



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>



### NOTICE OF ADOPTED AMENDMENT

November 28, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Millersburg Plan Amendment  
DLCD File Number 002-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: December 8, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist  
Marguerite Nabeta, DLCD Regional Representative  
Barbara Castillo, City of Millersburg

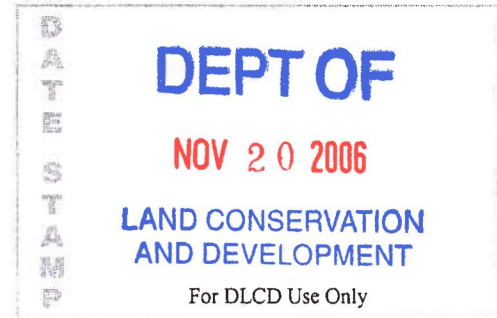
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# 2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Millersburg Local file number: 06-015  
Date of Adoption: 11/14/2006 Date Mailed: 11/17/2006  
Date original Notice of Proposed Amendment was mailed to DLCD: 9/21/2006

- |                                                             |                                                           |
|-------------------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Comprehensive Plan Text Amendment  | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment      | <input type="checkbox"/> Zoning Map Amendment             |
| <input checked="" type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other:                           |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The adopted Millersburg Land Use Development Code combines and updates  
the City's existing Land Use Development Ordinance and Land Division  
Ordinance into a single Code. There are no Zone changes, no Map changes, no  
UGB change and no change to the planning goals, policies or objectives of the  
City.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME".  
If you did not give Notice for the Proposed Amendment, write "N/A".

SAME

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_  
Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_  
Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_  
Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: Goals 1 & 2

Was and Exception Adopted? ☐ YES ☒ NO

DLCD File No.: 002-06 (15571)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? ☒ Yes ☐ No

If no, do the statewide planning goals apply? ☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption? ☐ Yes ☐ No

Affected State or Federal Agencies, Local Governments or Special Districts:

NONE Internal Implementation Measure

DEPT OF

NOV 20 2006

LAND CONSERVATION  
AND DEVELOPMENT

Local Contact: Barbara Castillo City Admin Phone: (541) 928-4523

Address: 4222 Old Salem Road City: Millersburg, OR

Zip Code + 4: 97321- Email Address: bcmburg@callatg.com

### ADOPTION SUBMITTAL REQUIREMENTS

This form must be mailed to DLCD within 5 working days after the final decision  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.



AN ORDINANCE ADOPTING THE )  
CITY OF MILLERSBURG LAND USE )  
DEVELOPMENT CODE AND )  
DECLARING AN EMERGENCY )

ORDINANCE NO. 100  
FOR 2006

THE PEOPLE OF THE CITY OF MILLERSBURG DO ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE:

The purpose of this ordinance is to establish standards and procedures for the orderly development of land within the City of Millersburg, to assist in implementing the Millersburg Comprehensive Plan, and to promote the public health, safety and general welfare.

SECTION TWO. ADOPTION:

The City of Millersburg Land Use Development Code, attached hereto and made a part hereof by this reference, is hereby adopted by the City Council of Millersburg, Linn County, Oregon. The Comprehensive Plan & Zoning Map, M-1 as amended by Ordinance 99 is retained.

SECTION THREE. REPEAL

Ordinance No.'s 37, 38, 41, 56, 72, 76, 77, 82 and 96 are hereby repealed.

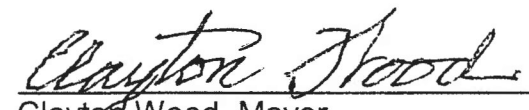
SECTION FOUR. EMERGENCY CLAUSE:

The provisions of this ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Millersburg, and an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage by the City Council and approval by the Mayor.

SECTION FIVE. EFFECTIVE DATE:

Passed by the City Council and approved by the Mayor of the City of Millersburg this 14th day of November 2006.

APPROVED:

  
Clayton Wood, Mayor

ATTEST:

  
Barbara Castillo, City Administrator

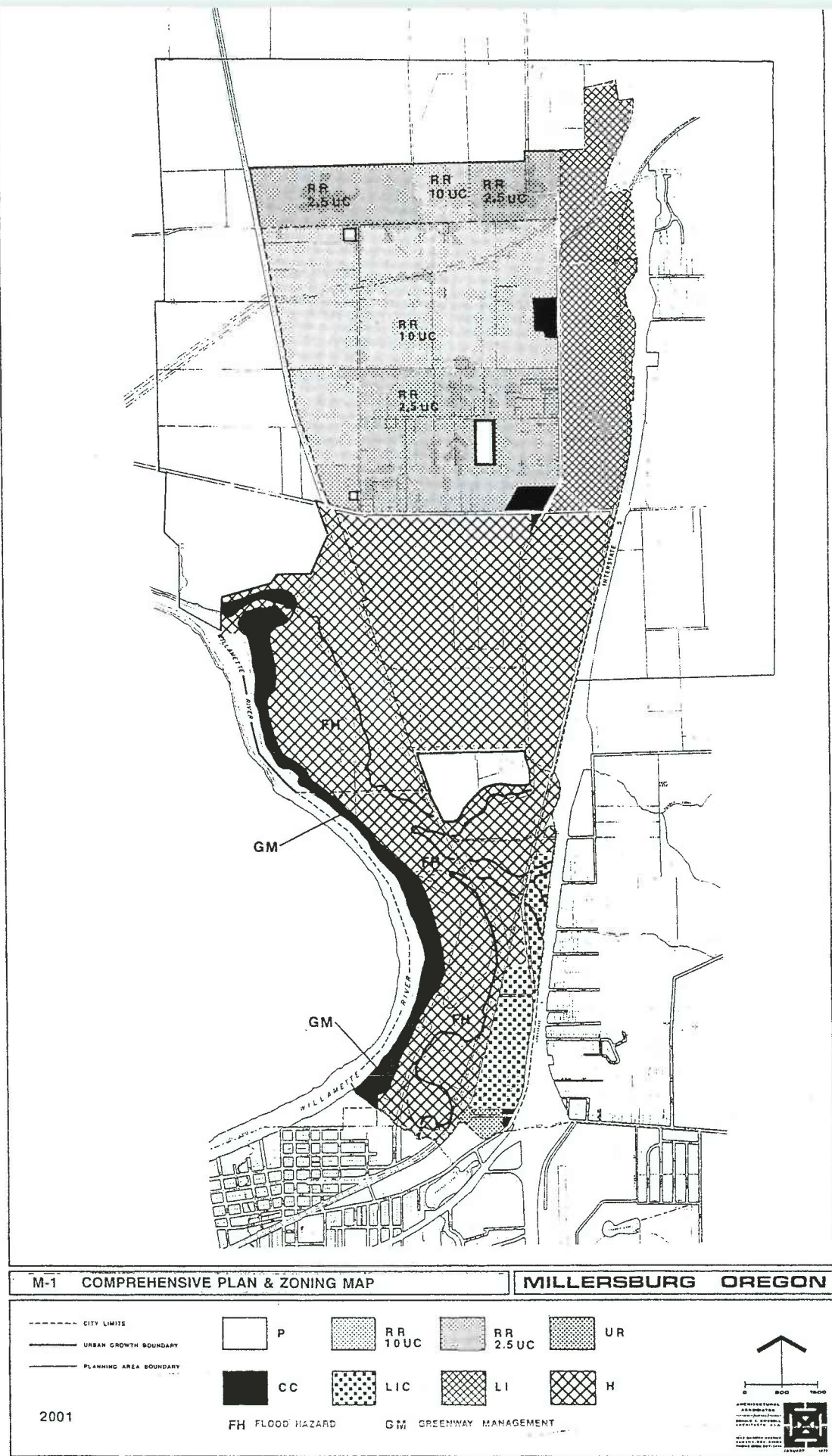
# **CITY OF MILLERSBURG**

## **LAND USE DEVELOPMENT CODE 2006**

**ARCHITECTURAL ASSOCIATES**

241 East Broadway, Eugene, Oregon 97401  
(541) 484-5757 Fax (541) 484-9889





# CITY OF MILLERSBURG

## LAND USE DEVELOPMENT CODE

### 2006

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# MILLERSBURG LAND DEVELOPMENT STANDARDS 2006

| STANDARDS                    | ZONES                            |                 |                 |               |               |               |               |
|------------------------------|----------------------------------|-----------------|-----------------|---------------|---------------|---------------|---------------|
|                              | UR                               | RR-2.5-UC       | RR-10-UC        | CC            | LIC           | LI            | GI            |
|                              | Section 4.111                    | Section 4.112   | Section 4.113   | Section 4.121 | Section 4.131 | Section 4.132 | Section 4.133 |
| <b>Zone Standards</b>        |                                  |                 |                 |               |               |               |               |
| Minimum Lot Size             | 7,000 sf                         | 2.5ac/10,000'   | 10ac/10,000'    | PC Approval   | PC Approval   | PC Approval   | PC Approval   |
| Minimum Width                | 60 ft                            | 150/80 ft       | 300/80 ft       | PC Approval   | PC Approval   | PC Approval   | PC Approval   |
| Maximum Depth                | 100 ft                           | 3:1 width ratio | 3:1 width ratio | PC Approval   | PC Approval   | PC Approval   | PC Approval   |
| Yard Front                   | 20/15 ft                         | 20/15 ft        | 20/15 ft        | 12 ft         | 20 ft         | 20 ft         | 20 ft         |
| Yard Side                    | 5 ft                             | 15/5 ft         | 15/5 ft         | 0 ft          | 0 ft          | 0 ft          | 0 ft          |
| Yard Rear                    | 20 ft                            | 20 ft           | 20 ft           | 0 ft          | 0 ft          | 0 ft          | 0 ft          |
| Yard Abutting Residential    |                                  |                 |                 | 10 ft         | 10 ft         | 10 ft         | 10 ft         |
| Maximum Structure Height     | 35 ft - 2 Story                  | 35 ft - 2 Story | 35 ft - 2 Story | PC Approval   | PC Approval   | PC Approval   | PC Approval   |
| Maximum Coverage             | 50%                              | 50%             | 50%             | 80%           | 80%           | 80%           | 80%           |
| <b>Development Standards</b> | Refer to Article 5 Code Sections |                 |                 |               |               |               |               |
| Road Setbacks                | 5.117                            | 5.117           | 5.117           | 5.117         | 5.117         | 5.117         | 5.117         |
| Parking Requirements         | 5.120, 21                        | 5.120, 21       | 5.120, 21       | 5.120, 21     | 5.120, 21     | 5.120, 21     | 5.120, 21     |
| Transportation Standards     | 5.122                            | 5.122           | 5.122           | 5.122         | 5.122         | 5.122         | 5.122         |
| Streets, Sidewalk, Bikeway   | 5.123, 24, 25                    | 5.123, 24, 25   | 5.123, 24, 25   | 5.123, 24, 25 | 5.123, 24, 25 | 5.123, 24, 25 | 5.123, 24, 25 |
| Storm Drainage               | 5.126                            | 5.126           | 5.126           | 5.126         | 5.126         | 5.126         | 5.126         |
| Water                        | 5.127                            | 5.127           | 5.127           | 5.127         | 5.127         | 5.127         | 5.127         |
| Sanitary Sewers              | 5.128                            | 5.128           | 5.128           | 5.128         | 5.128         | 5.128         | 5.128         |
| Utilities                    | 5.129                            | 5.129           | 5.129           | 5.129         | 5.129         | 5.129         | 5.129         |
| Easements                    | 5.130                            | 5.130           | 5.130           | 5.130         | 5.130         | 5.130         | 5.130         |
| Grading                      | 5.133                            | 5.133           | 5.133           | 5.133         | 5.133         | 5.133         | 5.133         |
| Landscaping                  | 5.134                            | 5.134           | 5.134           | 5.134         | 5.134         | 5.134         | 5.134         |
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| <b>Use Standards</b>         | Refer to Article 6 Code Sections |                 |                 |               |               |               |               |
| Accessory Uses               | 6.110                            | 6.110           | 6.110           |               |               |               |               |
| Home Occupations             | 6.120                            | 6.120           | 6.120           |               |               |               |               |
| Multiple-Family Housing      | 6.150                            | 6.150           | 6.150           | 6.150         |               |               |               |
| Manufactured Dwellings       | 6.160                            | 6.160           | 6.160           |               |               |               |               |
| Public/Semi-public           | 6.210                            | 6.210           | 6.210           | 6.210         | 6.210         | 6.210         | 6.210         |
| Commercial                   | 6.310                            |                 |                 | 6.310         | 6.310         |               |               |
| Agricultural Use             | 6.410                            | 6.410           | 6.410           |               | 6.410         | 6.410         | 6.410         |
| Historic Preservation        | 6.510                            | 6.510           | 6.510           |               | 6.510         | 6.510         | 6.510         |
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| Flood Hazard Areas           | 7.100                            | 7.100           | 7.100           | 7.100         | 7.100         | 7.100         | 7.100         |
| Wetland & Riparian Areas     | 7.200                            | 7.200           | 7.200           | 7.200         | 7.200         | 7.200         | 7.200         |
| Willamette Greenway Area     |                                  |                 |                 |               |               |               | 7.300         |
| Airport Approach Area        | 7.400                            |                 |                 | 7.400         | 7.400         |               | 7.400         |
| Radon Protection Area        |                                  |                 |                 |               |               |               | 7.500         |
| Planned Development          | 7.600                            | 7.600           | 7.600           | 7.600         |               |               |               |
| <b>Procedures</b>            | Refer to Article 2 Code Sections |                 |                 |               |               |               |               |
| Applications                 | 2.130, 40                        | 2.130, 40       | 2.130, 40       | 2.130, 40     | 2.130, 40     | 2.130, 40     | 2.130, 40     |
| Land Divisions               | 2.300                            | 2.300           | 2.300           | 2.300         | 2.300         | 2.300         | 2.300         |
| Site Plan Review             | 2.400                            | 2.400           | 2.400           | 2.400         | 2.400         | 2.400         | 2.400         |
| Conditional Use              | 2.500                            | 2.500           | 2.500           | 2.500         | 2.500         | 2.500         | 2.500         |
| Variances                    | 2.600                            | 2.600           | 2.600           | 2.600         | 2.600         | 2.600         | 2.600         |
| Amendments                   | 2.700                            | 2.700           | 2.700           | 2.700         | 2.700         | 2.700         | 2.700         |
| Nonconforming Uses           | 4.080                            | 4.080           | 4.080           | 4.080         | 4.080         | 4.080         | 4.080         |
| <b>Definitions</b>           | Refer to Article 1 Code Sections |                 |                 |               |               |               |               |
|                              | 1.200                            | 1.200           | 1.200           | 1.200         | 1.200         | 1.200         | 1.200         |



CITY OF MILLERSBURG  
MILLERSBURG LAND DEVELOPMENT CODE  
INTRODUCTION

**The Millersburg Land Use Development Code (Code)** combines the City's land development and land division regulations into a single Code. Oregon Legislative changes to the Oregon Administrative Rules (OAR) & Oregon Revised Statutes (ORS); including Chapter 197, Comprehensive Land Use Planning Coordination, Chapter 227, City Planning and Zoning, and Chapter 92 Subdivisions and Partitions are incorporated into the new Code. The following outline summarizes the organizational structure of the proposed Code.

