homes are to be placed. This shall include, at a minimum, the construction of streets with final site grading or the pouring of concrete pads, or the extension or installation of utilities.
- ~~(D)~~~~E~~ Specific Use. If the approval does not require a building permit, the decision shall be considered exercised if the use or activity which was approved is in operation within the allotted time limit.

5.102 PROCESS FOR PROPERTY BOUNDARY LINE
ADJUSTMENTS

5.102.01 Applicability

A Property Line Adjustment is a change to a property boundary that only extinguishes property lines or modifies existing lots or parcels and does not create a new parcel of land. This may include the elimination of property boundaries to consolidate lots or parcels.

5.102.02 Process

A Property Line Adjustment application shall be reviewed in accordance with the Type I review procedures specified in Chapter 5.202.

5.102.03 Application

An application for a Property Line Adjustment shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Chapter. Notice shall be subject to the provisions in Chapter 5.202.

5.102.04 Submittal Requirements

The following information and material must be submitted by the applicant:

- (A) The application must be signed by the owners of all lots affected by the application.
- (B) In addition, the following information shall be submitted by the applicant:
 - (1) Copies of the officially recorded title transfer instrument (deed, warranty deed, or contract) that shows the legal description for the affected parcels.
 - (2) Plan, map or other document showing the properties before and after the adjustment.
 - (3) A written statement which explains the applicants' reasons for adjusting the boundaries and demonstrating that the adjustment conforms to City land use policies and regulations of the applicable zone.
 - (4) The applicant(s) shall certify in writing that the application does not violate any deed restrictions that may be attached to or imposed upon the subject property.

5.102.05 Decision Criteria

Approval of a property boundary adjustment shall require compliance with the following criteria:

- (A) A property boundary adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires approval of a land division.
- (B) Following the adjustment, all lots or parcels must comply with the area and dimension standards of the applicable zone. For existing non-conforming lots or parcels, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.
- (C) If there are existing structures on the lots or parcels, the boundary adjustment shall not reduce required setbacks or place a boundary beneath a structure.

5.102.06 Implementation

After a lot line adjustment is approved, the new boundary becomes effective only after the following steps are completed:

- (A) A legal description of the adjusted lots is recorded with Linn County Clerk.
- (B) If required by ORS Chapter 92, or the County Surveyor, a final map and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final map is submitted to the City for signatures and approval as outlined in Chapter 5.104.

5.103 PROCESS FOR A HOME OCCUPATION

5.103.01 Process

Home Occupations are permitted as listed in individual zones. where there are no employees other than family members residing in the residence or no more than one vehicle associated with the home occupation. 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 shall be reviewed as a Conditional Use in accordance with the Type III review procedures specified in Chapter 5.204.

5.104 PROCESS FOR PARTITIONS

5.104.01 Applicability

A partition is required for any land division which creates two or three parcels in any calendar year.

5.104.02 Process

Preliminary plats for partitions shall be reviewed in accordance with the Type II review procedures in Chapter 5.1xx.

5.104.03 Application

An application for a Partition shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Section 5.1xx.

5.104.04 Submittal Requirements

- (A) The applicant shall prepare and submit a preliminary plan and other supplemental information as may be required by City staff ~~to indicate the intent of the development~~. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The preliminary plan should show pertinent information to scale to facilitate the review of the proposed development.
- (1) General Information. The following general information shall be shown on the tentative plan:
- (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - (b) North arrow and scale of drawing.
 - (c) Tax map and tax lot number or tax account of the subject property.
 - (d) Dimensions and size in square feet or acres of the subject property and of all proposed parcels.
- (2) Existing Conditions:
- (a) Location of all existing easements within the property.
 - (b) Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.
 - (c) The location and direction of water courses or drainage swales on the subject property.
 - (d) Existing use of the property, including location of existing structures with dimensions of the structures and distances

**ARTICLE V
REVIEW PROCEDURES**

from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.

- (3) Proposed Plan:
 - (a) Locations, approximate dimensions and area in square feet of all proposed parcels. All parcels shall be numbered consecutively.
 - (b) Location, width and purpose of any proposed easements.

- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.104.05 Decision Criteria

Approval of a partition shall be subject to the following decision criteria:

- (A) Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.

- (B) The parcels shall meet the Development Standards for Land Division of Chapter 3.219.

- (C) Existing dwellings and accessory structures shall comply with the setback requirements of the applicable zone, including accessory structures which have a setback established by the building size, unless a variance from the requirements is approved.

- (D) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped, not developed to their maximum density, or landlocked, consideration will be given to extending appropriate access to those properties in accordance with adopted City policy.

5.104.06 General Provisions

- (A) Partition approval is valid in perpetuity upon recording of the final surveyed plat.

- (B) A master plan for development is required for any application which leaves a portion of the subject property capable of platting. If this would allow the creation of four or more parcels, the partition is considered a serial partition and must be processed as a subdivision.

**ARTICLE V
REVIEW PROCEDURES**

5.104.07 Final Plat Approval

- (A) Survey. Within two years of the Final Decision unless appealed approving a preliminary plat, a final survey of the approved plat shall be recorded. Failure to record a plat within the required time period shall void the approval and require a new partitioning application.
- (B) Final Approval. The City Manager shall sign the final plat if the plat substantially conforms to the approved preliminary plat, and if the conditions of approval are satisfied.
- (C) Final Plat. The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements.
- (D) Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Manager. The applicant shall be responsible for all recording fees.

5.104.08 Expedited Land Division

When an expedited land division for residential use only is requested by an Applicant the City shall use the procedures for expedited land divisions specified under ORS 197.365 in lieu of the procedures described in Chapter 5.104 if the application complies with the conditions and standards of ORS 197.360 through 197.380.

