



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.*

NOTICE OF PUBLIC MEETING CITY OF MILLERSBURG PLANNING COMMISSION

Tuesday, September 17, 2019
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. August 20th 2019 Planning Commission Meeting
- E. OLD BUSINESS
- F. NEW BUSINESS
 - 1) Discussion of Articles II and III in Land Use Development Code with City Planning Director, John Morgan of MorganCPS Group
- G. CITY PLANNER UPDATE
- H. ADJOURNMENT

Upcoming Meeting:

September 24, 2019 @ 6:00 p.m. – City Council Work Session



**CITY OF MILLERSBURG
PLANNING COMMISSION WORK SESSION**

4222 NE Old Salem Road
Tuesday, August 20th, 2019
6:00 p.m.

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, Steve Vogler, Dennis Gunner, Connie Lepin, Ryan Penning, and John Sullivan
- Members Absent: Ed Perlenfein, Scott Stimpson, Anne Peltier
- Staff Present: Jake Gabell, Deputy City Recorder; Forrest Reid, City Attorney; John Morgan, Planning Manager; Janelle Booth, Assistant City Manager/City Engineer; and Kevin Kreitman, City Manager
- C. MEETING MINUTE APPROVAL
- 1) May 21st meeting minutes
Action: Motion to accept the minutes as presented made by Commissioner Lepin; seconded by Commissioner Vogler.
Commissioner Kirkendall: Aye
Commissioner Gunner: Aye
Commissioner Vogler: Aye
Commissioner Lepin: Aye
Commissioner Sullivan: Aye
Commissioner Penning: Aye
- 2) May 28th, 2019 work session minutes
Action: Motion to accept the minutes as presented made by Commissioner Lepin; seconded by Commissioner Vogler.
Commissioner Kirkendall: Aye
Commissioner Gunner: Aye
Commissioner Vogler: Aye
Commissioner Lepin: Aye
Commissioner Sullivan: Aye
Commissioner Penning: Aye
- D. Old Business
- 1) No discussion
- E. New Business - Presentation by John Morgan
- 1) Review of Article 3.102.04 Access Spacing
- i. The changes to the access spacing section were discussed. Note 3 will be rewritten to clarify circular driveways.

- ii. 3.103.08 (C) Driveways - was discussed. As written the draft code does not allow parking for ATV's or boat parking in a driveway.
 - 1. The definition of a recreation vehicle will be updated in Article 1 to include street legal trailers, boats, snowmobiles, and ATVs.
- iii. 3.103.08 (F) Driveway Required – was discussed. This section was updated to clarify that it applies to multi-family, commercial, public, and industrial uses.

Action: Motion to adopt 3.102.04 through 3.103.08, with changes made during the meeting, made by Commissioner Sullivan; seconded by Commissioner Gunner.

Amendment: Motion to adopt 3.102.04 and 3.103.08, with changes made during the meeting, made by Commissioner Sullivan; seconded by Commissioner Gunner.

Commissioner Kirkendall: Aye
Commissioner Gunner: Aye
Commissioner Vogler: Aye
Commissioner Lepin: Aye
Commissioner Sullivan: Aye
Commissioner Penning: Aye

- 2) Review of Article 3.206 Residential Accessory Structures
 - i. 3.206.01 (A) Dimensions and Design Requirements was rewritten to clarify the verbiage.
- 3) Review of Article 1 General Provisions
 - i. 1.012.02 Definitions
 - 1. A definition for an Accessory Dwelling Unit will be added.
 - 2. The definition for accessory structure will be updated to remove the 'detached' provision.
 - 3. The definition for Parking Area, Public will be updated to clarify the definition of a 'truck'.
 - 4. The definition of an impervious surface will be updated.
 - 5. The Home Occupation definition was discussed. A typo was recognized and corrected.
 - 6. The Sign definition was discussed, and 'flag' was removed as a portion of this definition.
 - 7. Start of Construction (flood) definition was discussed and will remain the same.
 - 8. The definitions of Manufactured Home Parks were discussed and will be clarified.
 - 9. Definitions of Partitions and Planned Unit Development were discussed and will remain the same.
 - 10. Definition of Senior Housing will be updated to include assisted living.