- Article 1    Administrative Provisions**    Contains administration, compliance, enforcement and definition Sections in conformance with OR 197 and ORS 227.
- Article 2    Application Procedures**    Contains the application procedures for all land use applications including land divisions, site plan reviews, conditional uses, variances, amendments, annexations and vacations.
- Article 3    Decision Process**    Contains the basis, form and type of decisions for land use actions by the City including notifications, limited land use decisions, quasi-judicial decisions, legislative decisions, appeals and revocation provisions in conformance with ORS 197 and ORS 227.
- Article 4    Zoning Districts**    Contains all of the City's primary zoning districts including residential, commercial and industrial. Public & semi-public zones are a Conditional Uses in any primary zone.
- Article 5    Development Standards**    Contains all of the on-site and off-site development standards for Millersburg properties.
- Article 6    Use Standards**    Contains all of the standards that could apply to uses occurring in more than one zoning district including accessory uses, home occupations, multiple-family standards, manufactured dwellings, commercial developments, public uses, agricultural uses and Historic Preservation.
- Article 7    Special Area Standards**    Contains standards for specialized areas that could occur in more than one zone including flood hazard areas, wetlands and riparian areas, the Willamette Greenway, airport approach area, radon protection area and Planned Developments.
- Article 8    Improvement Requirements**    Contains public improvement standards, procedures and agreements. Required public improvements, public use dedications and construction specifications are also included.
- Article 9    Comprehensive Plan**    An updated Comp Plan will be added when adopted.
- Article 10    Maps.**

All work was performed under the review and direction of the Millersburg Planning Commission. A Notebook will be located in the City Hall Office containing the Code. Copies will be made available upon request for sections of interest to individuals.



**ARTICLE 1 ADMINISTRATIVE PROVISIONS****SECTION 1.110 TITLE**

This document shall be known as the **Millersburg Land Use Development Code** and may be referred to as the "Development Code" or "Code."

**SECTION 1.120 PURPOSE**

The purpose of this Code is to establish standards and procedures for the orderly development of land within the City of Millersburg in conformance with the Millersburg Comprehensive Plan, to protect property rights, provide due process of law and promote the public health, safety and welfare of the citizens of Millersburg.

**SECTION 1.130 COMPLIANCE STANDARDS**

- (1) The Millersburg Comprehensive Plan shall be the official policy guide for the Millersburg Land Use Development Code and shall serve as the basis for decisions about growth, development, and conservation of natural resources in Millersburg.
- (2) No lot, structure or use shall be permitted if it is a threat to the health, safety or welfare of the user or the public.
- (3) Every lot or parcel shall abut or have access to a public street from a private road or access easement.
- (4) A property may be used and a structure or part of a structure may be constructed, altered, occupied or used only as this Code permits.
- (5) No property, yard, off-street parking area, off-street loading area or other open space existing on or after the effective date of this Code shall be reduced below the minimum required for it by this Code unless authorized under the procedures of this Code.
- (6) No property, yard, off-street parking area, off-street loading area, or other open space shall be used to meet the requirements for another property or use unless authorized under the procedures of this Code.
- (7) Recreational vehicles, fifth-wheelers, travel trailers, tent trailers, tents or similar facilities may not be occupied for more than 30 consecutive day or a total of 60 days in a calendar year within the City limits. The City may grant one 30-day extension upon receiving a written request.
- (8) No person shall divide land or develop land within the City without having complied with the applicable provisions of this Code and the applicable provisions of county, state and federal law.
- (9) No person shall sell any subdivision lot or partition parcel until the Plat of the subdivision or partition has been approved by the City and recorded with Linn County.
- (10) The City shall be notified of any pending sale of a subdivision, partition or of any property where the Conditions of Approval, Variance conditions or required improvements have not been completed. Sale of property under these conditions shall invalidate the approval granted by the City unless an agreement to complete the approved requirements is accepted by the City.

- (11) All approvals granted by the City shall be completed within the time period specified in the approval or within one year of approval if not specified. A completion form, contained in the Application forms provided by the City, shall be submitted to the City upon completion of all approval conditions and requirements. Periodic reviews of the progress may be conducted by the City.

#### **SECTION 1.140 ASSOCIATED REGULATIONS**

In addition to the regulations contained herein, the following additional regulations may apply to proposed developments within the City of Millersburg:

- (1) The Millersburg Comprehensive Plan.
- (2) Official Maps or Development Plans.
- (3) Albany Standard Construction Specification (**ASCS**) adopted by the City of Millersburg
- (4) Millersburg Water System Master Plan
- (5) Millersburg Sanitary Sewer System Master Plan
- (6) Millersburg Drainage & Stormwater Plans
- (7) Oregon Revised Statute, ORS 227, City Planning and Zoning.
- (8) Oregon Revised Statute, ORS 197, Comprehensive Land Use Planning Coordination & The Oregon Statewide Planning Goal & Guidelines.
- (9) Oregon Administrative Rules, OAR 660, Land Conservation & Development.
- (10) Oregon Revised Statute, ORS 92, Subdivisions and Partitions.
- (11) Recording requirements of the Linn County Surveyor.
- (12) Oregon Residential Specialty Code.
- (13) Oregon Structural Specialty Code.
- (14) Oregon Manufactured Dwelling & Park Specialty Code.
- (15) All other applicable regulations provided by law.

#### **SECTION 1.150 INTERPRETATION**

- (1) Where the conditions imposed by any provision of this Code are less restrictive than comparable conditions imposed by any other provisions of this Code or any other city ordinance, state law or federal law, the provisions which are more restrictive shall govern.
- (2) An oral opinion or interpretation of this Code or of the applicability of the Code to specific site situations may be made by City Administrator. An oral interpretation may not be appealed unless it is first requested in writing as a request for official interpretation as provide for below.



- (3) A request for an official interpretation of the content or applicability of this Code, the Comprehensive Plan or any applicable provision of law shall be made to the City of Millersburg.
- (4) A person requesting an official interpretation shall submit the request in writing and may offer an opinion or recommendation. The fee for an interpretation shall be paid in compliance with Section 1.190. Clarifications and interpretations of this Code or the Comprehensive Plan may be made by City Administrator or may be referred to the Planning Commission. Public notifications and a Public Hearing by the Planning Commission will be scheduled for interpretations affecting adjacent property owners.
- (5) The City shall issue a written response as soon as possible, but within a maximum of 45 days from receipt of the request for review of the interpretation. A City interpretation shall be made in writing and transmitted to the person requesting the interpretation.
- (6) Appeal of an interpretation may be filed in compliance with Section 3.700.
- (7) Interpretations shall be issued in writing and shall be binding on the City and the petitioner unless appealed. A Record File shall be maintained for written interpretations.

**SECTION 1.160            VALIDITY**

The provisions of this Code are severable. If any section, sentence, clause or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Code.

**SECTION 1.170            ADMINISTRATION**

- (1) The City shall maintain authority over all activities within the City Limits as provided by law and the City Charter. All powers of the City shall be vested in the City Council unless otherwise provided in the City Charter or City Ordinances.
- (2) The City Administrator, under the direction of the City Council, shall have the authority and duty to enforce the provisions of this Code and all related City, County, State or Federal regulations. An Administrative Decision is a decision by the City Administrator with notification of actions taken provided to the Planning Commission and City Council.
  - (a) The City Administrator shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code as provided for in **Section 1.150**.
  - (b) All correspondence and inquiries related to this Code shall be directed to the City Administrator at the Millersburg City Hall, 4222 Old Salem Road NE, Millersburg, Oregon 97321. Telephone (541) 928-4523 Fax (541) 928-8945
  - (c) The City Administrator may designate other City Officers or Staff to undertake specialized duties, including but not limited to, the City Attorney, City Engineer and City Planner.
  - (d) The City Administrator shall have the authority to review and approve all property Line Adjustments in conformance with **Section 2.310**.

- (e) The City Administrator shall have the authority to sign the Final Plat of a Subdivision or Partition in conformance with **Section 2.337** if it is in conformance with the Tentative Plan approved by the Millersburg Planning Commission. If the proposed Plat is not in conformance with the approved Tentative Plan it shall be submitted to the Planning Commission for further consideration.
- (f) The City Administrator shall have the authority to approve a Temporary Manufactured Dwelling in conformance with **Section 6.164** if all siting conditions comply with the Code.
- (3) The Planning Commission shall have the authority to review and approve all Site Plans, Conditional Uses, Variances, Subdivisions and Partitions under the provisions of this Code.
- (4) The City Council, with recommendation from the Planning Commission, shall have the authority to review and approve all Comprehensive Plan and Zoning Map or Text Amendments, Vacations and Annexations.
- (5) In the event that a single land use application requires more than one decision, the highest deciding authority will make all decisions.
- (6) A decision by the City Administrator, the Planning Commission or the City Council may be appealed as provided in **Section 3.700**.

#### **SECTION 1.180 ENFORCEMENT**

Owners and/or occupants of land or buildings within the City of Millersburg are subject to the enforcement authority of the City of Millersburg as provided by State Law and the provisions of this Code, including any other applicable Ordinances adopted by the Millersburg City Council.

A structure located, constructed, maintained, repaired, altered or used in violation of this Code, or land used in violation of this Code, shall constitute a nuisance. The City may, as an alternative to other remedies that are legally available for enforcing this Code, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

The City Administrator, acting on behalf of the City Council, shall have the authority to determine and designate a violation of this Code or a violation of the Conditions of Approval of a prior land use decision. The City Council shall have the authority to initiate or prosecute violations of this Code or any violations of a land use decision.

- (1) **Remedy.** The City Administrator shall provide written notice to the property owner and to the tenant of the property where an alleged violation of this Code, or a violation of a previously issued land use decision has occurred before initiating any enforcement action under this Section.
- (2) **Procedures.**
  - (a) Upon determination of a violation of this Code, the City shall notify the property owner that a violation exists. Such notice shall indicate, with reasonable certainty, at least the following:
    - 1. A description of the activity, use or action deemed to be a violation of this Code or a violation of the Conditions of Approval of a prior land use decision.



2. The section of this Code or the prior land use approval deemed to be violated.
3. A summary of the action the City believes is required to bring the violation into compliance with this Code or prior land-use approval.
4. The time, date and location at which the property owner or occupant shall be afforded an opportunity to respond to the alleged violations and the procedure for an appeal to the City Council.
5. That immediate enforcement will be sought unless the violation is corrected or corrective action has been initiated within 10 days of the notice or within 10 days of the property owner or occupant's response to the City's Notice unless appealed to the City Council.

A defect in the notice of violation shall not prevent the enforcement of this Code.

- (b) When ten (10) days have expired from the date of the City notice of violation, the City Attorney shall request immediate correction of the violation and notify the owner that subsequent legal or equitable action will be taken to rectify the violation.
- (c) If necessary, the City Attorney shall take such legal action as required to insure compliance with this Code unless:
  1. It has been demonstrated to the satisfaction of the City that the violation has been corrected or removed or;
  2. A court of competent jurisdiction has stayed enforcement pending the outcome of a proceeding before it, concerning the violation.
- (3) **Penalty.** A violation of this Code may be the subject of criminal, civil, or other sanctions authorized by State Law or City Codes.
  - (a) In addition to, or in lieu of criminal actions, a violation of this Code or a permit issued herein may be the subject of a civil penalty to be recovered by a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.
  - (b) Upon conviction of a civil violation of this Code, a fine up to \$750 may be imposed. Each day such violation continues beyond the ten (10) day Notice of Violation first provided by the City Administrator will be considered a separate offense.