5.105 PROCESS FOR ADJUSTMENTS

5.105.01 Applicability

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a modification to the quantifiable requirements. An Adjustment may be approved for those requests resulting in no more than a 10% change in a *quantifiable* standard.

5.105.02 Process

Adjustments applications shall be reviewed in accordance with the Type II review procedures specified in Chapter 5.203.

5.105.03 Application

An application for an Adjustment shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.203.

5.105.04 Submittal Requirements

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
- (1) General Information. The following general information shall be shown on the site plan:
- (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - (b) North arrow and scale of drawing.
 - (c) Tax map and tax lot number or tax account of the subject property.
 - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - (e) Location of all existing easements within the property.
 - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.

**ARTICLE V
REVIEW PROCEDURES**

- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
 - (h) A site plan clearly indicating the proposed adjustment including dimensions.
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.105.05 Adjustment Applicability

An applicant may propose a modification from a standard or requirement of this Code, except when one or more of the following apply:

- (A) The proposed request would allow a use which is not permitted in the district.
- (B) Another procedure and/or criterion is specified in the Code for modifying or waiving the particular requirement or standard.
- (C) Modification of the requirement or standard is prohibited within the district.
- (D) Adjustments are not allowed for parking, sign standards, or minimum lot sizes.

5.105.06 Decision Criteria

Approval of an Adjustment shall require compliance with the following:

- (A) The particular proposed development otherwise clearly satisfies the intent and purpose of the provision being adjusted.
- (B) The proposed development will not unreasonably impact adjacent existing or planned uses and development.
- (C) The Adjustment does not expand or reduce a quantifiable standard by more than 10% and is the minimum necessary to achieve the purpose of the Adjustment.
- (D) There has not been a previous land use action prohibiting an application for an Adjustment.

5.106 PROCESSING VARIANCES

5.106.01 Applicability

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. A Variance may be approved for those requests resulting in greater than a 10% change in a quantifiable standard.

5.106.02 Process

Variance applications shall be reviewed in accordance with the Type III review procedures specified in Chapter 5.204.

5.106.03 Application

An application for a Variance shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.204.

5.106.04 Submittal Requirements

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
 - (1) General Information. The following general information shall be shown on the site plan:
 - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - (b) North arrow and scale of drawing.
 - (c) Tax map and tax lot number or tax account of the subject property.
 - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - (e) Location of all existing easements within the property.
 - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.

**ARTICLE V
REVIEW PROCEDURES**

- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
 - (h) A site plan clearly indicating the proposed variance including dimensions.
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.106.05 Variance Applicability

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following apply:

- (A) The proposed variance would allow a use which is not permitted in the district.
- (B) Another procedure and/or criterion is specified in the Code for modifying or waiving the particular requirement or standard.
- (C) Modification of the requirement or standard is prohibited within the district.

5.106.05 Decision Criteria

The Planning Commission may allow a Variance from a requirement or standard of this Code after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- (A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Code, topography, or other circumstances over which the applicant has no control.
- (B) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.
- (C) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which

**ARTICLE V
REVIEW PROCEDURES**

property is located, or otherwise conflict with the objectives of any City plan or policy.

- (D) That the special conditions and circumstances on which the application is based do not result from a self-imposed hardship or a negligent or knowing violation of this Code by the applicant.
- (E) The variance requested is the minimum variance which would alleviate the hardship.

5.107 PROCESSING ~~A~~ CONDITIONAL USE PERMITS

5.107.01 Applicability

A conditional use is a use which is generally acceptable as a land use activity in a particular zone, but due to certain aspects of the activity, buffering, screening, time limitations or other conditions are necessary to ensure compatibility with adjacent property. Conditional uses are presumed to be allowed unless conditions to ensure their compatibility cannot be established.

5.107.02 Process

Conditional Use shall be reviewed in accordance with the Type III review procedures specified in Chapter 5.204.

5.107.03 Application

An application for a conditional use shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.204.

5.107.04 Submittal Requirements

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
 - (1) General Information. The following general information shall be shown on the site plan:
 - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - (b) North arrow and scale of drawing.
 - (c) Tax map and tax lot number or tax account of the subject property.
 - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - (e) Location of all existing easements within the property.
 - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.
 - (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances

**ARTICLE V
REVIEW PROCEDURES**

from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.

- (h) A site plan clearly indicating the proposed location of the proposed conditional use including the dimensions of any existing, expanded, or new structure proposed to house the conditional use along with all site improvements including parking, lighting, screening, landscaping, etc..

- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.107.05 Decision Criteria

A Conditional Use shall be approved if the applicant provides supporting evidence that all the requirements of this Code relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- (A) The use is listed as a conditional use in the underlying district and complies with the development requirements of the underlying zone.

- (B) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.

- (C) The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use.

- (D) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone.

5.108 PROCESSING A SITE DEVELOPMENT REVIEW

5.108.01 Applicability

- (A) The Site Development Review is intended to:
 - (1) Guide future growth and development in accordance with the Comprehensive Plan and other related regulations;
 - (2) Provide an efficient process and framework to review development proposals;
 - (3) Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
 - (4) Resolve potential conflicts that may arise between proposed developments and adjacent uses.

- (B) The site development review provisions relate to physical characteristics of a property, proposed site improvements, and proposed buildings. The site development review provisions do not deal with the use of property. Use is regulated by the provisions of each individual zone.

5.108.02 Process

Site Development Review applications shall be reviewed in accordance with the Type III review procedures in Chapter 5.204.

5.108.03 Application

An application for Site Development Review shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.204.

5.108.04 Applicability of Provisions

- (A) Site Design Review is applicable to all new industrial, commercial, mixed use, and multi-family developments and expansions involving a 20% or more increase in total square footage of existing industrial, commercial, mixed use, and multi-family.