F. Additional topics of concerns by the Planning Commission

- 1) Concerns were brought up on the type of notices that were sent to citizens. It was discussed to send specific notices to those property owners whose zones are changing.
- 2) The zone map changes were discussed, and it was decided to revisit the changes to the proposed new zone map.

- 3) Discussion on the open house. The Commission requested the City Planner Matt Straite give a summary of the input provided by citizens.

G. Meeting adjourned by Commission President Kirkendall at 7:58 pm.

Respectfully submitted:

Reviewed by:

Jake Gabell
Deputy City Recorder

Janelle Booth
Assistant City Manager/City Engineer

DRAFT

9/10/2019 9:56:00 AM

Compare Results

Old File:

Chapter 2.pdf

69 pages (467 KB)

9/10/2019 9:50:44 AM

versus

New File:

Article 2 DCF 8.7.pdf

74 pages (437 KB)

9/10/2019 9:54:14 AM

Total Changes

502

Text only comparison

Content

383 Replacements

73 Insertions

46 Deletions

Styling and Annotations

0 Styling

0 Annotations

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**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 zoning 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 zone 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 zoning 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 zoning zone boundaries; property lines; lot lines; center lines of streets, alleys, streams, or railroads; City boundaries; notations on

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

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2.102 INTERPRETATION OF USES

2.102.01 Interpretations of Uses

- (A) Types of Uses. Within each zone, uses are classified as “permitted,” “special permitted” and “conditional.” Further, uses are functionally classified by description of the particular activity, such as “single-family residence.”
- (B) Interpretation of Uses. 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.

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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 3.108.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.

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- (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 3.211.
- (H) Bed and breakfast, subject to provisions in Chapter 3.212.

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 3.213.
- (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.

2.103.05 Density Regulations

- (A) Single Family and Manufactured Homes - No more than one dwelling per lot or parcel.
- (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:

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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 3.109.
- (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 (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.

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2.103.08 Public Services

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

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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 municipal water and sewer facilities become available and are provided, 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 3.108.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.
- (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

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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.

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.

2.104.05 Density Regulations

For single family homes, including manufactured homes, no more than no more than one dwelling per lot or parcel.

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	
Front Yard	20 feet
Garage	25 feet to entrance
Front Yard to Arterial and Collector Streets	30 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%

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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 3.109.
- (D) Residential Design Standards. All single-family homes and manufactured dwellings on individual lots shall conform to the design standards in Chapter 3.203.
- (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 municipal water and sanitary sewer service are 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 this event occurs, all further development of the property shall be subject to the provisions of the Residential Low Density zone.

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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 3.108.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.
- (C) Manufactured homes on individual lots, subject to the provisions of Chapter 3.203.

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- (D) Multiple family dwellings, subject to design provisions in Chapter 3.214.
- (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 3.212.
- (K) Day care facilities exceeding 12-children, subject to Site Development Review provisions in Chapter 4.108.

2.105.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Houses of worship, subject to provisions in Chapter 3.212.
- (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	
Single Family	5,000 square feet
Duplex	7,000 square feet
Attached Dwelling	3,500 square feet

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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.
- (E) Multiple Family and Non-residential Development. Property abutting an RL or RU zone shall provide sight obscuring screening with vegetation and/or fencing to a height of forty-two (42) inches above the ground. Trash collection areas shall also be enclosed with fencing at least six feet in height.

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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:

- (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.
- (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.

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- (K) Professional offices and clinics for medical, dental, legal, engineering and other professions
- (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.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.
- (C) Planned Unit Developments subject to applicable provisions in Chapter 3.109.
- (D) Multiple family dwellings, subject to Site Development Review provisions in Chapter 4.108.
- (F) 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) Bed and breakfast, subject to provisions in Chapter 3.212.
- (I) Day care facilities exceeding 12-children, subject to Site Development Review provisions in Chapter 4.108.
- (J) Temporary uses, subject to provisions in Chapter 3.211.

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2.106.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Houses of worship, subject to provisions in Chapter 3.213.
- (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:

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- (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. Except for the construction or placement of a single-family home or duplex, 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 3.109.
- (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

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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 can be mixed either on the entire site, within a building or both.

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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 3.108.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.
- (C) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.204.
- (D) Temporary uses, subject to provisions in Chapter 3.211.

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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	None

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.
- (B) Signs. Signs in the C Zone shall conform to the standards contained in Chapter 3.106.