#### **SECTION 1.190 FEES**

Application and review fees established by resolution of the City Council shall be paid to the City at the time of submitting an application and shall be in addition to other fees established by county, state or federal regulations.

**SECTION 1.200 DEFINITIONS**

(1) **Rules of Construction.** The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Code:

- (a) **Tense:** Words used in the present tense include the future tense.
- (b) **Number:** Words used in the singular include the plural, and words used in the plural include the singular.
- (c) **Shall and May:** The word "shall" is mandatory; the word "may" is permissive.
- (d) **Gender:** The masculine shall include the feminine and neuter.
- (e) **Headings:** If there is any conflict or inconsistency between the heading of an article, section or paragraph of this Code and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

(2) **Definitions.** The words and phrases used in this Code shall have the following meaning:

**ABUT** Contiguous to or immediately join. For example, two lots with a common property line are considered to be abutting.

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

**ACCESS MANAGEMENT** Regulation of access to streets, roads, and highways from abutting property and public and private roads and driveways.

**ACCESSORY STRUCTURE OR ACCESSORY USE** A structure or use incidental, appropriate and subordinate to the main use of property and located on the same lot as the main use.

**ACCESSWAY** A right-of-way or easement, not located within a street right-of-way, that provides a space for pedestrian and / or bicycle passage.

**ADEQUATE ACCESS** Direct routes of travel between destinations.

**ADEQUATE AREA** Space sufficient to provide all required public services to standards defined in this code.

**ADVERSE** Acting against or contrary to, as to cause harmful interference or conflict.

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

**AGRICULTURAL USE** The cultivation of crops and the raising of livestock.

**ALLEY** A public way that affords only a secondary means of access to property.

**ALTERATION** Any change, addition or modification in construction or occupancy.



**APPROVAL AUTHORITY** The person or body authorized to make application decisions as summarized in **Section 1.170** of this Code.

**BASEMENT** A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where the floor above the basement floor is more than 6 feet above the adjoining ground for more than 50% of the building perimeter.

**BED and BREAKFAST FACILITY** A dwelling where travelers are lodged for sleeping and dining purposes under the provisions of local or state law governing such facilities.

**BICYCLE FACILITIES** Facilities that provide for the needs of bicyclists, including bikeways and bicycle parking.

**BIKEWAY** The general term for the four basic types of bikeways:

- (a) **Bikes Lanes** are paved 5 to 6-foot wide designated lanes adjacent to (vehicle) travel lanes.
- (b) **Shoulder Bikeways** are where bicyclists travel within the roadway's paved shoulder. Typically, shoulder bikeways are four to six feet in width.
- (c) **Shared Roadways** are roadways where bicyclists and motor vehicles share the travel lane.
- (d) **Multi-Use Paths** are separated from vehicular traffic. They are two-way pathways about 10 feet wide used by pedestrians, bicyclists and joggers.

**BOARDING AND/OR ROOMING HOUSE** A building where lodging, with or without meals, is provided for compensation, but shall not include Homes for the Aged, Nursing Homes or Group Care Homes.

**BUFFERING** To lessen the impact between uses.

**BUILDING** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING HEIGHT** The vertical distance from the average adjacent finished building grade to the highest point of the roof.

Exceptions: Elevators, stairways, tanks ventilating fans or similar equipment required to operate and maintain the building and skylights, spires, flagpoles and chimneys may be built and maintained to a height greater than the building height limit provided that no structure in excess of the allowable building height shall be used for providing additional living or floor space.

**BUILDING INSPECTOR** A designated person with duties and authority to enforce all building codes and the provisions of this Code in accordance with **Section 2.200** Building Permits.

**BUILDING LINE** A line on a plat or map indicating the limit beyond which buildings or structures may not be erected. Also referred to as the Setback line. The area between the building line or setback line and the property line is referred to as the "yard."

**CEMETERY** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**CHURCH** A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**CITY** The City of Millersburg, Oregon.

**CLINIC** Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a dispensary in each such building to handle only merchandise of a nature customarily prescribed by occupants in connection with their practices.

**CLINIC, SMALL ANIMAL** A business establishment in which veterinary services are rendered to small domestic pets on an outpatient basis with no overnight boarding allowed.

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

**COMMISSION** The Planning Commission of the City of Millersburg, Oregon.

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

**COMPREHENSIVE PLAN** A city plan for the guidance of growth and improvement of the City, including modifications or refinements which may be made from time to time.

**COUNCIL** The City Council of the City of Millersburg, Oregon, which is the governing body of said City.

**CURB ELEVATION** The height above mean sea level of the established curb in front of a building measured from the center of such building front. Where no curb elevation has been provided, the City shall establish the curb elevation for compliance with City standards.

**DAY NURSERY/DAY CARE CENTER** Any institution, establishment or place, including nursery schools or private kindergartens, in which children are commonly cared for.

**DECIDING AUTHORITY** The City Administrator, City Planning Commission or City Council responsible for making a decision on an application.

**DECLARANT** The person who files a declaration under ORS 92.075.

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

**DLCD** Department of Land Conservation and Development.



**DWELLING** A building or portion thereof, which is occupied in whole or in part as a permanent home, residence, or sleeping place by one or more families including manufactured dwellings but excluding hotels, motels, and recreation vehicles.

**DWELLING, MULTI-FAMILY (APARTMENT)** A building or portion thereof designated for occupancy by three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY** A detached building, other than a recreational vehicle, designed for and occupied by not more than one family.

**DWELLING, TWO-FAMILY (DUPLEX)** An attached or detached building designed for and occupied by not more than two (2) families living independently of each other.

**DWELLING UNIT** A single unit providing complete independent living facilities, designed for occupancy by one (1) family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT** A grant of the right to use a strip of land for specific purposes.

**FACT** Something that has actual existence, an actual occurrence or a piece of information presented as having objective reality. In the Land Use Hearing Process, facts are the information submitted as evidence that is relied upon in making a decision on a land use issue. The justification for the decision shall be based on the criteria, standards and facts set forth in the hearing.

**FAMILY** An individual or two (2) or more persons related by blood, marriage, legal adoption or legal guardianship living together in one dwelling unit using one kitchen and providing meals or lodging to not more than two (2) additional persons, excluding servants; or a group of not more than five (5) unrelated persons living together in one dwelling unit using one kitchen.

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

**FARMLAND – HIGH VALUE** In general, lands classified by the US Natural Resource Conservation Service (NRCS) as predominantly Class I through IV soils in Western Oregon.

**FENCE, SIGHT-OBSCURING** A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view.

**FLAG LOT** A lot which has access to a right-of-way by means of a narrow strip of land.

**FLOOR AREA** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the vertical projection of the roof or floor above.

**FLOOR ELEVATION** The height above mean sea level of the first floor of a building that is not a basement.

**GARAGE, PRIVATE** A detached accessory building or portion of a main building for the parking of automobiles of the occupants of the premises.

**GARAGE, PUBLIC** A building other than a private garage used for the care, repair, parking or storage of automobiles.

**GRADE (GROUND LEVEL)** The average elevation of the finished ground level at the centers of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground level.

**HALF STORY** Means that part of any building wholly or partly within the roof frame and not occupying more than two-thirds (2/3) of the floor area immediately below it.

**HOME OCCUPATION** A lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence provided the use does not alter the character of the dwelling, there is no exterior display of stock and no employees other than residents of the household.

**HOTEL/MOTEL** A building or group of buildings used for transient lodging containing more than 5 guest rooms without guest room cooking facilities used primarily for sleeping purposes. On-site restaurant facilities may also be provided.

**LCDC** Land Conservation and Development Commission.

**LOADING SPACE** An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**LOT** A unit of land that is created by a subdivision of land.

**MANUFACTURED DWELLING** A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling and is not designated as a "recreational vehicle" as defined by the State or Oregon.

**MANUFACTURED DWELLING PARK** Four or more Manufactured Dwellings located on a single parcel of land. Chapter 10 of the Oregon Manufactured Dwelling and Park Specialty Code specifies the applicable design and construction standards.

**NEARBY USES** Activities or uses within 0.25 mile which can be reasonably expected to be used by pedestrians, and within 1 mile which can reasonably be expected to be used by bicyclist.

**NEIGHBORHOOD ACTIVITY CENTERS** Schools, parks, and other like sites.

**NEGOTIATE** Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

**NONCONFORMING STRUCTURE LOT OR USE** A lawful existing structure, lot, or use, at the time this Code becomes effective which does not conform to the standards of the zone in which it is located.



**OCCUPANCY** The purpose for which a building, or part of a building, is used or intended to be used.

**OWNER** An individual, association, partnership, or corporation having legal or equitable title to land, other than legal title held for purpose of security only.

**PARCEL** A unit of land that is created by a partitioning of land.

**PARKING SPACE** An off-street enclosed or unenclosed surfaced area of not less than that provided in Article 5, Diagram DSD-1, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.

**PARTITION** Either an act of partitioning land or an area or tract of land partitioned.

**PARTITION LAND** To divide land into two or three parcels of land within a calendar year, but does not include:

- (a) A divisions of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.
- (b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning Code.
- (c) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan.

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

**PEDESTRIAN WAY** A right-of-way for pedestrian traffic.

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

**PLANNING COMMISSION** The Planning Commission of the City of Millersburg.

**PLAT** A final subdivision plat, replat or partition plat.

- (a) **Partition Plat:** A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
- (b) **Subdivision Plat:** A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

- (c) **Replat:** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**PROFESSIONAL OFFICE** An office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors or persons engaged in similar occupations.

**PROPERTY** A lot or parcel, or a single unit of land which, at the time of application for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control.

- (a) **Corner Property:** A lot or parcel at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135°.
- (b) **Through Property:** A lot or parcel having frontage on two parallel or approximately parallel streets other than alleys.
- (c) **Flag Property:** A lot or parcel which has access to a right-of-way by means of a narrow strip of land.

**PROPERTY LINE** The legal boundary of a lot or parcel. The division line between two units of land.

- (a) **Front Property Line:** The lot or parcel line separating the property from a street other than an alley, and in the case of a corner property, the property line facing the garage or carport access
- (b) **Rear Property Line:** The lot or parcel line which is opposite and most distant from the front property line.
- (c) **Side Property Line:** Any lot or parcel line not a front or rear property line.

**PROPERTY WIDTH** The average horizontal distance between the side property lines, ordinarily measured parallel to the front lot line.

**PROPERTY LINE ADJUSTMENT** The relocation of a common property line between two abutting properties.

**PUBLIC AND SEMI-PUBLIC BUILDING OR USE** A building or use, owned or operated by a religious, charitable, or other nonprofit organization; a public utility; or any social agency such as a church, school, auditorium, meeting hall, library, art gallery, museum, fire station, cemetery, park, playground, community center or similar use.

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

**RIGHT-OF-WAY** A continuous strip of land between property lines allowing a right of passage usually containing a street, railroad or other passageway and utilities.



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

**ROADWAY** The portion of a street right-of-way developed for vehicular traffic.

**SALE OR SELL** Every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

**SCREENING** To shield, protect or block from view or impact between uses.

**SERVICE STATION, AUTOMOBILE** A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhauling.

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

**SIDEWALK** A pedestrian walkway with permanent surfacing.

**SIGN** Any medium including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes or identification.

**STORY** That portion of a building between the surface of any floor and the surface of the floor above, except that the top story is between the surface of the topmost floor and the ceiling above.

**STREET OR ROAD** A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road," "highway," "lane," "drive" "avenue," "alley" or similar designations.

- (a) **Arterial:** A street of considerable continuity that is primarily a traffic artery extending beyond the City or an interconnection between large areas.
- (b) **Collector:** A street supplementary to the arterial street system and a means of interconnection between arterials. Used for internal through traffic between areas.
- (c) **Local Street:** A street intended primarily for access to abutting properties.
- (d) **Cul-de-sac:** A short dead-end street terminated by a circular vehicular turnaround.
- (e) **Half Street:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street would be provided on the abutting property.
- (f) **Limited Access Street:** A means of access to property that is limited by law for public roads or by posting by an owner for private roads.
- (g) **Frontage Street:** A street providing access to abutting properties that is parallel and adjacent to a major arterial street.

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

**STRUCTURE** That which is built or constructed, an edifice or building of any kind, or any physical work built up of parts joined together in some definite manner.

**SUBDIVIDE LAND** To divide an area or tract of land into four or more lots within a calendar year.

**SUBDIVISION** Either an act of subdividing land or an area or tract of land subdivided.

**TENTATIVE PLAN** A tentative plan is the application, supplemental data and map showing the general design of a proposed subdivision or partition, submitted to the City for approval under the provisions of **ORS 92** and **Section 2.320** of the Millersburg Development Code

**USE** The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied and maintained.

**WETLANDS** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**WETLANDS – JURISDICTIONAL** A wetland subject to rules and regulations identified in Section 404 of the US Clean Water Act and Oregon's fill and removal statute.

**YARD** The area between the property line and a setback line.

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

**ZERO SETBACK** A property line having no setback therefrom permitting building locations on the property line and may equally divide a common wall between buildings on adjacent properties.