- (B) All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

- (C) Expansions of 20% or less shall be permitted and processed as a building permit, provided the expansion and associated use(s) comply with all

**ARTICLE V
REVIEW PROCEDURES**

applicable development requirements such as parking, setbacks, height restrictions.

5.108.05 Submittal Requirements

- (A) The following information shall be submitted as part of a complete application for Site Design Review. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. At the discretion of the City, the information may be submitted graphically or by written summary.
 - (1) Site Analysis
 - (a) Existing site topography;
 - (b) Identification of areas exceeding 10% slopes;
 - (c) Site drainage, identified flood zones and areas within the Greenway;
 - (d) Existing structures, roadway access and utilities; and
 - (e) Existing and proposed streets, bikeways, and pedestrian facilities within 300 feet.
 - (2) Site Plan
 - (a) Proposed grading and topographical changes;
 - (b) All proposed structures including finished floor elevations, setbacks, exterior elevations, and exterior finishing.
 - (c) Vehicular and pedestrian circulation patterns, parking, loading and service areas;
 - (d) Proposed access to public roads and highways, railroads or transportation systems;
 - (e) Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services.
 - (f) Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
 - (g) Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
 - (h) Proof of ownership and signed authorization for the proposed development if applicant is not the owner of the site; and
 - (i) A schedule of expected development.
 - (k) A traffic impact analysis if requested by the City Manager.
 - (l) Other appropriate studies and information that may be required by the City to adequately evaluate the project.

5.108.06 Decision Criteria

**ARTICLE V
REVIEW PROCEDURES**

The review of a Site Plan shall be based upon the following criteria:

- (A) The proposed use is allowed in the zone and complies with the underlying zone development standards.
- (B) The proposed use will not create negative impacts on the surrounding area resulting from traffic flow, noise, dust, glare, odor, potential incompatible adjacent uses such as parking lots, or other impacts identified in the public hearing process.
- (C) The City may impose conditions of approval intended to mitigate potential impacts including but not limited to:
- (D) Provisions for public utilities, including drainage and erosion control needs;
- (E) Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities.
- (F) Provision for adequate noise and/or visual buffering from non-compatible uses including using site and landscaping design to provide needed buffering;
- (G) Protections from any potential hazards.

5.109 INTERPRETATIONS

5.109.01 Applicability

The purpose of this Section is to provide a means to resolve potentially conflicting requirements and unclear Code requirements, and, identify uses not specifically listed in a particular zoning district (similar uses) but which are similar in character, scale and performance to the permitted uses specified therein.

5.109.02 Process

Interpretation requests shall be reviewed in accordance with the Type **II** review procedures in Chapter 5.~~2034xx~~.

5.109.03 Application

Any application for an Interpretation use shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Chapter 5.~~2034xx~~.

5.109.04 Decision Criteria

The City Manager is authorized to make such an appropriate interpretation of the Code provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- (A) The interpretation is consistent with the purpose of the Code and any appropriate purpose statement in an underlying zoning district or development requirement.
- (B) The resulting interpretation conforms to the applicable standards and limitations of the underlying zoning district. In approving an application for a similar use, the City may determine whether the use is prohibited or classified as permitted, special use or conditionally permitted in a specified zone.

5.110 NONCONFORMING USES

5.110.01 Applicability

Within the zoning districts established by this Code, and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this Code but which would be prohibited or restricted under the terms of this Code. This Section allows nonconforming uses and structures to be altered, restored or replaced subject to satisfaction of the review criteria specified. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.

5.110.02 Process

Proposed alterations of nonconforming uses shall be reviewed in accordance with the Type III review procedures in Chapter 5.1204.

5.110.03 Application

An application for an alteration or expansion of a nonconforming use shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.204.

5.110.04 Decision Criteria

The alteration of a nonconforming use or structure may be authorized provided that the applicant demonstrates that the proposal satisfies the following criteria:

- (A) That the alteration of structures would not result in an increase in nonconformity of the structure.
- (B) A change in use to another non-conforming use shall be permitted if it is of the same or less intensity of use.

5.110.05 Conditions of Approval

In approving the alteration, restoration, or replacement of a nonconforming use, the City Manager may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out.

5.111 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS
(PUD)

5.111.01 Applicability

All subdivisions and Planned Unit Developments shall conform to all applicable standards of the underlying zone, as well as the development standards and other provisions of this Code unless otherwise modified by provisions in this Section.

5.111.02 Process

Preliminary plats for subdivisions and planned unit developments shall be reviewed in accordance with the Type III review procedures in Chapter 5.204.

5.111.03 Application

An application for a Subdivision or Planned Unit Development shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.204.

5.111.04 Submittal Requirements

The following submittal requirements shall apply to all Preliminary Plat applications for subdivisions or Planned Unit Development.

- (A) All applications shall be submitted on forms provided by the City to the City Manager along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria.
- (B) Applicants for subdivisions shall submit the following:
 - (1) General Information. The following general information shall be shown on the tentative plan:
 - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - (b) North arrow and scale of drawing.
 - (c) Tax map and tax lot number or tax account of the subject property.
 - (d) Dimensions and size in square feet or acres of the subject property.
 - (e) Name of the subdivision or PUD.