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- (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 Commercial Office 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 3.109.
- (F) Outdoor Storage and Display. Outdoor storage and display of merchandise, material, or equipment shall be prohibited.

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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.
- (I) Part and accessory sales for automobiles, trucks, motorcycles, trailers, agricultural equipment, recreational vehicles and boats, which include the

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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 3.108.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.
- (C) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.204.
- (D) Temporary uses, subject to provisions in Chapter 3.211.
- (E) Bed and breakfast, subject to provisions in Chapter 3.212; and, located within a pre-existing residence.
- (F) House of worship, subject to provisions in Chapter 3.213.
- (G) Recreational vehicle park, subject to provisions in Section 3.216.

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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	
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	

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Principal and Accessory Building	35 feet or higher with Conditional Use Permit
Maximum Lot Coverage	100%

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 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 3.109.
- (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.
 - (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) 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.

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2.109  LIMITED INDUSTRIAL ZONE (I)

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 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 3.108.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.

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- (C) Home occupations within a pre-existing residence, subject to the provisions of Chapter 3.204.
- (D) Temporary uses, subject to provisions in Chapter 3.211.
- (E) Bed and breakfast within a pre-existing residence, subject to provisions in Chapter 3.212.

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.

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)
Maximum Lot Coverage	None

2.109.06 Development Standards

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

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- (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 3.109.
- (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 4.108.
- (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.

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2.110 GENERAL INDUSTRIAL ZONE (I)

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 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, 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:
- (1) Metals and minerals.

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- (2) Scrap and waste material.
 - (3) Farm-product raw materials.
 - (4) Chemicals and allied products.
 - (5) Petroleum and petroleum products.
- (C) Public and private utility facilities, including water and sewage treatment facilities, substations, pumping stations and similar facilities with outdoor equipment storage permitted.

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 3.108.
- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.
- (C) Temporary uses, subject to provisions in Chapter 3.211.

2.110.04 Conditional Uses

The following uses require approval of a Conditional Use Permit:

- (A) Extraction and processing of minerals, rock, or other earth products.
- (B) Automotive dismantling, wrecking and salvage yard, recycling centers.
- (C) Petroleum products storage and distribution, including asphalt plants.
- (D) Battery manufacture, sales and service.
- (E) Manufacturing, processing, storage of explosive, 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.

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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	100%

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.
- (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 3.109.
- (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 4.108.

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- (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.

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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 3.108.

- (B) Subdivisions subject to the applicable provisions of Chapter 3.108.

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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.

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- (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 4.108.
- (D) Landscaping. Landscaping improvements shall be installed and maintained in all yard areas accordance with Section 3.109.

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

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

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- (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.
- (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.

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- (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.
- (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,

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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 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

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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 graphically on the zoning 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 **September XX, 19XX**, 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 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:

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- (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

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. Except as provided herein all uses and floodplain development shall be subject to issuance of a determination or a conditional use permit as provided in Chapter 152.407. 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.

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- (B) Driveways, parking lots and other open space use areas where no alteration of topography will occur.

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- (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.
- (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.

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- (H) No alteration of topography beyond the perimeter of the structure is proposed.
- (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 Chapter 152.201, 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.
- (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.

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- (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.
 - (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:

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- (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 one (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 minimum criteria:
 - (a) A minimum of 2 openings having a total net area of not less than one (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:

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

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(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.
- (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

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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.
- (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.

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- (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 three (3) or more feet 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. 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

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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 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.

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;

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- (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.

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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 Asignificant@ 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 Chapter 152.202.

Landmark - Any site, object, building or structure designated by the City Council pursuant to provisions in Chapter 152.202.

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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 Chapter 152.419 of this Code. The Council shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request.

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- (D) Decision Criteria. The Council shall consider the following criteria in determining whether to approve a proposed landmark or zone:
- (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 Recorder 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 Recorder. Application for a permit shall be on a form provided by the City.
- (B) Review Process. Upon receipt of a completed application, the City Recorder shall include the demolition request on the agenda for

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consideration at the next available Commission meeting. The Commission shall hold a public hearing pursuant to Chapter 152.419 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 Section 152.202.01.
 - (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:
- (1) No more that 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.

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- (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 Recorder 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:
 - (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

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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 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 Recorder. The application shall be on a form provided by the City.

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- (C) Approval Requirements. The City Recorder 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 Chapter 152.424 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.
 - (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 Recorder 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

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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 (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.