**ARTICLE 2 APPLICATION PROCEDURES****SECTION 2.110 PRE-APPLICATION CONSULTATION**

An applicant may request an informal review of a proposal prior to application to determine the general feasibility of the proposal. There are no fees for an informal review. The applicant should submit a brief description and a sketch drawing of the proposed development to the City for preliminary consultation. The City will inform the applicant of the procedural requirements and any conditions and policies of public agencies that may be pertinent to the proposal. The applicant may proceed with an application or the City may suggest a pre-application conference with City Staff and affected agencies to assist the applicant in preparing the application. A Pre-Application Consultation shall be conducted within 30 days following receipt of the request and the descriptive information. This consultation is for information purposes and any statement or representation by City Staff in pre-application consultation shall not bind the City in later processing of an application.

**SECTION 2.120 PRE-APPLICATION CONFERENCE**

Within 30 days after the pre-application consultation, the City Administrator may schedule a pre-application conference with the applicant and representatives of the City and other affected public and private agencies to further clarify the conditions and requirements necessary in the preparation of the application. There is a Pre-Application Conference Fee in conformance with **Section 1.190**.

**SECTION 2.130 APPLICATION PROCEDURE**

Following preliminary consultation and the pre-application conference, where applicable, the applicant shall prepare an application together with other supplementary data required to clearly describe the proposed development and the decision requested of the City.

- (1) Applications, Petitions and Appeals provided for in this Code shall be made on forms prescribed by the City. Forms are available at the Millersburg City Hall, 4222 Old Salem Road NE, Millersburg, Oregon 97321. Phone 541-928-4523.
- (2) Applications shall be accompanied by narrative descriptions, an Application Site Plan in conformance with **Section 2.140** if required, building plans, maps, specifications and any other information that clearly describe the request and the applicable City Code sections that may apply to the request.
- (3) The City will consolidate applications that require more than one approval procedure for a development project. The City will identify and address all of the procedures concurrently and will utilize the most comprehensive procedure and decision process of those required in the application. The total fee shall be the sum of all individual procedural fees with the exception that a Site Plan Review Fee shall not be charged in addition to other fees.
- (4) The Application and all supplemental information shall be submitted to the City thirty (30) days prior to the regular meeting date of the Hearing Body. A Review or Hearing will be scheduled not earlier than 30 days from the date the Application is deemed complete.
- (5) Applications shall include the Application Form and informational check list, Site Plan and all documents, evidence and supplemental information relied upon by the applicant. Drawings and site plans shall be submitted on 8 1/2 x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. The



City may require the applicant to provide additional copies of all application materials. Larger drawings may be submitted for presentation and City review.

- (6) All Applications shall be available to the public and notifications will be mailed by the City 20 days prior to the review or hearing meeting.
- (7) An application and review fee shall accompany the application request in accordance with the provisions of **Section 1.190**. The total fee shall be the sum of all individual processing fees.
- (8) Staff reports used at the review or hearing shall be available at least seven (7) days prior to the review or hearing.
- (9) The City shall comply with **ORS 227.178** and take final action on an application, including resolution of all local appeals, within 120 days after the application is deemed complete. If an application is incomplete, the City shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete if the applicant supplies the missing information, or if the applicant refuses to submit the missing information, it shall be deemed complete on the 31st day after the application is received by the City.
- (10) If an application is complete when first submitted or if the applicant submits the requested missing information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (11) The 120 day period specified in subsection (9) may be extended for a reasonable time at the request of the applicant.
- (12) The 120 day period specified in subsection (9) does not apply to an amendment to this Code.
- (13) The Applicant bears the responsibility and burden of proof for the requested action.
- (14) The Application and the decision of the City shall be maintained by the City in a Record File of the Application. Notice of Decision shall be given the Applicant and other participants in the proceedings as specified in **Section 3.300**.
- (15) Expiration. Approved applications shall be void one (1) year after the date of approval unless a building permit has been issued or construction pursuant thereto has begun or unless a specific time period was authorization as a condition of approval. However, upon written request, the Planning Commission may extend authorization for an additional period of time.
- (16) Limitation. No request for a land use application shall be considered by the City within a one-year period immediately following a denial of such request, except the City may consent to a new hearing, if in the opinion of the City, new evidence of a change of circumstances warrants it.
- (17) The specific requirements and decision process for each application procedure are contained in the following Sections of this Article.



**SECTION 2.140 APPLICATION SITE PLAN**

Applications for all Land Divisions or land use requests that require a site plan shall be drawn to scale on 8 1/2 x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. Larger drawings may be submitted for presentation and City review. Drawings shall be drawn to scale. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be in even multiples of one (1) inch equals ten (10) feet (For example - 1"=20', 1"=30', 1"=100', etc.). The Application and Site Plan shall indicate clearly and with full dimensioning the following information, as applicable, for all existing and proposed development. It is understood that some of the requested information may not apply to every application. (X) out the number of non-applicable information.

- (1) The names of the owner(s) and applicant if different.
- (2) The property address, geographic location, assessor map and tax lot number.
- (3) The date, scale and northpoint.
- (4) A vicinity map showing adjacent properties and roads.
- (5) Lot dimensions.
- (6) The location, size, height and proposed use for all existing and proposed buildings.
- (7) Yards, open space and landscaping.
- (8) Walls and fences: location, height and materials.
- (9) Off-street parking: location, number of spaces and/or dimensions of parking area, internal circulation pattern.
- (10) Access: pedestrian, vehicular, service, points of ingress and egress.
- (11) Signs: location, size, height and means of illumination.
- (12) Loading: location, dimension, number of spaces, internal circulation.
- (13) Lighting: location and general nature, hooding devices.
- (14) Street dedication and improvements.
- (15) Topographic features including existing and proposed grades, rock outcroppings, wetlands, riparian areas, wooded areas and trees to be preserved or removed.
- (16) The location of existing and proposed water, sewer and utility facilities.
- (17) The location of existing and proposed drainage ways, water courses and flood plain.
- (18) The estimated number of people that will occupy the site including family members, employees or customers.

- (19) The estimated number of generated trips per day from each mode of travel by type including employees, customers, shipping, receiving, etc. A Traffic Assessment and possibly a Traffic Impact Study may be required as specified in **Section 5.122 (5)**.
- (20) Time of operation, where appropriate. Including hours of operation, days of the week and number of work shifts.
- (21) Specifications of the type and extent of emissions, potential hazards or nuisance characteristics generated by the proposed use. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use. Misrepresentation or omission of required data shall be grounds for denial or revocation of an approval or termination of a Certificate of Occupancy.

Uses that possess nuisance characteristics or those potentially detrimental to the public health, safety and general welfare of the community, such as noise, water quality, vibration, smoke, odor, fumes, dust, heat, or glare of electromagnetic interference may require additional safeguards or conditions of use as required by the City.

All uses shall comply with the applicable standards and regulations of local, state or federal agencies having regulatory jurisdiction. City approval of a land use application, shall be conditional upon evidence being submitted to the City indicating that the proposed activity has been approved by the regulatory agencies having jurisdiction on an issue.

- (22) Such other data as may be necessary to permit the City to make the required findings.



**SECTION 2.150 RECORD FILE**

The City shall maintain an official Record File of each application containing all relevant data, drawings, dates, notices, hearings, postponements, continuances, decisions, appeals and minutes of all meetings pertaining to the application.

- (1) Minutes of all meetings, reviews and hearings shall record the substance of all issues before the review or hearing body. Summary written minutes shall be maintained in the Record file. The minutes and records need not be a verbatim transcript of the meeting
- (2) Proceedings may be recorded either stenographically or electronically although a verbatim record is not required. Minutes may be summarized from the transcript or tape.
- (3) Testimony may be transcribed at the expense of the requesting party, if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs as authorized by state law.
- (4) The staff reports and recommendations shall be included in the Record File.
- (5) The review or hearing body shall, where practical, retain as part of the record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the Record file until after all appeal periods have expired, at which time the exhibits may be released.
- (6) The public shall have access to the Record File of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to request copies of the record at cost specified by the City.

**SECTION 2.200 BUILDING PERMITS**

- (1) Building Permits are issued by the City and administered by the Linn County Building Department. Building Permits issued by the City also require approval by the Linn County Building Department. Linn County Building Inspection provides all construction administration services.
- (2) Building Permits may be issued following City and County approval for **Permitted Uses** not requiring a Review or Public Hearing by the City.
- (3) Application for Building Permits requiring a land use decision including: Site Plan Reviews, Conditional Uses, Variances, Nonconforming Uses, or Zone Change Amendments shall be approved by the City prior to issuance of the Building Permit. The City shall withhold the Certificate of Occupancy until compliance with the Conditions of Approval required in the land use decision.
- (4) The Applicant may make application for a Building Permit prior to land use approval if the Applicant agrees in writing to pay all Building Permit fees should the land use decision be denied. Any proposed change in the approved plan or use shall be resubmitted to the City as a new application. Building Permits for an approved land use decision shall not be issued until the appeal period, as specified under **Section 3.700**, has passed.
- (5) Each application for a building permit shall comply with the latest adopted edition of the State of Oregon Structural Specialty Code or the Residential Specialty Code. Applications shall describe the work and proposed use and occupancy and include site and building plans, drawn to scale, construction details, specifications, computations and such other information as may be required by the Linn County Building Official.



**SECTION 2.300 LAND DIVISIONS****SECTION 2.310 PROPERTY LINE ADJUSTMENTS**

- (1) **Purpose.** A property line adjustment is a relocation of a common property line between abutting properties. A property line adjustment shall not create an additional lot or parcel, reduced a lot or parcel in size below the minimum size specified for the zone, or create a violation of development standards on either lot or parcel.
- (2) **Application.** A property line adjustment may be submitted for review by the City without preliminary consultation, a land division conference, a review or a hearing where the adjustment complies with **Sections 2.311 and 2.312**.
- (3) **Information.** The applicant shall submit 3 copies of the proposed map of the property line adjustment together with other supplementary data required for recording or specified herein for review and action by the City.

**SECTION 2.311 PROPERTY LINE ADJUSTMENT REQUIREMENTS**

All property line adjustment requests shall contain the following information:

- (1) The property to be adjusted shall comply with **ORS 92** for Property Line Adjustments.
- (2) A map clearly and legibly drawn to scale on 8 1/2 x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. Larger drawings may be submitted for presentation and review by the City. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be in even multiples of 1 inch equals 10 feet (For example - 1"=20', 1"=30', 1"=100', etc.).
- (3) The title "Property Line Adjustment for.....," the date and northpoint.
- (4) Name and address of the record owner(s) of the property to be adjusted.
- (5) Assessor Map and Tax Lot numbers and approximate acreage or square feet of each property prior to and after adjustment.
- (6) The location and boundary dimensions and other information to accurately locate the adjusted property line.
- (7) Existing conditions for land within the properties to be adjusted:
  - (a) The locations, names and widths of existing streets.
  - (b) The location, width and purpose of existing or proposed easements.
  - (c) The approximate location of buildings, public and private utilities, drainage ways and other significant features that would affect development of the adjusted properties.
- (8) The property to be adjusted shall be surveyed if required by State or County standards.

**SECTION 2.312 DECISION CRITERIA**

A Property Line Adjustment may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The adjustment will not create an additional unit of land.
- (2) The adjustment will not create a land-locked parcel.
- (3) The existing unit of land reduced in size by the adjustment complies with applicable City ordinances and this Code and will not create a non-conforming lot or non-conforming development.
- (4) The adjustment shall comply with any previous Conditions of Approval attached to the properties to be adjusted.
- (5) The adjustment shall comply with all state and county recording requirements.

#### **SECTION 2.313 DECISION PROCESS**

- (1) A Property Line Adjustment does not require a Limited Land Use Decision or Notifications. The City Administrator may consider a Property Line Adjustment at any time following submittal of the application.
- (2) If the proposed Property Line Adjustment is consistent with City land use standards, the City Administrator may approve the map as submitted, approve with conditions or deny the request for noncompliance.
- (3) If the application requires a Variance or the establishment or relocation of an Easement, or requires interpretation or the exercise of policy, the decision shall be placed before the Planning Commission which shall hold a public hearing in conformance with the Quasi-judicial Public Hearings requirements of **Section 3.510**.
- (4) Upon approval or denial, a Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Property Line Adjustment as specified in **Section 3.600**. If the Application is denied or the required conditions of approval are not agreed to by the Applicant, the Applicant may request an Appeal to the Planning Commission within 15 days of the decision in conformance with **Section 3.700**.

#### **SECTION 2.314 PROPERTY LINE ADJUSTMENT FILING**

- (1) Upon approval or denial, a Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Property Line Adjustment as specified in **Section 3.600**. The Applicant may modify the proposed Property Line Adjustment for compliance with the required conditions or may request an Appeal to the Planning Commission within 15 days of the City Administrator's decision or to the City Council within 15 days of the Planning Commission decision in conformance with **Section 3.700**.
- (2) The Property Line Adjustment shall be forwarded to the County for recording by the Applicant. Deeds or conveyances for all lots or parcels conforming to the approved Property Line Adjustment shall be filed with the County as required by State Law. If a survey is provided, a certified copy of the survey shall be filed with the County Surveyor.
- (3) Copies of all recorded deeds, conveyances and filed surveys shall be provided to the City for inclusion in the Record File of the Application, in accordance with **Section 2.150**.