**ARTICLE V
REVIEW PROCEDURES**

- (2) Existing Conditions:
- (a) Location of all existing easements within the property.
 - (b) Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.
 - (c) The location and direction of water courses or drainage swales on the subject property.
 - (d) Existing use of the property, including location of existing structures. It should be noted whether the existing structures are to remain or be removed from the property.
 - (e) Direction of drainage and approximate grade of abutting streets.
 - (f) Proposed streets, approximate grade, and radius of curves.
 - (g) Any other legal access to the subdivision other than a public street.
 - (h) Contour lines related to an established bench mark on City datum, having the following minimum intervals:
 - (i) Areas with less than 5% slope: One-foot contours
 - (ii) Areas with slope between 5% and 10%: Two-foot contours.
 - (iii) Areas with slope greater than 10%: Five-foot contours.
- (3) Proposed Plan:
- (a) Locations, approximate dimensions and area in square feet of all proposed lots. All lots shall be numbered consecutively.
 - (b) Location, width and purpose of any proposed easements.
 - (c) All areas to be offered for public dedication.
 - (d) If any portion of the property is not proposed to be included in the subdivision or any public dedication, that portion shall be identified as a remnant parcel. A draft subdivision or development plan shall be included showing how the proposed subdivision will provide needed access and utilities to serve future development of the remnant parcel.
 - (e) Proposed phasing
- (C) The following supplemental information shall be required for all PUD Preliminary Plan applications:
- (1) Proposed uses on the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.

**ARTICLE V
REVIEW PROCEDURES**

- (2) Designation of the location of the building pads, or areas, or setback lines or setback standards for all buildings to be constructed.
- (3) Architectural renderings of the proposed residential and commercial buildings and structures
- (4) The approximate location and dimensions of all commercial, mixed-use, or multi-family structures proposed to be located on the site.
- (5) Calculations justifying the proposed density of development as required by Section 152.311.
- (6) Landscaping plan indicating location of existing vegetation and proposed improvements.
- (7) Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
- (8) Written statement outlining proposals for ownership and maintenance of all open space areas and any commonly owned facilities.

5.111.04 Decision Criteria

- (A) Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
- (B) The parcels shall meet the Development Standards for Land Division of Chapter 3.219.
- (C) Existing buildings shall comply with the setback requirements of the applicable zone, unless a variance from the requirements is approved.
- (D) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, consideration will be given to extending appropriate access to those properties in accordance with adopted City policy
- (E) PUD. Approval of a Planned Unit Development shall require compliance with the following in addition to the criteria listed above:
 - (1) Conformance with provisions of 3.220 (Purpose Statement) and Section 3.220 (Objectives of this Code).
 - (2) The proposal shall comply with the applicable development and layout provisions contained in Section 3.220 of this Code.

**ARTICLE V
REVIEW PROCEDURES**

- (3) Infrastructure shall be available and appropriate to serve the proposed development.

5.111.05 Final Plat Requirements

- (A) Approvals of any preliminary plat for a subdivision or Planned Unit Development shall be valid for ten years after the date of final approval. The first phase shall be recorded within two years or the approval shall lapse.
- (B) The final plat shall be submitted to the City in a form and with information consistent with Linn County survey and map standards and State laws regarding plats of record and surveys. Where the Development Code directly conflicts with State or County laws, Codes or regulations, the provisions of the State and County laws, Codes or regulations shall apply.
- (C) The applicant shall submit three (3) identical reproducible copies of the final plat for signature. The plats shall be mylar, meeting the requirements of the County Surveyor.
- (D) All monumentation shall meet the requirements of State law including provisions for post-monumentation.
- (E) Endorsements required: The following endorsements represent the minimum required for a final plat. Additional endorsements required by State or County, or City laws, Codes or regulations shall also be supplied. Signature blanks for these endorsements shall be provided on the final plat. Eliminate Mayor and consolidate with City manager
 - (1) City Manager (or designee).
 - (2) City Engineer.
 - (3) Signature blanks for the Mayor with acceptance declaration for dedications of land to public use (other than public utility easements).
- (F) Supplemental Information with Final Plat:
 - (1) An amended title report or subdivision guarantee, as appropriate, issued by a title insurance company in the name of the owner of the land, showing all parties with a title or interest in the property and whose consent is necessary, as well as all existing easements,

**ARTICLE V
REVIEW PROCEDURES**

restrictions, covenants and other encumbrances pertaining to the subject property.

- (2) Copy of any dedication requiring separate documents.
- (3) Where applicable, all Homeowner's Agreements, Articles and By-Laws shall be submitted with the final plat for review by the City Attorney.
 - (a) The final plat shall not be approved by the City until the Homeowner's Association Agreement, Articles and By-Laws are approved.
 - (b) The Homeowner's Association Agreement shall be consistent with State law, including ORS 94.
 - (c) A Certificate of Formation of a non-profit corporation for the Homeowner's Association, with a State Seal, shall be submitted with the final plat for review by the City.
 - (d) Signed, original documents of the Homeowner's Association Agreement, Articles and By-Laws and the certificate of Formation shall be recorded with the final plat.
- (4) Maintenance Agreements for common property or common access easements shall be submitted with the final plat for review by the City Attorney.

5.111.06 Process for Final Plat Approval

- (A) Within three years of the Final Decision unless appealed approving a preliminary plat, a final approved plat (or first phase) shall be recorded with the County. If the first phase final plat is not recorded within two years, the preliminary approval shall lapse. All phases of an approved plat shall be recorded within 10 years of the final date of decision.
- (B) A final plat shall be submitted to the City Manager. After the final plat has been submitted, the City Staff shall review and compare it with the approved tentative plat to ascertain whether the final plat conforms substantially to the approved tentative plat and with such conditions of approval as may have been imposed.
- (C) No final plat shall be approved unless:
 - (1) The plat is in substantial conformance with this Code and the provisions of the tentative plat as approved, including any conditions imposed in connection therewith;