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

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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. The boundary is shown in detail on aerial photo maps on file with the City Manager. Interpretation of the exact location of the boundary shall be made by the Planning Commission from these photo maps.
- (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 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 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. A Greenway Conditional Use permit may be obtained by making application with the City on forms supplied by the City Manager's office. 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.
- (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.

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- (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.
- (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.

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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 requirements⁹ 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 ten (10) days from the date of mailing to respond before a decision is made.

2.204 AIRPORT APPROACH AREA OVERLAY (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 (20) feet outward for each foot upward beginning at the ends of the primary surface (200 feet from the end of the pavement) and at the same elevation as the primary surface, and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
 - 2. Transitional Zones. Slope seven (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 seven (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 above the airport elevation and extending to a height of 350 feet above the airport elevation.

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- (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.

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.
- (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.

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Compare Results

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Chapter 3.pdf

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versus

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Total Changes

513

Text only comparison

Content

153 Replacements

189 Insertions

171 Deletions

Styling and Annotations


0 Styling

0 Annotations

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ARTICLE III
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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.

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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	Yes	Yes	Yes		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-3	Yes	Yes	Yes	Yes	No
New Industrial Building	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industrial Expansion	C-1		Yes	Yes	Yes	Yes	No
Partition (without public utilities)	No, must comply with Fire Code	C-2	No	No	No	No, must accommodate drainage on-site	No
Partition (with public utilities)	No, Unless required by Fire Code	C-2	C-3	C-3	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 Uniform Building Code or Uniform Fire Code.

C-2 **Street Improvements for Single Family Dwellings and 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

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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.

- (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. A partition to parcels smaller than 2.5 acres requires street improvements. If there is no adjacent improvement to the partitioned parcels, a street frontage fee, in accordance with the City's adopted connection fees, will be required in lieu of constructing the improvement.

C-3 language for partitions – In the UT 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 1000 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.



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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-of-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.

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3.102.03 General Provisions

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 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.

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- (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 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.

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- (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 submittal of a non-remonstrance agreement to participate in future street improvements.
- (N) Unless modified per Section 3.102.05 the following cross-section design guidelines hall apply:

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* 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 ⁵	20–24 ft	18–20 ft	N/A			N/A	N/A	N/A
Local – Industrial								
Parking both sides	60 ft	40 ft	Unstriped	N/A	N/A	Unstriped	Behind ⁶	5-6 ft
Local – Commercial Service/Alley								
No Parking	30 ft	20 ft	Unstriped	N/A	N/A	N/A	N/A	4 ft ⁷
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		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. This standard is only applicable to residential streets under certain conditions and requires Planning Commission approval for the exception.
5. Not appropriate standards for commercial streets.
6. Street trees shall be located on the outside edges of the right-of-way.
7. Sidewalk required on one side only.

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3.102.04 Access Spacing

Table 3.3

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	125 feet
Local Industrial	25 mph	Access to each lot permitted	300 feet

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. In this case the driveway width shall not exceed 15 feet.

3.102.05 Modification of Right-of-Way and Improvement Width

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.

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- (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 Millersburg and along Arterial and Collector streets. Sidewalks may be deferred by the City where future road or utility improvements will occur and on property in the rural fringe of the City where urban construction standards have not yet occurred. The property owner is obligated to provide the sidewalk when requested by the City or is obligated to pay their fair 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.

- (A) Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the Public Works Department determines that full right-of-way acquisition is impractical.
- (B) Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval process.
- (C) Sidewalks width and location, including placement of any landscape strip, shall comply with City of Millersburg **Engineering Standards**.
- (D) 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.
- (E) 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.

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- (F) 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 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 Engineering Standards (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, home owners 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.

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- (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' of less and serving on 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 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.
- (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, home owners 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.

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- (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 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 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

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- 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.



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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.

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.

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- (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 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.

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3.103.06 Off Street Vehicle and Bicycle Parking 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	1 space per 800 sq. feet of gross floor area, plus 1 space per 2 employees	1	Per 30 vehicle spaces

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	automobiles or furniture			
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
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.



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- (2) Location. All bicycle parking shall be within 100 feet from 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

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 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:

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- (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.
 - (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%.