**SECTION 2.320 SUBDIVISION OR PARTITION TENTATIVE PLAN**

- (1) The Planning Commission shall be the deciding authority for all Land Partition and Subdivision Tentative Plans under the provisions of this Code unless combined with another request requiring City Council approval, or if appealed to the City Council. In the event that a consolidated application requires more than one decision, the highest deciding authority will make all decisions requested in the application.
- (2) The Planning Commission shall hold a Limited Land Use Review for all Partition and Subdivision Tentative Plans requests in conformance with **Section 3.400** or may hold a Quasi-judicial Public Hearing in conformance with **Section 3.510** to receive additional public comment on significant proposals. A consolidated request including a Variance shall also require a Quasi-judicial Public Hearing in conformance with **Section 2.600**.

**SECTION 2.321 SUBMISSION REQUIREMENTS**

A land divider shall prepare a Tentative Plan together with improvement plans and other required supplementary data as may be required to clearly present the scope, ideas and objectives of the project. The Applicant shall submit the Tentative Plan together with all supplementary data to the City 30 days prior to the Planning Commission meeting at which consideration of the Tentative Plan is desired following preliminary consultation as recommended in **Sections 2.110 and 2.120**.

**SECTION 2.322 FORM AND SCALE**

The Tentative Plan shall be clearly and legibly drawn to scale. The Applicant shall submit the Tentative Plan on a drawing size of 8 1/2 x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. Additionally, a Plat recording document size of 18 x 24 inch or larger drawings may be submitted for presentation and review by the City. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be in even multiples of one (1) inch equals ten (10) feet (For example - 1"=20', 1"=30', 1"=100', etc.).

**SECTION 2.323 GENERAL INFORMATION**

The following information shall be provided on all Tentative Plans:

- (1) All information required by **ORS 92** for a Tentative Plan.
- (2) No Tentative Plan shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land Platted is contiguous to and Platted by the same party that Platted the subdivision bearing that name or unless the party files and records the consent of the party that Platted the subdivision bearing that name. All Plats must continue the lot and block numbers of the Plat of the same name last filed.

Subdivisions submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name that has previously used block numbers or letters.

- (3) Date, northpoint, scale of drawing.
- (4) Appropriate identification clearly stating the map is a subdivision or partition Tentative Plan.

- (5) Location of the land division by section, township, range and tax lot sufficient to define the location and boundaries of the proposed subdivision.
- (6) Names and addresses of the owner, applicant and surveyor.
- (7) The approximate acreage of the tract being subdivided or partitioned, and the size of proposed lots or parcels.

**SECTION 2.324 EXISTING CONDITIONS INFORMATION**

- (1) A vicinity map of all owners of property within 100 feet of the proposed land division.
- (2) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other right-of-ways and other important locational information such as section lines, corners, city boundary lines and monuments.
- (3) The location of all existing sewers, water lines, storm drains, culverts, ditches and utilities, together with elevational data, on the site and on adjoining property or streets.
- (4) The elevations of all points used to determine contours; said points given to true elevation above mean sea level as determined by the City. The base data used shall be clearly indicated and shall be compatible to City datum if bench marks are not adjacent. The following intervals are required:

| Contour Intervals | Ground Slope        |
|-------------------|---------------------|
| One Foot          | Up to 5%            |
| Two Feet          | Over 5% through 10% |
| Five Feet         | Over 10%            |

**Exception:** The City may approve slope indications for partitions by means of arrows or other suitable symbol together with not less than four spot elevations per acre evenly distributed for slopes of less than five percent (5%).

- (5) The location of at least one bench mark control point within the tract boundaries.
- (6) The location and direction of all on-site and off-site drainage, drainage channels, water courses and the location of all areas subject to flooding.
- (7) Special features such as rock outcroppings, wetlands, wooded areas and isolated preservable trees. Lands that are wholly or partially within areas identified as wetlands or riparian areas shall be clearly delineated for review and permit by the Division of State Lands.
- (8) Existing uses on and adjacent to the property, including the location of all existing structures to remain on the property after the land division.
- (9) Zoning on and adjacent to the property to be divided.

**SECTION 2.325 PROPOSED PLAN INFORMATION**

- (1) A vicinity map clearly showing the relationship and connections of the proposed land division to surrounding developments, streets, storm drainage, sewer, water and utility services.



- (2) The location, width, name and approximate grade and curve radii of proposed street . The relationship of proposed streets to existing streets and any projected future streets shown on the City's Comprehensive Plan or Official Street Map. Streets proposed for public dedication and streets held for private use shall be clearly indicated and all reservations or restrictions relating to such private streets shall be included in the statements specified in **Section 2.326**.
- (3) The location, width, and purpose of existing and proposed easements.
- (4) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.
- (5) The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers. Where Rural Residential land divisions or large lot divisions are proposed that may be redivided in the future to smaller Urban Residential lots or parcels, the applicant shall provide a sketch plan showing the redivision configuration.
- (6) An outline of the areas proposed for partial recording of a final Plat and a time schedule for additional Platting if staged recording is proposed.
- (7) A general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.
- (8) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (detention ponds, swales, etc.) and contamination protection (settling basins, separators, etc.).
- (9) Identification of all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas in conformance with **Section 8.300**..
- (10) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mail boxes, bus stops, greenways, bike or pedestrian paths.

#### **SECTION 2.326      ACCOMPANYING STATEMENTS**

The Tentative Plan shall be accompanied by written statements from the applicant giving essential information regarding the following matters:

- (1) Identify the adequacy and source of water supply including:
  - (a) Certification that water will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
  - (b) A bond, contract or other assurance by the applicant that a public water supply system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City.
  - (c) In lieu of the above conditions, Rural Residential lots without access to a water system may be created if a statement is provided by the applicant that no domestic water supply facility will be provided to the purchaser of any lot depicted on the Tentative Plan. A copy of the statement signed by the applicant and endorsed by the City shall be filed by the applicant with the Real Estate Commissioner when the Plat is recorded. The applicant shall

deliver a copy of the statement to each prospective purchaser of a lot prior to signing the first agreement for sale of the lot. The owner/applicant shall obtain a signed receipt for the statement from the purchaser and send a copy of the receipt to the Commissioner and shall keep copies of such receipts on file in this state, subject to inspection by the Commissioner, for a period of three years after the date the receipt is taken.

- (2) Identify the proposed method of sewage disposal including:
  - (a) Certification that a sewage disposal system will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
  - (b) A bond, contract or other assurance by the applicant that a sewage disposal system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City.
  - (c) In lieu of the above conditions, Rural Residential lots without access to a sewage disposal system may be created if a statement is provided by the applicant that no sewage disposal facility will be provided to the purchaser of any lot depicted on the Tentative Plan where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal. A copy of the statement signed by the applicant and endorsed by the City shall be filed by the applicant with the Real Estate Commissioner when the Plat is recorded. The applicant shall deliver a copy of the statement to each prospective purchaser of a lot prior to signing the first agreement for sale of the lot. The owner/applicant shall obtain a signed receipt for the statement from the purchaser and send a copy of the receipt to the Commissioner and shall keep copies of such receipts on file in this state, subject to inspection by the Commissioner, for a period of three years after the date the receipt is taken.
- (3) Protective covenants, conditions and deed restrictions (CC & R's to be recorded, if any.
- (4) Identify all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas in conformance with **Section 8.300**.
- (5) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.
- (6) A statement that the declarations required by **ORS 92.075** on the final Plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.
- (7) Proposed staged subdivisions or serial partitions shall be clearly identified on the application. A time schedule for future Platting shall also be submitted. The Planning Commission may require a specific time schedule for approval. All future Plats shall conform to the adopted ordinances applicable at the time of Platting.



**SECTION 2.327 SUPPLEMENTAL INFORMATION**

Any of the following may be required by the City to supplement the Tentative Plan information but may be waived by the City for the Tentative Plan under the condition that the information is provided prior to acceptance of the Final Plat.

- (1) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction.
- (2) A detailed plan of the domestic water supply lines and related water service facilities.
- (3) A detailed plan of the sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways.
- (4) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.
- (5) Specifications and details of all proposed improvements.
- (6) Wetland delineation or riparian areas if identified as an existing condition in **Section 2.324 (7)**.

**SECTION 2.328 DECISION CRITERIA**

A Subdivision or Partition Tentative Plan shall be approved by the Planning Commission. Approval shall be based upon compliance with the submittal requirements specified above and the following findings:

- (1) That the proposed land division, development or use does not conflict with the City's Comprehensive Plan or Statewide Planning Goals.
- (2) That the proposed land division complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the land division.
- (3) That the proposed land division complies with the standards and requirements of **ORS Chapter 92** and the recording requirements of the Linn County Surveyor.
- (4) That any undeveloped portion of the proposed land division can be developed in accordance with City ordinances.
- (5) That the proposed land division does not preclude development on adjoining properties.
- (6) That the proposed street plan is in conformance with City standards and provides the most economic, safe and efficient circulation of traffic in relation to the existing City street system and does not have an adverse impact on pedestrian, bicycle and vehicular safety.
- (7) That water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use in compliance with the Albany Construction Standards adopted the City of Millersburg.
- (8) That the proposed utilities do not preclude extension beyond the proposed land division to accommodate future growth.

- (9) That the land division will not cause adverse impacts to existing or proposed drainageways including flow disruptions, flooding, contamination or erosion and that required drainage facilities are provided that have the capacity to support the proposed development or use.
- (10) That the land division will not cause adverse impacts, potential hazards or nuisance characteristics as identified in **Section 2.140, Item 21** of the Application Site Plan and complies with the applicable standards of all regulatory agencies having jurisdiction.
- (11) That the land division will not cause adverse impacts to special site features identified in **Section 2.140, Item 15** of the Application Site Plan.
- (12) That the land division will not cause adverse impacts such as erosion, slide hazards and stormwater runoff due to excessive cut and fill of the property.
- (13) That the land division will not cause adverse impacts to existing trees and plantings identified in **Section 2.140, Item 15** of the Application Site for preservation.
- (14) That the Special site features identified in **Section 2.324 (7)** have been given consideration for preservation and utilization in the development.

#### **SECTION 2.329 DECISION PROCESS**

- (1) Upon receipt of an Application and Tentative Plan, the City shall furnish one copy of the Tentative Plan and supplementary material to the Fire District and County Road Department, and other agencies known to be affected. Agencies notified shall be given 14 days to review the plan and submit written comments. Notification to the Division of State Lands for identified wetlands shall require 30 days for review in accordance with **ORS 227.350, Subsection (4)**.
- (2) A Land Division requires a "Limited Land Use Review" by the Planning Commission in conformance with **Section 3.400**. A Limited Land Use Decision requires notification to owners of property within 100 feet of the subject property. The public may submit written comments prior to the Planning Commission review decision.
- (3) The Planning Commission shall consider the Tentative Plan proposal and written comments at the first regular Planning Commission meeting following the 14 day review period.
- (4) If the Application includes a Variance request, the Tentative Plan and Variance will be considered together as provided in **Section 2.130 (3)** and the Decision Criteria for the Variance shall apply as specified in **Section 2.600 (2)**. The Planning Commission may approve the Tentative Plan with specified conditions of approval to achieve compliance with the intent of City land use standards.
- (5) The Planning Commission shall hold a public hearing on the Tentative Plan and Variance in conformance with the Quasi-judicial Public Hearing requirements of **Section 3.510**. A public hearing may also be held on a Tentative Plan if requested or if the City determines that conditions may present possible adverse effects on adjacent properties or within the land use zoning district.
- (6) The Planning Commission may continue the review or hearing for good cause.



- (7) If the proposed Land Division is consistent with the Comprehensive Plan and City land use standards, the Planning Commission may approve the Tentative Plan as submitted or as modified to achieve compliance with the intent of City land use standards.
- (8) If the proposed land division does not conflict with the Comprehensive Plan but requires modification to certain features in order to comply with City land use standards, the Planning Commission may approve the Tentative Plan with specified conditions of approval to achieve compliance.
- (9) If the proposed land division does not comply with City land use standards even with conditions of approval, the Planning Commission shall deny the request.
- (10) Approval of the Tentative Plan shall indicate approval of the final Plat if there is no change in the plan of the land division and if the applicant complies with the requirements of this Ordinance and any conditions of approval specified by the Planning Commission.
- (11) The action of the Planning Commission shall be noted on two copies of the Tentative Plan and any attached documents describing conditions. One copy shall be returned to the applicant and the other shall be retained by the City.
- (12) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be given the Applicant and other parties to the proceedings together with any conditions of approval for the proposed land division as specified in **Section 3.600, Decision**.

## **SECTION 2.330 SUBDIVISION OR PARTITION PLAT**

### **SECTION 2.331 SUBMISSION REQUIREMENTS**

Within one year after approval of the Tentative Plan, the land divider shall begin construction of any required public improvements. All required public improvements must be completed and accepted by the City prior to approval of the Final Plat unless a Security Agreement has been approved by the City. If the land divider wishes to proceed with the land division public improvements after the expiration of the one-year period following the approval of the Tentative Plan, he must request an extension from the City. If the land divider fails to begin construction or fails to apply for an extension, he must reapply for approval and resubmit the Tentative Plan and make any revision necessary to comply with changed conditions. Following acceptance by the City of any public improvements, the land divider shall cause the land division or any part thereof to be surveyed and a Final Plat prepared in conformance with the Tentative Plan as approved. The applicant shall submit the exact duplicate transparency and five prints of the completed Plat to the City for review and approval.

### **SECTION 2.332 FORM AND SCALE**

The final Plat shall be submitted in the form and scale prescribed by **ORS 92** and the County recording standards.