**ARTICLE V
REVIEW PROCEDURES**

- (2) The plat contains land free and clear of all liens and encumbrances. All dedications to the public of all public improvements, including but not limited to streets, roads, sewage disposal and water supply systems, the donation of which is required by this Code or was made a condition of the approval of the tentative plat;
 - (3) Any common areas or improvements to be held jointly by the future owners of the lots or by a Home Owners Association are indicated on the plat with the appropriate references to the structure of ownership. Any bylaws or agreements subject to approval by the City will be approved before the City Manager signs the plat.
 - (4) The City has received adequate assurances that the applicant has agreed to make all public improvements which are required as conditions of approval of the tentative plan, including but not limited to streets, alleys, pedestrian ways, storm drainage, sewer and water systems. The provisions for providing adequate assurance are found in the Public Works Design Standards.
- (D) If the City Manager finds that conditions specified in subsection (C) of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a final plat shall not affect the tentative plan approval.
- (E) When the City Manager finds that the final plat is in substantial conformity to the approved tentative plan and is otherwise in lawful form, the City Manager shall sign and date all three reproducible copies of the plat.
- (F) Following endorsement of the plat by the City Manager, and the City Engineer, the applicant shall submit the plats to the Linn County Surveyor for final review and compliance with applicable state and county regulations. take the following actions and pay all required review fees:
- (G) Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat together with any required documents with the County. Approved final plats shall become void one year after final City approval if they are not recorded.

5.112 COMPREHENSIVE PLAN MAP AMENDMENT

5.112.01 Applicability

The Comprehensive Plan Map designates property for long term development purposes. A Plan Map amendment is required to change the designation of property.

5.112.02 Process

Amendments to the Comprehensive Plan map shall be reviewed in accordance with the Type IV review procedures specified in Chapter 5.205.

5.112.03 Application

An application for a map amendment shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.205.

5.112.04 Submittal Requirements

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. Except for a City initiated Comprehensive Plan amendment, a site plan shall be required demonstrating the ability of the property to be used for the proposed type of uses. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
 - (1) General Information. The following general information shall be shown on the site plan:
 - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - (b) North arrow and scale of drawing.
 - (c) Tax map and tax lot number or tax account of the subject property.
 - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - (e) Location of all existing easements within the property.
 - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.

**ARTICLE V
REVIEW PROCEDURES**

- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
 - (h) A site plan clearly indicating the proposed location of proposed improvements or buildings, if any, including the dimensions of any existing, expanded, or new structures along with all site improvements including driveways, parking, lighting, screening, landscaping, etc..
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.112.05 Decision Criteria

Plan map amendment proposals shall be approved if the applicant provides evidence substantiating the following:

- (A) All information and analysis must justify the proposed change relative to the Map designation to which the property is proposed to change, and to the Map designation from which the property is changing. The analysis must speak to the impacts from the decrease in land acreage of one map designation and the increase in land acreage for the proposed map designation.
- (B) Compliance is demonstrated with the Statewide Land Use Planning Goals and Guidelines and any relevant Administrative Rules applying to the subject properties or to the proposed land use designation. If the proposed designation requires an exception to the Goals, the applicable criteria in the LCDC Administrative Rules for the type of exception needed shall also apply.
- (B) Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.
- (C) The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Comprehensive Plan.
- (D) The Plan provides more than the projected need for lands in the existing land use designation.

**ARTICLE V
REVIEW PROCEDURES**

- (E) The proposed land use designation will not allow zones or uses that will destabilize the land use pattern in the vicinity or significantly adversely affect existing or planned uses on adjacent lands.
- (F) Public facilities and services necessary to support uses allowed in the proposed designation are available or will be available in the near future.

**ARTICLE V
REVIEW PROCEDURES**

5.113 ZONE MAP AMENDMENT

5.113.01 Applicability

The Zone Map establishes zone for individual properties. A zone change approval is required to change the zoning of any property.

5.113.02 Process

Zone changes shall be reviewed in accordance with the Type IV review procedures specified in Chapter 5.205.

5.113.03 Application

An application for a zone change shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.205.

5.113.04 Submittal Requirements

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. Except for a City initiated zone change, a site plan shall be required demonstrating the ability of the property to be used for the proposed type of uses. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
 - (1) General Information. The following general information shall be shown on the site plan:
 - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - (b) North arrow and scale of drawing.
 - (c) Tax map and tax lot number or tax account of the subject property.
 - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - (e) Location of all existing easements within the property.
 - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.

**ARTICLE V
REVIEW PROCEDURES**

- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
 - (h) A site plan clearly indicating the proposed location of proposed improvements or buildings, if any, including the dimensions of any existing, expanded, or new structures along with all site improvements including driveways, parking, lighting, screening, landscaping, etc..
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.113.05 Decision Criteria

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- (A) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
- (B) The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
- (C) Allowed uses in the proposed zone can be established in compliance with the development requirements in this Code.
- (D) Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- (E) For residential zone changes, the criteria listed in the purpose statement for the proposed residential zone shall be met.

5.114 TEXT AMENDMENTS

5.114.01 Process

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Chapter 5.205.

5.114.02 Application

A Plan or Code text amendment can only be initiated by the Planning Commission or City Council. Private citizens, however, may suggest text changes. Upon direction of either the Commission or Council, City staff shall establish a file and set a schedule to review the proposed changes. Notice shall be subject to the provisions in Chapter 5.205.

5.114.03 Decision Criteria

Amendments to the Comprehensive Plan or Development Code text shall be approved if the evidence can substantiate the following:

- (A) There are no negative impacts of the proposed amendment on land use and development patterns within the city, as measured by:
 - (1) Traffic generation and circulation patterns;
 - (2) Demand for public facilities and services;
 - (3) Level of park and recreation facilities;
 - (4) Economic activities;
 - (5) Protection and use of natural resources;
 - (6) Compliance of the proposal with existing adopted special purpose plans or programs.
- (B) A demonstrated need exists for the proposed amendment.
- (C) The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

**ARTICLE V
REVIEW PROCEDURES**

- (D) The amendment is appropriate as measured by at least one of the following criteria:
 - (1) It corrects identified error(s) in the provisions of the plan.
 - (2) It represents a logical implementation of the plan.
 - (3) It is mandated by changes in federal, state, or local law.
 - (4) It is otherwise deemed by the City Council to be desirable, appropriate, and proper.