QUESTION ADDITIONS/PER/JNM


- (2) 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) Screening. When any public parking or loading area is within or adjacent to a residential zone, such parking or loading area shall be screened from all residential properties with an ornamental fence, wall or hedge of at least 4 feet in height. The screening shall otherwise comply with applicable height limitations and clear vision requirements. **(NOTE: conflicts with individual zone standards – suggest eliminating requirement per each zone.)**
- (E) 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.

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- (F) 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.
- (G) 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.
- (H) 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.
- (I) Landscaping. **Landscape requirements** 

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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

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

- (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;

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- (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;
 - (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.
- (D) 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.

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- (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.

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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

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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

All public facility improvements shall be designed and constructed in compliance with adopted City of Millersburg **Engineering** Standards. The Director of Public Works (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.



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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

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the street pavement shall be used. In the absence of street pavement, the ground level shall be used to measure the height.

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

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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.

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."



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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.

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.



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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 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


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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

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. 

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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.
- (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.

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- (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.
- (P) Any sign on unimproved property, unless as an incidental sign.

3.106.08 Residential Signs - Single Family and Duplex

The following sign regulations shall apply to single family homes and duplexes:

- (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.

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- (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.
- (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, 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.

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- (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.
 - (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

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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 the in a Commercial, Industrial or Public Facility zones, or signs located within the Interchange zone. 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.
- (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

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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.
- (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.



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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.

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3.107.03 **Fencing Requirements for the Residential Zones**

- (A) 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.
- (B) Corner lot: fences to a height of four feet may be built within the front dwelling and street side yard setback 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.
- (C) 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 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

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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.
- (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 requires a conditional use permit and is subject to 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. The wall and its footing shall be engineered to accommodate loading and stress impacts it may be subject. The engineered plans shall be submitted for review and approval prior to the wall's construction. Wall installation is also subject to the City design review and appropriate building codes, permits and inspections.
- (B) Wall heights shall be in accordance with zoning height prescriptions.
- (C) The Applicant shall avoid construction of a monotonous wall through installation of features that will make it interesting. Accordingly, the wall[s] shall be offset by a minimum relief distance of three feet every 300 linear feet. 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. The 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.

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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 six (6) feet in height. An existing structure or structures may be incorporated into the fence design.



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3.108 LAND DIVISIONS (NEW ARTICLE – DISCUSS)

3.108.01 Purpose

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

3.108.02 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.

3.108.03 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.

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- (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.

3.108.04 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;

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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.

- (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 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:

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- (1) Minimum dedicated with: 15 feet
- (2) Minimum improved width: 12 feet
- (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.

3.108.05 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 transportations 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 sign a non-remonstrance agreement with the City of Millersburg. 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. Where a master plan has not been adopted, the developer shall enter into a non-remonstrance agreement consistent with item (B)(2), above.

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- (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. 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 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.

3.108.06 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.
 - (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.

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- (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 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.

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- (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; 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. 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.


3.108.07 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:

- (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 Public Works Director or his/her designee. The

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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 Department of Public Works upon completion of the improvements.

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3.109 YARD AND LOT STANDARDS

3.109.01 New Buildings Shall be on a Lot

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

3.109.02 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.

3.109.03 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.

3.109.04 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.

3.109.05 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

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required rear yard, provided the chimneys and flues shall not exceed 6 feet in width.

- (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-feet of the center line of an alley or within 5-feet of a rear lot line if no alley exists.

3.109.06 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 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.

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- (D) Street-Private Access Easement. The clear vision area for street-access easement intersections shall be 10 feet along the access easement 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 access easement.
- (E) Corner Lots (Street-Street Intersection). The clear visions area for corner lots shall be 20 feet along the right-of-way of each intersecting street.
- (F) Prohibited Development. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 36 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.

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3.201 SPECIAL USE STANDARDS

3.201.01 Applicability of Special Use Standards

Special uses included in Chapter 3.202 to Chapter 3.211 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.

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3.202 MANUFACTURED DWELLING PARKS

3.202.01 Scope


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. Class "A" or "B" Manufactured Dwellings are permitted in all 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.

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- (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. **ADD ALBANY LANGUAGE 10-6 SECTION 3** – 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
 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.

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- (M) Design and Submission Requirements. The submittal shall include sufficient information to indicate compliance with the requirements in Chapter 3.203. 