### **SECTION 2.333 INFORMATION REQUIRED**

In addition to that otherwise specified by law, the following information shall be shown on the final Plat.

- (1) The name of the owner(s), land divider, surveyor and land division. The date, scale, northpoint, legend and existing features such as creeks, drainage courses, highways and railroads.
- (2) Reference to Federal Geodetic Control Committee guidelines for third order class II, points of existing surveys identified, related to the Plat by distances and bearings, and referenced to a field book or map as follows:
  - (a) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division.
  - (b) Adjoining corners of adjoining land divisions.
  - (c) Other monuments found or established in making the survey or required to be installed by provisions of this Code.
- (3) The exact location and width of streets, right-of-ways and easements intercepting the boundary of the tract.
- (4) Tract and lot or parcel boundary lines and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and Millersburg bearings. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
- (5) The name and width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center-line dimensions, the radius and center angle shall be indicated.
- (6) Easements denoted by fine dotted lines clearly identified and, if already of record, their recorded reference. If an easement is not definitely located or recorded, there shall be a written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division, must be shown. If the easement is being dedicated by the Plat or map, it shall be properly referenced in the owner's certificates of dedication.
- (7) Locations and widths of drainage channels including one hundred year flood plain or normal high water lines for any creek or other body of water, railroad rights-of-ways, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the land division.
- (8) Numbering of lots or parcels shall begin with the number "1" and numbered consecutively. Number sequence to generally follow the same system as sections are numbered in a township.
- (9) Lots or parcels to be dedicated for any purpose shall be distinguished from lots or parcels intended for sale with acreage and alphabetic symbols for each parcel indicated.
- (10) Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land as established by the City Council.
- (11) Special building setback lines and solar easements, if any, which are to be made part of the Deed Covenants Conditions and Restrictions (CC&R) of the land division.



**SECTION 2.334 SUPPLEMENTAL INFORMATION WITH PLAT**

Filing of separate legal documents to achieve any of the requirements of the final Plat may be permitted by the City when it can be shown that placing such information on the final Plat is not required to achieve the purposes of this Code. The following data may accompany the Plat.

- (1) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the land to be divided.
- (2) Legal descriptions of the land division boundaries if available at the time of Plat approval.
- (3) Data sheets and drawings showing the following may be requested:
  - (a) Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any.
  - (b) The computation of distances, angles and courses shown on the Final Plat.
  - (c) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and state highway stationing.
- (4) A copy of any deed CC&R's (Covenants, Conditions and Restrictions) proposed by the Applicant or required by the City that are applicable to the land division. All CC&R's shall be in conformance with state and federal law. If there are no proposed or required CC&R's, the property owner shall submit a signed statement that no CC&R's are required and none will be established.
- (5) A copy of any dedication requiring separate documents.
- (6) Proof that all taxes and assessments on the tract have been paid.
- (7) Certification that :
  - (a) All improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Commission giving conditional approval of the Tentative Plan.
  - (b) An agreement has been executed as provided in **Sections 7.510 and 7.520** to assure completion of required improvements.

**SECTION 2.335 SURVEY REQUIREMENTS**

- (1) A complete and accurate survey of the land to be divided shall be made by a registered surveyor licensed to practice in the State of Oregon in accordance with standard practices and principles of land surveying and as provided in this Code and state law including **Oregon Revised Statutes, Chapter 92 and Chapter 209**.
- (2) Monuments
  - (a) All monuments shall be set according to the provisions of state law.
  - (b) In making the survey for the land division, the survey shall set sufficient permanent monuments prior to the recording of the final Plat so that the

survey or any part thereof may be retraced according to standards required by the County Surveyor except interior monuments of subdivisions may be delayed with approval of the Planning Commission.

- (c) Interior "post monumentation" may be permitted by approval of the Planning Commission at the time of approval of the Tentative Plan or upon special request prior to filing the final Plat subject to the following:
1. The land divider has shown that it is necessary and practical to delay the interior monumentation.
  2. The land divider of the Plat agrees to furnish a bond, cash deposit, irrevocable letter of credit issued by a commercial bank as defined in **ORS 706.005**, or other security approved by the City in an amount equal to not more than 120 per cent of the estimated cost of performing the work for the interior monuments.
  3. That the land divider will sign an agreement with his surveyor and the City as to the amount of the security to be furnished at the time of submitting the final Plat, how the surveyor is to be paid for the work of establishing the interior monuments, that the rules for post monumentation shall be followed; establish a date when monumentation will be completed, and set out other particulars that may be necessary to insure the completion of the monumentation at a later date.

- (3) Utility Markers  
Permanent markers shall be provided for all underground water, sewer and utility stubs within the prepared land division as approved by the City.

#### **SECTION 3.336 DEDICATION REQUIREMENTS**

- (1) All lots or parcels of land shown on the final Plat intended for public use shall be offered for dedication to the City at the time the Plat is filed. Exception: Those lots or parcels, or common linear open spaces which are intended for the exclusive use of the owners, their licensees, visitors, tenants or employees; and also excepted are those parcels of land reserved for public acquisition under the provisions of **Section 7.400** of this Code.
- (2) All streets, pedestrian ways, drainage channels, open spaces, easements and other rights-of-way shown on the final Plat intended for public use shall be offered for dedication for public use at the time the final Plat is filed.
- (3) All rights of access to and from streets, lots and parcels of land shown on the final Plat intended to be surrendered shall be offered for dedication at the time the final Plat is filed.
- (4) The land divider shall provide and designate one-foot reserve strips across the ends of stubbed streets adjoining undivided land or along half streets adjoining undivided land. The reserve strip shall be included in the dedication granting to the City the right to control access over the reserve strip to assure the continuation or completion of the street. This reserve strip shall overlay the dedicated street right-of-way.



**SECTION 2.337 CERTIFICATES ON FINAL PLAT**

- (1) Certificates on the Final Subdivision or Partition Plat: The following certificates, declarations, acknowledgments and other requirements established by State law shall appear on the final Plat.
- (a) A declaration in conformance with **ORS 92.075** on the final Plat by the declarant - the fee owner, vendor and/or the mortgage or trust deed holder of the property who has caused or consented to the following:
    - 1. Preparation and recordation of the final Plat.
    - 2. Offering for dedication all parcels of land, streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way intended for public use.
    - 3. Protective covenants, conditions or restrictions on the use of lots or parcels, right-of-ways and easements.
  - (b) A certificate of the registered licensed surveyor who prepared the survey and the final Plat.
  - (c) A certificate for execution by the City Administrator on behalf of the Planning Commission.
  - (d) Certificates for execution as required by Linn County. May include:
    - County Surveyor.
    - County Assessor.
    - County Clerk
    - County Commissioners
  - (e) Other certifications now or hereafter required by law.
  - (f) A statement of water rights together with the water rights certificate number if applicable.
- (2) All signatures on the Plat shall be in permanent black india type ink in conformance with **ORS 92.080**.
- (3) All copies required for filing purposes shall be certified as an exact copy by the surveyor who prepared the Plat in accordance with **ORS 92.120, Subsection (3)**.

**SECTION 2.338 DECISION CRITERIA**

A final Plat of a subdivision or partition may be approved the City Administrator based upon compliance with the submittal requirements specified above and the following findings:

- (1) The final Plat is in substantial conformance with the Tentative Plan.
- (2) The Conditions of Approval attached to the Tentative Plan have been satisfied.
- (3) All public improvement requirements have been completed or surety provided.

**SECTION 2.339 DECISION PROCESS**

- (1) Upon receipt by the City, the Plat and other data shall be reviewed by the City Administrator or designee to determine that the land division as shown is substantially the same as it appeared on the approved Tentative Plan and that

there has been compliance with provisions of law and of this Code and any Conditions of Approval attached to the Tentative Plan.

- (2) The City may make such checks in the field as are desirable to verify that the plat is sufficiently correct on the ground and City representatives may enter the property for this purpose. Certifications of the County Surveyor shall be used to determine that the plat survey is technically correct.
- (3) If the City Administrator determines that the Plat conforms to the approved Tentative Plan, including all supplemental documents, provisions for required improvements and all conditions specified by the Planning Commission; approval shall be indicated by the signature of the City Administrator. The approval of the Plat does not constitute or effect an acceptance by the City of the dedication of any street or other easements offered on the plat until officially accepted by the City.
- (4) If the City Administrator finds errors or finds that the Plat does not substantially conform to the approved Tentative Plan, the City shall notify the Planning Commission and shall advise the land divider of the changes or additions that must be made and shall afford the land divider an opportunity to make corrections. The corrected Plat shall be resubmitted to the Planning Commission for verification of compliance with the approved Tentative Plan.

#### **SECTION 2.340 FILING OF PLAT**

- (1) The land divider shall, without delay, submit the Plat for signatures of public officials required by this Ordinance or state law. Approval of the Plat shall be null and void if it is not recorded within 120 days after approval by the City Administrator.
- (2) The land divider shall deliver to the City a signed and certified copy of the Plat and all recorded documents required and approved by the City. The City shall maintain the documents in the Record File of the Application in accordance with **Section 2.150**.
- (3) The land divider offering a plat for filing to which a water right is apparent shall also submit a copy of the Final Plat to the State Water Resources Department as required by **ORS 92.120**.

#### **SECTION 2.350 REPLATTING**

- (1) Replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded Plat in accordance with ORS 92.180 to 92.190. A replat shall conform to all of the requirements of the City for a subdivision or partition of land including approval of a Tentative Plan unless approved as a Property Line Adjustment as described in **Section 2.310** of this Code. Upon approval by the City, the replat will act to vacate the Platted lots or parcels and easements within the replat area.
- (2) Notice consistent with that required for approval of a Tentative Plan shall be provided by the City. All affected utility companies or public agencies shall also be notified. Utility companies desiring to maintain easements proposed for vacation shall notify the City within 14 days of the mailing of the notice.



**SECTION 2.360 EXPEDITED LAND DIVISIONS**

When an expedited land division for residential use only is requested by an Applicant the City shall use the procedures for an expedited land divisions specified under **ORS 197.365** in lieu of the procedures described in **Section 2.320** through **2.329** if the application complies with the conditions and standards of **ORS 197.360** through **197.380**.

**SECTION 2.400 SITE PLAN REVIEW**

The purpose of the site plan review procedures is to correlate the general code requirements with the specific site conditions and proposed uses through a comprehensive review process to assure that developments are in conformance with the City's applicable land use regulations. A Site Plan Review is required for all new commercial or industrial developments and for existing commercial or industrial developments where a change of use intensifies on-site or off-site conditions.

The City may also request a Site Plan Review for any development proposal, in addition to those specifically required by this Code if the property, proposed development or use has unusual or special features or require a decision by the City.

- (1) **Site Plan Review Application.** An application for a use requiring a Site Plan Review shall be filed with the City together with a site plan and other supplementary data described in the Application Procedures, **Section 2.130** and the Application Site Plan, **Section 2.140**.
- (2) **Decision Criteria.** After an examination of the Site and prior to approval, the Planning Commission must make the following findings:
  - (a) That the proposed development or use does not conflict with the City's Comprehensive Plan.
  - (b) That the proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.
  - (c) That the proposed development will not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety, and future street right-of-ways are protected.
  - (d) That proposed signs or lighting will not, by size, location, color or operation, have an have an adverse impact on traffic, limit visibility or have an have an adverse impact on adjacent properties.
  - (e) That water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use and can be extended in the future to accommodate future growth beyond the proposed land division.
  - (f) That the proposed development or use does not have an adverse impact on existing or proposed drainageways including flow disruptions, flooding, contamination or erosion. on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.
  - (g) That the proposed development will not have an adverse impact, potential hazards or nuisance characteristics as identified in **Section 2.140, Item 21** of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.
  - (h) That the proposed development or use does not conflict with the standards of other regulatory agencies having jurisdiction.



- (3) **Decision Process.** The procedure for taking action on an application for a Site Plan Review shall be as follows:
- (a) A Site Plan Review requires a "Limited Land Use Review" by the Planning Commission in conformance with **Section 3.400**. A Limited Land Use Decision requires notification to owners of property within 100 feet of the subject property with an opportunity to submit written comments prior to the review and decision by the Planning Commission.
  - (b) The Planning Commission may approve, disapprove, or modify and approve the Site Plan and attach any reasonable conditions to approval of a site development plan.
  - (c) The Planning Commission may also call for a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.
  - (d) Once approved, the site plan submitted shall become the Official Plan. Building permits shall be issued only for plans that conform to the Official Plan and all construction shall conform to the Official Plan or a Certificate of Occupancy may be withheld until compliance.
  - (e) All required elements of the approved site plan shall be installed and maintained indefinitely by the owner, unless approval has been received for a revision or amendment.
  - (f) Revisions or amendments to an approved site plan shall follow the same procedure as for adoption of a site development plan.

**SECTION 2.500            CONDITIONAL USES**

A conditional use is a use of land or a structure that is normally appropriate in the district where it is permitted, but due to the specifics of that use could cause a potential nuisance, health or safety problem. It is the intent of this section to provide standards and procedures so uses that are classified as conditional can fit into a particular zone in a manner that safeguards surrounding property, the neighborhood, and the City.

The City may also request a Conditional Use for any development proposal, in addition to those specifically required by this Code if the property, proposed development or use has unusual or special features that will not permit the development to fully comply the standards of this Code or where the proposed development or use pose potential adverse impacts that may require mitigation or require a decision by the City.