5.115 ANNEXATIONS

5.115.01 Authority of City to Annex

The boundary of the City may be extended by the annexation of territory not then within the City and which territory is within the urban growth boundary and contiguous to the City or separated from it by a stream or right-of-way only.

5.115.02 Process

Annexations shall be reviewed in accordance with the requirements of ORS 222.111 through 222.183 as may be amended, and the City's Type IV review procedures specified in Chapter 5.205. A concurrent development proposal is not required to annex property.

5.115.03 Application

An application for an annexation shall be filed with the City and accompanied by the appropriate fee. Requirements for an application are found in ORS 222.111 through 222.183 as may be amended. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of both the Statute and this Section. Notice shall be subject to the provisions in Statute and Chapter 5.205.

5.115.04 Decision Criteria

Annexation shall be approved if the evidence can substantiate the following:

- (A) The property abuts the City limits.
- (B) Public facilities are available or can be extended in the future to serve the property.
- (C) Public access is available or may be extended in the future to serve the property.

5.115.05 Effective Date of Annexation

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, 111.900 and the requirements of this Chapter. Thereafter, the annexed territory shall be and remain part of the City. The date of such filing shall be the effective date of annexation.

**ARTICLE V
REVIEW PROCEDURES**

5.115.06 Zone Designation of Annexed Property

Unless a request to amend the Comprehensive Plan map and Zone map is made in conjunction with the annexation, the City Council shall establish a zone that corresponds to the underlying Plan designation.

5.201 GENERAL ADMINISTRATIVE PROVISIONS

5.201.01 Multiple Applications

Applications for more than one land use action for the same property may, at the applicant's discretion, be heard or reviewed concurrently. Multiple land use requests involving different processing Types shall be heard and decided at the higher processing Type. For example, an application involving a Subdivision (Type III) with an Adjustment (Type II) shall be reviewed and decided as a Type III request.

5.201.02 Generalized Area

Applications involving multiple properties may be aggregated if in the opinion of the City Manager a better understanding of the entire land use proposal is served by combining requests. A Final Decision unless appealed shall be granted for each request and each request is appealable individually.

5.201.03 Application Forms

All applications shall be on forms supplied by the City and include the necessary requirements and submittal information.

5.201.04 Time Limit

If for any reason it appears that a final action regarding an application may not be completed within the 120-day period, and unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Code.

- (A) The City staff shall notify the City Council of the timing conflict by the 85th day after the application is deemed complete.
- (B) The Mayor shall confer with staff and schedule a hearing to render a timely decision on the application within the 120-day period.
- (C) The application will automatically transfer to the sole jurisdiction of the City Council on the 85th day after the application is deemed complete.
- (D) Public notice of the City Council's hearing on the application shall be mailed to affected parties as specified in Chapter 5.204 except the notice shall be for a period of 10 days.

**ARTICLE V
REVIEW PROCEDURES**

- (E) The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Chapter 5.207 and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

5.201.05 Nature of Appeal Hearings

Any Planning Commission or City Council hearing on an appeal shall be held de novo, meaning new testimony may be submitted in addition to the existing record of the case and prior hearings.

5.202 TYPE I APPLICATION AND REVIEW PROCEDURES

5.202.01 Procedure for Type I Action

- (A) Decision Authority. Applications subject to a Type I review shall be reviewed and decided by the City Manager or his/her designee.
- (B) Application. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
 - (1) If determined to be complete, the 120-day time period shall begin.
 - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - (1) Upon receipt of the requested acceptable additional information; or,
 - (2) On the 31st day after the original application submittal.
- (D) Decision. The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable clear and objective standards as set forth in this Code.
- (E) Appeals. Type I land use decisions are not appealable.

5.203 TYPE II APPLICATIONS AND REVIEW PROCEDURES

5.203.01 Procedure for Type II Action

- (A) Decision Authority. Applications subject to a Type II procedure shall be reviewed and decided by the City Manager or his/her designee.
- (B) Application. Upon receipt of an application for Type II land use action, the City staff shall review the application for completeness.
 - (1) If determined to be complete, the 120-day time period shall begin.
 - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - (1) Upon receipt of the requested acceptable additional information; or, refusal by the applicant to submit the requested information;
 - (2) On the 31st day after the original application submittal.
- (D) Hearing Option. The City Manager or designee may request a public hearing before the Planning Commission. A public hearing may also be requested by the applicant. The procedures for conducting the public hearing shall comply with the standards in Chapter 5.206.
- (E) Before making a Type II decision, the City shall mail notice of the application to:
 - (1) All owners of record of real property within 100-feet of the subject site.
 - (2) Any person who submits a written request to receive a notice; and
 - (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, or required by State statute.
 - (4) The road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application.
 - (5) The City may notify other affected agencies, as appropriate, for review of the application.

**ARTICLE V
REVIEW PROCEDURES**

- (F) The notice of a pending Type II decision in item (E) above shall include the following:
- (1) Provide a 14-day period for submitting written comments before a decision is made on the land use application.
 - (2) Identify the specific land use decisions or decisions requested.
 - (3) Describe the street address or other easily understandable reference to the location of the site.
 - (4) List the relevant decision criteria by name and number of Code sections.
 - (5) State the place, date and time the comments are due, and the person to whom the comments should be addressed.
 - (6) Include the name and telephone number of a contact person regarding the Administrative Decision.
 - (7) State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
 - (8) State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City.
 - (9) State that after the comment period closes, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
- (G) Decision. The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.
- (H) Notice of Decision. Within five working days after a decision is made, a Notice of Decision shall be sent by mail to:
- (1) The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
 - (2) Any person who submits a written request to receive notice, or provides comments during the application review period.