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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 – Manufactured Homes

Manufactured homes are permitted in all residential zones, in accordance with the following general standards, and the design compatibility standards set forth in Section 3.203. 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.
- (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 thirty (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 twelve (12) inch limitation shall not apply. Furthermore, the twelve (12) inch limitation shall not apply if the requirements of the Flood Hazard District mandate that the home be elevated more than twelve (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


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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 (4) feet in height for each twelve (12) feet in width.
- (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.

3.203.03 General Standards – Site Built and Modular Homes

All new site built and modular homes constructed or located within the City shall utilize at least two of the following design features to provide visual relief along the front of the dwelling:

- (A) Dormers
- (B) Gables 

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- (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")

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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.
- (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 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.

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- (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 with the exception of a home occupation utilizing staff other than family members residing on the property in which case a Conditional Use Permit is required. The standards of this Section shall govern all home occupations.

3.204.03 Non-Compliance

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.



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 **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.

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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 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 five (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.

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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 (1)	Maximum Height
Up to 200 sf	(2)	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)
(1) Other lot coverage standards also apply.			(1) Other lot coverage standards also apply for all accessory structures including those not requiring a building permit.	

- (1) Up to 11,000 square feet, maximum size is 1,200 square feet; over 11,000 square feet, the structure may be increased an additional 100 square feet for each 1,000 square feet of lot size.
- (2) For any accessory structure located on a lot of 11,000 or less, the exterior siding shall have the same appearance as materials commonly used on residential dwellings. Otherwise, there are no restrictions.
- (3) The greater of 20 feet, or the height of the primary residence.

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- (B) 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.

- (D) Prohibited Structures. The use of metal shipping containers 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).

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3.207 SPECIAL RESIDENTIAL DWELLINGS

3.207.01 Accessory Dwelling Units



Where permitted as a special use, a residential accessory dwelling shall meet the following use and development standards:

- (A) Location. The accessory residence 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 shall be permitted per lot or parcel.
- (C) Design. The accessory residence must be 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 shall contain the lesser of 25% of the floor area of the primary residence or 800 square feet.
- (E) Setbacks. The minimum rear yard setback for a free-standing accessory structure 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) Owner Occupied – The owner of the property shall reside in either the primary residence or the accessory dwelling.
- (H) Lot Coverage – The accessory residence shall be included in the lot coverage calculation.
- (I) Parking – One additional parking space shall be required.

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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.
-  (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. 

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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) 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

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 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 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.
- (J) 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 and shall require written authorization from the City.



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 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. 

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3.209.03 **Operation Requirements**

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

- (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.

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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.

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 **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. 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. 

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3.211.04 Farm Uses and Livestock

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

Comment [JG1]: Is this in the Residential Low Density Zone?

- (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 on properties of 2.5 acres or larger. Smaller lot sizes require a conditional use permit.
- (C) Chickens and Rabbits. The keeping of chickens and rabbits shall be subject to provisions in Section 6 of the Millersburg Municipal Code.
- (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.

Comment [JG2]: Is this the appropriate threshold

Comment [JG3]: This is not currently in the Municipal Code prior to the LUDC is adopted.

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.

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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 3.1XX.
- (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.
 - (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:

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TYPE OF STREET **RIGHT-OF-WAY WIDTHS**

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 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.

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3.211.09   **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.

3.211.10 **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.
- (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

Comment [JNM4]: Verify prior discussion

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changes are subject to the Nonconforming Use provisions in Chapter 4.110.

- (E) Exemptions. Non-conforming single-family homes may be modified, or expanded in compliance with development requirements of the Residential Mixed Density zone without the need to comply with the requirements and procedures in Chapter 4.110.

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3.212 WETLAND AND RIPARIAN AREA 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

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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

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

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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 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.

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3.213 PLANNED UNIT DEVELOPMENT (PUD)

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.

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- (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.

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

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.

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- (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.

3.213.05 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.

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- (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 space areas.
 - (2) Pedestrian/bikeways shall be clearly signed and have adequate crossing facilities where warranted.

**ARTICLE III
DEVELOPMENT REQUIREMENTS**

- (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.

**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.

Draft Zoning Map

- Office
- Mixed Use
- Residential Medium
- Residential Low
- Urban Transition
- General Commercial
- Limited Industrial
- General Industrial
- Public

City of Millersburg

City Limits



0 0.25 0.5 Miles



V3 September 3 2019