- (1) **Conditional Use Application.** An application for a use requiring a Conditional Use must be filed with the City together with a site plan and other supplementary data using forms described in the Application Procedures, **Section 2.130** and the Application Site Plan, **Section 2.140**. The Planning Commission may also request a Conditional Use for any development proposal, in addition to those specifically required by this Code, if the site or proposed use has characteristics similar to, but different than, the uses permitted in the zone.

Uses existing prior to the effective date of this Code that are classified as a conditional use in this Code shall conform with the requirements for a conditional use if a change in use, lot area or an alteration is proposed.

- (2) **Decision Criteria.** Conditional uses listed in this Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:
- (a) That the proposed development or use does not conflict with the City's Comprehensive Plan.
  - (b) That the proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.
  - (c) That the proposed development does not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety and future street rights-of-way are protected.
  - (d) That proposed signs or lighting will not, by size, location, color or operation, have an have an adverse impact on traffic, limit visibility or have an have an adverse impact on adjacent properties.
  - (e) That water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use and can be extended in the future to accommodate future growth beyond the proposed land division.
  - (f) That the proposed development or use does not have an adverse impact on existing or proposed drainageways including flow disruptions, flooding, contamination or erosion. on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.



- (g) That the proposed development will not have an adverse impact, potential hazards or nuisance characteristics as identified in **Section 2.140, Item 21** of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.
  - (h) That the proposed development or use does not conflict with the standards of other regulatory agencies having jurisdiction.
- (3) **Decision Conditions.** In approving a conditional use application, the Planning Commission may require additional standards and conditions which the Planning Commission considers necessary to comply with the intent and purpose of the Comprehensive Plan and implementing codes or ordinances. These conditions may include, but are not limited to, the following:
- (a) Regulating the required lot size, lot width, or yard dimensions.
  - (b) Regulating the height of buildings.
  - (c) Controlling the location and number of vehicle access points.
  - (d) Requiring dedication of additional street right-of-way or increasing the street width to accommodate the increased traffic generated by the proposed development.
  - (e) Increasing the number of required off-street parking or off-street loading spaces.
  - (f) Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - (g) Limiting the number, size, location and lighting of signs.
  - (h) Requiring ongoing maintenance of buildings and grounds.
  - (i) Regulating emissions, potential hazards or nuisance characteristics caused by the proposed use, which could have a negative impact on the surrounding area or the City as a whole.
  - (j) Providing internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.
  - (k) Regulating time periods for the conduct of certain activities.
  - (l) Setting a time limit for compliance with conditional use conditions.
  - (m) Providing a performance bond or other security for the cost of improvements to guarantee compliance with the standards and conditions of approval for the conditional use approved by the Planning Commission.
  - (n) Providing a contractual agreement with the City to assure that the applicant will pay a fair share of the development costs for future public improvements.

- (4) **Decision Process.** The procedure for taking action on an application for a Conditional Use shall be as follows:
- (a) A Conditional Use requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with **Section 3.510**. A Quasi-judicial Decision requires notification to property owners within 100 feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and decision by the Planning commission.
  - (b) The Planning Commission may approve, deny, or approve conditionally the Conditional Use and attach any reasonable standards of development to attain compliance with the zone and city codes and ordinances.
  - (c) If an application is denied, the action must be based on reasons related to non-compliance with the City Comprehensive Plan, Development Code or other Ordinance requirements.
  - (d) Once approved, the Conditional Use shall become the Official Plan. Building permits shall be issued only for plans, which conform, to the Official Plan and all construction shall conform to the official plan or a Certificate of Occupancy may be withheld until compliance.
  - (e) All required elements of the approved Conditional Use shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
  - (f) Revisions or amendments to an approved Conditional Use shall follow the same procedure as that utilized for approval.



**SECTION 2.600 VARIANCES**

Because of the impossibility of foreseeing and providing for all circumstances and conditions which may effect individual properties or uses, the variance provision is created to allow modification of the provisions of this Code for certain circumstances without defeating the purposes and intent of the Code.

- (1) **Variance Application.** An application for a Variance shall be filed with the City together with a site plan and other supplementary data using forms described in the Application, **Section 2.130** and the Application Site Plan, **Section 2.140**. The applicant shall submit evidence that the circumstance for granting a Variance as outlined in Item (2) herein apply to the Variance request. The Planning Commission may authorize variances from the requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property or use, strict application of the Code would cause an undue or unnecessary hardship. A Variance shall not be granted to allow a use permitted in another district or zone or to allow a use not authorized within the intended district or zone. In granting a Variance, the Planning Commission may attach conditions that it finds necessary to protect the surrounding property, vicinity or the City and otherwise achieve the purposes of this Code.
- (2) **Decision Criteria.** A Variance may be granted if the following circumstances exist:
  - (a) That there are circumstances or conditions affecting the property or use that preclude strict adherence the Code standards.
  - (b) That the Variance is necessary for the proper design and/or use of the proposed development or land division.
  - (c) That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
  - (d) That the granting of the Variance will not conflict with the purposes and objectives of the Comprehensive Plan and other related ordinances of the City.
- (3) **Decision Process.** The procedure for taking action on an application for a Variance shall be as follows:
  - (a) A Variance requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with **Section 3.510**. A Quasi-judicial Decision requires notification to property owners within 100 feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and a decision by the Planning Commission.
  - (b) The Planning Commission may approve, deny, or approve conditionally the Variance request and attach any reasonable standards of development to attain compliance with the zoning district and this Code as provided in **Section 3.600, Decision**.
  - (c) If an application is denied, the action must be based on reasons related to non-compliance with the Comprehensive Plan and Code requirements.
  - (d) If the application is approved, the Planning Commission may prescribe the terms and conditions upon which a Variance may be granted and may set a

time limit for the duration of such Variance and may require guarantees in an approved form to insure that the conditions and standards for the approved Variance will be fulfilled.

- (e) Once approved, the Variance shall become the official standard. Building permits or land divisions shall only be approved for plans that conform to the conditions and standards of the approved Variance and all construction shall conform to the approved Variance or a Certificate of Occupancy may be withheld until compliance.
- (f) All required elements of the approved Variance shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (g) Revisions or amendments to an approved Variance shall follow the same procedure as that utilized for approval.
- (h) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**.
- (i) Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Variance as specified in **Section 3.600, Decision**.



**SECTION 2.700 AMENDMENTS**

It is recognized that this Code or the Millersburg Comprehensive Plan may require amendments to adjust to changing circumstances. An amendment may require either, a Legislative Decision as defined in **Section 3.200 (2)** or a Quasi-judicial Decision as defined in **Section 3.200 (3)** depending upon whether the amendment applies to the Code in general or to a specific property.

Amendments may be either Text Amendments or Map Amendments. The City utilizes a single land use map for the Millersburg Comprehensive Plan and the Millersburg Zoning Districts therefore a zone change map amendment is an amendment to the Millersburg Comprehensive Plan and the Millersburg Land Use Development Code.

- (1) **Amendment Application.** An Amendment to this Code may be initiated by the City Council, the City Planning Commission or by application of a property owner. A request by a property owner for an amendment shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130**.
- (2) **Decision Criteria.** All requests for an amendment to the text or map of this Code or the Comprehensive Plan may be permitted upon authorization by the City Council in accordance with following findings:
  - (a) The proposed amendment does not conflict with the intent of the Comprehensive Plan Comprehensive.
  - (b) The amendment will not adversely impact adjacent areas or the land use plan of the City.
  - (c) The amendment will not violate applicable city, state or federal environmental quality statutes, rules or standards.
  - (d) The amendment will not have an adverse impact on public facilities.
  - (e) The amendment will not have an adverse impact on transportation.
  - (f) The amendment will not have an adverse impact on the economy of the area.
  - (g) The amendment will not have an adverse impact on the housing needs of the City.
  - (h) The amendment does not conflict with the intent of Statewide Planning Goals.
- (3) **Decision Process.**
  - (a) Text amendments or zone change map amendments that affect a group or class of properties within the City requires a "Legislative Decision" by the City Council with recommendation by the Planning Commission in conformance with the Legislative Public Hearing procedures of **Section 3.520**.
  - (b) Zone change map amendments initiated by an applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with recommendation by the Planning Commission in conformance with the Quasi-judicial Public Hearing procedures of **Section 3.510**.

- (c) The City Council upon recommendation of the Planning Commission may approve, deny or approve with standards or conditions to attain compliance with this Code or the applicable zoning district.
  - (d) The City is not required to justify denial of a proposed legislative change.
- (4) No application of a property owner for an amendment to the text of this Code shall be considered by the City within a one-year period following previous denial of a similar request, except the City Council may permit a new application, if in the opinion of the Council, new evidence or a change of circumstance warrant it.



**SECTION 2.800 ANNEXATIONS**

The annexation of land to the City of Millersburg shall promote orderly growth of the City and the efficient provision of public facilities and services. The Millersburg Urban Growth Boundary Agreement with Linn County specifies that annexations shall only occur within the Millersburg Urban Growth Boundary (UGB). Annexation requests outside of the UGB are required to apply for a UGB amendment to the Millersburg Comprehensive Plan. The UGB Plan amendment and annexation request may occur concurrently provided there is compliance with all requirements of the Millersburg Comprehensive Plan and Code. The procedures and standards for annexations are specified in **ORS 222.111 to 222.180**. A change in the UGB requires an Amendment to the Millersburg Comprehensive Plan in conformance with Statewide Planning Goal 14 and an Amendment to the Urban Growth Boundary and Policy Agreement between the City of Millersburg and Linn County.

A proposal for annexation may be initiated by the City Council on its own motion or by a petition to the City Council the Planning Commission or by owners of real property located in the territory to be annexed.

**(1) Annexation by City Council Initiation**

The City Council may determine the procedures for City initiated annexations within the limits defined by **ORS 222.111 to 222.180**. These procedures may include an election within the territory to be annexed, consent of the requisite number property owners and electors or a public hearing on the annexation. Proposed annexations shall include the following information:

- (a) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (b) A map of the area to be annexed including adjacent City territory.
- (c) The proposed land use zoning district(s).
- (d) The availability of public facilities and services for the proposed annexation.

**(2) Annexation by Application**

A request by a property owner for an annexation shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130**. Each application for annexation shall include the following material:

- (a) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both as provided by state law.
- (b) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (c) A map of the area to be annexed including adjacent City territory.
- (d) A statement of the expected demand on public facilities and the availability of public facilities and services to serve the proposed annexation.
- (e) A statement of the overall development intent and a conceptual land use plan indicating the types and intensities of proposed development, transportation corridors, watercourses, significant natural features, and adjoining development.

- (f) Upon acceptance of a complete application, the City shall request a Staff Review together with other public or private agencies which may be affected by the proposed annexation. Upon receipt of the application, plans and accompanying narrative, Staff shall make an evaluation and recommendations. Comments and recommendations shall be available to the public and the Applicant. The Applicant shall be advised of any recommended changes or conditions for approval. The City shall incorporate all Staff comments into a report to the Planning Commission and City Council. The report shall include an analysis of the impacts of the proposed annexation, a review of applicable City and State policies and standards, and a recommendation as to the appropriateness of the proposed development and the annexation itself.
- (3) **Decision Criteria.** All requests for annexation to the City may be permitted upon authorization by the City Council in accordance with following findings:
- (a) The proposed annexation is consistent with the intent of the Comprehensive Plan.
  - (b) The proposed annexation is consistent with the Urban Growth Boundary Agreement between the City and the County.
  - (c) The annexation will not adversely impact adjacent areas or the land use plan of the City.
  - (d) The annexation will not violate applicable city, state or federal environmental quality statutes, rules or standards.
  - (e) The annexation will not have an adverse impact on public facilities.
  - (f) The annexation will not have an adverse impact on transportation.
  - (g) The annexation will not have an adverse impact on economy of the area.
  - (h) The annexation is consistent with the intent of Statewide Planning Goals.
- (4) **Decision Process.** The procedure for taking action on an annexation request may be one of the following:
- (a) Upon the filing of a complete application for annexation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed annexation and to determine the appropriate zoning district to be applied upon annexation and make a recommendation to the City Council. In making its initial review of the application, the City Council shall determine whether a public hearing will be held before the Planning Commission, the City Council or both bodies.
    - 1. The Planning Commission may hold a public hearing in accordance with the provisions of **Section 3.510** for the purposes of reviewing the proposed annexation and the proposed land use zoning district(s). Following the close of the public hearing the Commission shall recommend the appropriate zoning district to be applied upon annexation and forward its recommendation to the City Council.
    - 2. The City Council may hold a public hearing in accordance with the provisions of **Section 3.510** for the purposes of reviewing the proposed



annexation and the proposed land use zoning district(s). The City Council may, by ordinance containing a legal description of the territory to be annexed, declare the territory annexed.