**ARTICLE V
REVIEW PROCEDURES**

- (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
- (I) Appeals and Reconsideration. All Type II land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.207.
- (J) Commission Hearing and Notice of Appeal. If a Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.1xx. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.204.
- (K) Commission Action. The Commission action on a Type II appeal shall be in the form of a decision. Within 7 days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- (J) Appeals. All appeals of Type II land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.204.
- (L) Council Hearing and Notice of Appeal. If the Commission decision on a Type II decision is appealed, City staff shall schedule a hearing before the City Council. The Council shall conduct the hearing consistent with procedures set forth in Chapter 5.207. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Commission decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.204.
- (M) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the Council decision. The notice shall

**ARTICLE V
REVIEW PROCEDURES**

specify findings justifying the approval or denial of the request and any applicable conditions of approval.

- (N) Appeal of Council Decision. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

5.203.02 Conditions of Approval

- (A) Authorization for Conditions. Approvals of a Type II action may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with the standards of the development code; or fulfill the need for public service demands created by the proposed use.
- (B) Timing of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (C) Modify Conditions. A request to change or alter conditions of approval shall be processed as a new Type II action.

5.204 TYPE III APPLICATIONS AND REVIEW PROCEDURES

5.204.01 Procedures for Type III Actions

- (A) Decision Authority. Applications subject to a Type III procedure shall be reviewed and decided by the Planning Commission.
- (B) Application. Upon receipt of an application for a Type III land use action, the City staff shall review the application for completeness.
 - (1) If determined to be complete, the 120-day time period shall begin.
 - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 180 days to submit supplemental information as necessary.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - (1) Upon receipt of the requested adequate additional information; or, refusal by the applicant to submit the requested information;
 - (2) On the 31st day after the original application submittal.
- (D) Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
- (E) Commission Hearing and Notification Area. City staff shall schedule a hearing before the Planning Commission. Written notice of the public hearing shall be mailed at least twenty (20) days prior to the hearing date to the applicant, owners of property within 100 feet of the boundaries of the subject property and to affected county and state agencies responsible for roads and highways. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.206. The notice of a pending Type III hearing shall include the following:
 - (1) Explain the nature of the application.
 - (2) Cite the applicable criteria from the Code.
 - (3) Identify the location of the property.
 - (4) State the date, time and location of the Planning Commission hearing.

**ARTICLE V
REVIEW PROCEDURES**

- (5) Include the name of the City representative to contact and the telephone number where additional information may be obtained;
 - (6) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals;
 - (7) State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost;
 - (8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost;
 - (9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.
- (F) Commission Action. The Commission action on a Type III request shall be in the form of a decision. Decisions are to be signed by the Planning Commission Chair or acting Planning Commission Chair. Within 7 days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- (G) Appeals. All appeals of Type III land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.207.
- (H) Council Hearing and Notice of Appeal. If the Commission decision on a Type III decision is appealed, City staff shall schedule a hearing before the City Council. The Council shall conduct the hearing consistent with procedures set forth in Chapter 5.1xx. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Commission decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.204.
- (I) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the Council decision. The notice shall

**ARTICLE V
REVIEW PROCEDURES**

specify findings justifying the approval or denial of the request and any applicable conditions of approval.

- (J) Appeal of Council Decision. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

5.204.02 Conditions of Approval

- (A) Authorization for Conditions. Approvals of any Type III action may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with the standards of the development code; or fulfill the need for public service demands created by the proposed use.
- (B) Timing of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (C) Modify Conditions. A request to change or alter conditions of approval shall be processed as a new Type III action.

5.205 TYPE IV APPLICATIONS AND REVIEW PROCEDURES

5.205.01 Procedures for Type IV Actions (Quasi-Judicial)

- (A) Decision Authority. Zone Changes and Comprehensive Plan Map amendments initiated at the request of a property owner are quasi-judicial applications and subject to a Type IV procedure and shall be reviewed and decided by the City Council with the recommendation of the Planning Commission.

- (B) Application. Upon receipt of an application for a Type III land use action, the City staff shall review the application for completeness.
 - (1) If determined to be complete, the 120-day time period shall begin.
 - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 180 days to submit supplemental information as necessary.

- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - (1) Upon receipt of the additional information; or, refusal by the applicant to submit the requested information;
 - (2) On the 31st day after the original application submittal.

- (D) Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.

- (E) Commission Hearing and Notice. City staff shall schedule a hearing before the Planning Commission. The City Council and Planning Commission hearings can be combined if approved by the Mayor. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.206. Notice of the public hearings before the Planning Commission and City Council for a Type IV land use action, shall be published in a newspaper of general circulation in the City at least 20 days prior to each public hearing. Affected property owners within 200-feet of the subject property shall be notified by mail at least 20 days prior to the initial

**ARTICLE V
REVIEW PROCEDURES**

Planning Commission hearing. Mailed notice of a pending Type IV hearing shall include the following:

- (1) Identify the specific land use decisions or decisions requested.
 - (2) Describe the street address or other easily understandable reference to the location of the site.
 - (3) List the relevant decision criteria by name and number of Code sections.
 - (4) State the place, date and time of the Planning Commission hearing.
 - (5) Include the name and telephone number of a contact person regarding the Administrative Decision.
 - (6) State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
 - (7) State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City.
application
- (F) Commission Action. The Commission action on a Type IV request shall be in the form of a recommendation to the City Council. Within 7 days of the Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
- (G) Council Hearing. Subsequent to the Commission hearing, City staff shall schedule a hearing before the City Council. Notice shall be provided consistent with requirements in Chapter 5.204. The Council shall conduct the hearing consistent with procedures set forth in Chapter 5.207. The City Council and Planning Commission hearings can be combined if approved by the Mayor.
- (H) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be in the form of an ordinance; a denial shall be in a form acceptable to the Council.

**ARTICLE V
REVIEW PROCEDURES**

- (I) Appeals. All Type IV land use decisions of the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.
- (J) Joint Notice Publication. The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20-days prior to the Planning Commission hearing.

5.205.02 Conditions of Approval

- (A) Authorization of Conditions. Approvals of a zone change may be granted subject to conditions to the extent permitted under this Code.
- (B) Timing of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (C) Modify Conditions. Changes of alterations of conditions shall be processed as a new administrative action.

5.205.03 Procedures for Type IV Actions (Legislative)

- (A) Procedures. Type IV legislative applications may be initiated by either a majority vote of the City Council or a majority vote of the Planning Commission.
- (B) Time Limit. Type IV legislative actions are not subject to the 120-day time limit.
- (C) Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
- (D) Public Hearings by Planning Commission. A public hearing shall be held by the Planning Commission. Notice of the time, place and purpose of the

**ARTICLE V
REVIEW PROCEDURES**

Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 20 days prior to the date of hearing.

- (E) Commission Action. The Commission action on a Type IV legislative request shall be in the form of a recommendation to the City Council. Within 7 days of the Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
- (F) Public Hearing by City Council. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice of the time, place and purpose of the Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of hearing.
- (G) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be in the form of an Ordinance; a denial shall be in a form acceptable to the Council.
- (H) Appeals. All Type IV land use decisions by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.
- (I) Joint Hearing and Notice of Publication. The Planning Commission and City Council hearings can be combined if approved by the Mayor. The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20-days prior to the Planning Commission hearing.

**ARTICLE V
REVIEW PROCEDURES**

5.206 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

5.206.01 General Provisions

- (A) Timing. Land use actions which require a public hearing by the Planning Commission under the provisions of this Code shall be initially heard by the Planning Commission within 60 days of the receipt of an application which is deemed complete.
- (B) Hearing Action. The Planning Commission may continue a public hearing for additional information, testimony, or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than 30 days beyond the initial hearing date.
- (C) Continuance and Open Record. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing for the receipt of additional written testimony.
- (D) Type II Appeals. Appeal of a Type II action shall be heard by the Planning Commission. Findings of the Planning Commission on such appeal shall be final unless further appealed to the City Council.
- (E) Type III Action. The decisions of the Planning Commission on applications for Type III actions shall be final unless appealed to the City Council.
- (F) Type IV Actions. The recommendations of the Planning Commission on applications for Type IV actions shall be referred to the City Council for final determination. Notice of the Commission recommendation is required but shall not be subject to appeal.

5.206.02 Planning Commission Hearing Procedures

A public hearing before the Planning Commission shall be conducted under the following procedures unless modified by the Commission for a specific hearing:

- (A) Open the public hearing and announce the purpose.
- (B) Call for abstentions and objections to jurisdiction; and, *ex parte* contacts, conflicts of interest or bias on behalf of the Commission members.
- (C) Receive the staff report and recommendation.

**ARTICLE V
REVIEW PROCEDURES**

- (D) Applicant addresses Commission.
- (E) Those in favor of the application address the Commission. Commissioners may ask questions of the speaker.
- (F) Those not in favor of the application address Commission. Commissioners may ask questions of the speaker.
- (G) Those not necessarily in favor or opposed address the Commission.
- (G) Clarifying questions of proponents and opponents from the Commission directed through the Chair.
- (H) Applicant rebuttal.
- (I) Staff comments and recommendation based on the testimony.
- (J) Close of hearing for the receipt of any additional testimony.
- (K) Deliberation of Commission of findings of fact.
- (M) Close hearing.
- (L) Decision of Commission.

5.206.03 Evidence

- (A) Acceptance of Evidence. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- (B) Exclusion of Evidence. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.
- (C) Public Record. All evidence shall be offered and made a part of the public record in the case.

**ARTICLE V
REVIEW PROCEDURES**

- (D) Use of Other Information. The Planning Commission may take notice of judicially recognizable facts, and members may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision unless appealed, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Planning Commission members may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented.
- (E) Rights of Participants. Every party is entitled to an opportunity to be heard and to present and rebut evidence.
- (F) Testify. All interested persons shall be allowed to testify.
- (G) LUBA Appeal. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.

5.206.04 Record of Hearing

A record of the proceeding shall be made by written, mechanical or electronic means.

5.206.05 Limits on Oral Testimony

The Planning Commission Chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

5.206.06 Exhibits

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

**ARTICLE V
REVIEW PROCEDURES**

5.207 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL

5.207.01 General Provisions

- (A) Council Review. The City Council may call up a Type II or Type III decision for its own review within the appeal period without an appeal being filed. A majority of the Council, as determined by the City Attorney, must concur in considering calling up the application. If there is concurrence, the agenda item will be set at a regular meeting or at a special meeting set by the Mayor. The Council must take the action to call up a decision in a public meeting and cite the reasons. The Council must find the original decision likely violated City regulations, policy, or best interest as determined by the Council. Matters called up by the Council shall be processed in the same manner as an appeal.

- (B) Timing. All hearings or reviews required by the City Council shall be heard within 30 days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.

- (C) Council Decisions. The City Council shall prepare and adopt written findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant. Amendments to adopted maps and texts shall require an ordinance; other decisions shall require an order.

5.207.02 City Council Review of Appeals

- (A) Appeals. The City Council shall hear the appeals of Planning Commission decisions, including appeals of Type II decisions rendered by staff and appealed to the Commission. The City Council action on such appeals shall be the final action of the City on the request.

- (B) Submission of New Testimony and De Novo Hearings. The City Council shall admit additional testimony and other evidence by holding a de novo hearing. The hearing procedures shall be the same as for a Planning Commission hearing found in Section 5.206.02.

**ARTICLE V
REVIEW PROCEDURES**

- (C) City Council Action. The City Council may affirm, rescind, or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the decision. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period.