- (b) The City Council may submit the proposal for annexation to the electors of the territory to be annexed except as provided in **ORS 222.120**.
- (c) The City Council may submit the proposal for annexation to the electors of the City except as provided in **ORS 222.120**.
- (d) The proposal for annexation may be voted upon by the electors of the territory and the City simultaneously or at different times not more than 12 months apart.
- (e) As provided in **ORS 222.120**, the City Council is not required to submit a proposal for annexation to the electors of the City if the City Council holds a public hearing on the proposed annexation.
  - 1. Notice of the public hearing shall be published in a newspaper of general circulation and posted in four public places once a week for two successive weeks prior to the hearing.
  - 2. Following the hearing the City Council may, by ordinance containing a legal description of the territory to be annexed, declare the territory annexed upon the condition that the majority votes cast in the territory is in favor of the annexation or where the electors or landowners in the territory to be annexed consent in writing to the annexation prior to the public hearing.
- (f) The City Council need not hold an election in the city or the contiguous territory to be annexed, or hold the public hearing when all of the owners of land and not less than 50% of the electors, if any, residing in the territory consent in writing to the annexation and file the statement with the City Council.
  - 1. Upon receiving the consent to annexation, the City Council may, by resolution or ordinance, set the boundaries of the area to be annexed by a legal description and proclaim the annexation.
- (5) Upon annexation of any land previously outside the incorporated limits of the City of Millersburg, the annexed land shall be zoned as prescribed by the City Council. Until that amendment takes effect, the zoning classification and provisions of the Zoning Ordinance of Linn County applicable to the land immediately prior to that annexation shall remain in effect and shall be enforced by the City of Millersburg under the provisions and procedures of this Code.
- (6) A written record of the findings and action of the City shall be maintained in a Record File of the Application as specified in **Section 2.150**.
- (7) Notice of Decision shall be given the Applicant and all parties to the proceedings as specified in **Section 3.600, Decision**.

- (8) Approval of the annexation shall require a Notice of Decision be given the proper state and county authorities including the Oregon Secretary of State, the Oregon Department of Revenue, the Oregon U-R Mapping Unit, and the County Clerk and Assessor of Linn County. Notice shall include a legal description of the annexed property, a map of the proposed property showing the location of the annexed property relative to the Millersburg City Limits.



**SECTION 2.900 VACATIONS**

Where it is determined that a proposed Vacation is not injurious to the City or abutting properties, it may be appropriate to vacate all or parts of a public right-of-way easements or other public places. This section states the procedures and criteria to permit the vacation of public lands not needed for municipal purposes, where it is consistent with the community land use policies and goals. Ownership of vacated territory shall revert proportionally to the adjoining properties and become a part thereof, as set out in state law.

- (1) **Vacation Application.** An application for a Vacation may be initiated by the City Council or by petition of adjoining or area land owners in accordance with **ORS 271.080**. A request by a property owner for a Vacation shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130**. Applicants shall set forth a description of the area proposed to be vacated and shall submit a map showing the same area and shall state the purpose and justification for the proposed vacation.
- (2) **Consent of Affected Property Owners.** At the time the application is submitted, the Applicant shall submit a letter or letters of consent from affected property owners. For purposes of this Code and in compliance with **ORS 271.080**, affected property owners shall be defined as:
  - (a) All abutting property owners, and
  - (b) Owners of not less than two-thirds in area of the real property affected thereby.

Consent of the owners of the required amount of property shall be submitted in writing and duly acknowledged by the City prior to the scheduling of a public hearing for the requested Vacation.
- (3) **Decision Criteria.** A Vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:
  - (a) The proposed Vacation is consistent with the relevant Comprehensive Plan policies and with any official street plan, transportation plan or public facility plan.
  - (b) The proposed Vacation will not adversely impact adjacent areas or the land use plan of the City.
  - (c) The proposed Vacation will not have an adverse effect on access between public rights-of-way, existing or future properties, public facilities or utilities.
  - (d) The proposed Vacation will not have an adverse effect on traffic circulation or emergency service protection.
  - (e) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.
  - (f) The proposed vacation will not create a landlocked property or adversely affect access to large properties.
  - (g) The proposed Vacation will not have an adverse impact on economy of the area.

- (h) The public interest will be best served by approval of the proposed Vacation.
- (4) **Decision Process.** The procedure for taking action on a Vacation request may be one of the following:
  - (a) Upon the filing of a complete application for a Vacation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed Vacation and to determine the appropriate zoning district to be applied upon the vacation and make a recommendation to the City Council.
  - (b) Zoning of Vacated Right-of-Way. Except as otherwise provided within the vacation ordinance or where the official City zoning map is not clear as to the zoning of vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the adjoining property to which the ownership of the vacated unit of land reverts.
  - (c) Vacations initiated by an applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with a recommendation by the Planning Commission, in conformance with the Quasi-judicial Public Hearing procedures of **Section 3.510** as supplemented by the provisions of **ORS Chapter 271**. State law defines the affected area and mandates notice requirements that may be more stringent than the City's requirements.
  - (d) The City Council, upon recommendation of the Planning Commission, may approve, deny or approve with standards or conditions to attain compliance with this Code and State Statutes.
  - (e) Conditions of Approval. The City may attach conditions to the approval of a Vacation request to ensure that the proposal will conform to the decision criteria. The City may also require purchase of vacated public property as a Condition of Approval in the public interest.
- (5) A written record of the findings and action of the City Council shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**.
- (6) Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Vacation as specified in **Section 3.600, Decision**.



## ARTICLE 3 DECISION PROCESSES

### SECTION 3.110 BASIS FOR DECISION

The basis for a decision on a land use application and the reasons for approval or denial are contained in **ORS 227.173**.

- (1) Approval or denial of a discretionary permit application shall be based on standards and criteria contained in the City's Comprehensive Plan and implementing ordinances.
- (2) Approval or denial of a land use application shall be based upon and accompanied by:
  - (a) A brief statement that explains the criteria and standards considered relevant to the decision.
  - (b) A statement of the facts relied upon in rendering the decision.
  - (c) An explanation of the justification for the decision based on the criteria, standards and facts set forth.
- (3) An application shall not be approved unless the proposed development of land would be in compliance with the City Comprehensive Plan, this Code or other applicable land use regulations or ordinance provisions. The approval may include such conditions as are authorized by **ORS 227.215** or any city legislation.

### SECTION 3.120 FORM OF DECISION

A land use decision will take one of three forms:

- (1) **Approval.** Approval means the review or hearing body found the approval criteria was satisfied by the presented facts.
- (2) **Approval with Conditions.** Approval with conditions means the review or hearing body found the approval criteria could be satisfied with the application of specified conditions of approval as authorized in this Code.
- (3) **Denial.** Denial means the review or hearing body found the approval criteria was not satisfied by the presented facts and could not be made to comply with attached conditions of approval.

### SECTION 3.200 TYPE OF DECISIONS

**ORS 197 and ORS 227** define four types of decisions utilized by cities to address land use applications. Each type of decision has its own procedural requirements. The four types of decisions are:

- (1) **Administrative Decisions**

An administrative decision applies the adopted ordinance requirements to an individual issue. These interpretations are usually provided by the City Administrator or designee. The City Administrator shall have decision authority for:

  - a. Property Line Adjustments specified in **Section 2.310**.
  - b. Temporary Manufactured Dwelling Placements specified in **Section 6.164**.
  - c. Final Plat signature specified in **Section 2.337**.

(2) **Legislative Decisions**

A legislative decision produces a general rule, law or policy applicable to everyone under similar circumstances. Legislative decisions have a "presumption of validity." They are the laws that apply to everyone in similar situations. The City Council shall have final decision authority for all Legislative Decisions.

An example of a Legislative Decision was the adoption of the City's Comprehensive Plan, Code and Ordinances. Other legislative decisions provided for in this Code include text amendments and zone change map amendments that affect a group or class of properties within the City. Legislative Amendments to this Code are provided for in **Section 2.700**.

(3) **Quasi-judicial Decisions**

A Quasi-judicial Decision involves a discretionary judgment applying the adopted rules, laws or policies to a specific individual land use situation like determining the permissible use of a specific piece of property. The action is judicial in nature and the hearing body must conduct a fair and impartial hearing. The decision must be based upon demonstrated compliance with the applicable criteria or standards contained in the City Comprehensive Plan, Code, ordinances or policies, as determined by the factual evidence presented in the public hearing. The applicant for a change in the use of land specified in the Comprehensive Plan and implementing ordinances bears the burden of proof for the requested change. The Planning Commission or City Council may have decision authority for specified Quasi-judicial Decisions.

Examples of Quasi-judicial Decisions provided for in this Code include, but are not limited to, Conditional Uses as provided in **Section 2.500**, Variances as provided in **Section 2.600** or a Zone Change Map Amendment for a specific property as provided in **Section 2.700**.

(4) **Limited Land Use Decision**

The 1991 Oregon Legislature added **ORS 197.195** to Chapter 197 to provide provisions for a final decision or determination made by a city pertaining to a site within its urban growth boundary that concerns:

- (a) Approval or denial of a Subdivision or Partition, as described in **ORS 92**.
- (b) Approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to, site reviews and design reviews.

A Limited Land Use Decision is a form of discretionary decision that does not require a public hearing and is not subject to the requirements of ORS 197.763 for quasi-judicial public hearings, but is subject to the requirements of **ORS 227.173** for a Planning Commission Limited Land Use Decision review of an application.

Examples of limited land use decisions in this Code that require a review by the Planning Commission include, but are not limited to, Subdivision and Partition Tentative Plans specified in **Section 2.320** and Site Plan Reviews specified in **Section 2.400**.



**SECTION 3.300 NOTIFICATION**

- (1) **Administrative** actions and interpretations authorized by this Code do not require notifications unless more than one property is involved .
- (2) **Legislative** actions authorized by this Code require one or more public hearings and notification to the general public. In addition to Notice otherwise required by ORS 227.186, any means of notification that provides the general public and organizations believed to have an interest in the legislative issue with reasonable opportunity to be aware of the hearing on the issue is permitted and encouraged.
- (3) **Limited Land Use** reviews or **Quasi-judicial** public hearings authorized by this Code require notification to the applicant and to owners of property within 100 feet of the property which is the subject of the notice as identified on the most recent property tax assessment roll where such property is located. Notice shall also be provided to public agencies known to be affected and to any neighborhood or community organization recognized by the City whose boundaries include the site.
- (4) **State Ballot Measure 56** requires local governments to mail written individual notice to land owners when the governing body changes the base zoning classification of property, or adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (5) The notice of review or hearing shall be mailed at least twenty (20) days prior to the date of the review or hearing; or if two or more reviews or hearings are allowed, ten (10) days before the first review or hearing. For notices that are sent as a result of a new or amendment to a state administrative rule or statute notice shall be mailed within 30 days of the effective date of the administrative rule or statute.
- (6) Notification may be expanded to include properties beyond 100 feet if the Planning Commission or City Council finds that the extent of potential impacts from a proposed development may exceed the 100 foot boundary area.
- (7) The notice provisions of this section shall not limit additional notice by other means, including the mail, newsletters, posting of property, radio or newspaper. If newspaper notification is utilized, notification shall be published in the Albany Democrat-Herald not less than ten (10) days nor more than twenty (20) days prior to the date of the hearing.
- (8) The failure of a person to receive the notice as provided in this section shall not invalidate such proceedings if the City can validate by affidavit that such notice was given.
- (9) The notice provided by the City shall:
  - (a) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (b) List the applicable criteria from the Code and the plan that apply to the application at issue.
  - (c) Set forth the street address or other easily understood geographical reference to the subject property.
  - (d) State the date, time and location of the review or public hearing.

- (e) State that failure of an issue to be raised in a review or hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue.
  - (f) Include the name and address of the City Administrator to contact and the telephone number where additional information may be obtained.
  - (g) State that a copy of the application, all documents and evidence relied upon by the applicant and the applicable criteria are available for inspection at the Millersburg City Hall at no cost and will be provided at reasonable cost.
  - (h) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the review or hearing and copies will be provided at reasonable cost.
  - (i) Include a general explanation of the requirements for submission of written testimony, oral testimony and the procedures for the conduct of reviews or public hearings by the City.
  - (j) The City shall provide written notice of a decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision making process and contain an explanation of appeal rights.
- (10) **Wetland Notice.** The City shall provide the Oregon Division of State Lands, the Applicant and Owner with notice of applications for developments located within areas identified as "Wetlands" on the State-wide Wetlands Inventory. No physical alteration shall occur within defined wetland areas until a notice or permit is received from the Division. If the Division fails to respond within thirty days of notice, City approval may be granted with written notice to the applicant and owner that their proposal may require state or federal permits.
- (11) **DLCD Notice.** The City shall notify the Department of Land Conservation and Development of a pending adoption or amendment to the City Comprehensive Plan, Implementing Ordinances, or any other land use regulation. If the City determines that the statewide goals do not apply to a proposed amendment or new regulation, notice is not required.
- (a) The notice shall be provided at least 45 days prior to the first evidentiary hearing on adoption and the notice shall contain information sufficient to inform the Department as to the effect of the proposal per ORS197.610, OAR Chapter 660 – Division 18 and Senate Bill 543. The City may consider an amendment or new regulation with less than 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review.
  - (b) The notice shall include the text of the amendment and any other information the local government believes is necessary to advise DLCD of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulation.
  - (c) Submittal of proposed "map" amendments must include a map of the affected area showing existing and proposed plan and zone designations. The map should be on 8-1/2x11 inch paper. A legal description, tax account number, address or general description is not adequate.



- (d) Submittal of proposed amendments which involve a goal exception must include the proposed language of the exception.
- (e) If the City determines that the statewide goals do not apply to a proposed amendment or new regulation, notice is not required.
- (f) The amendment or new regulation shall be submitted after adoption as provided in ORS 197.615 (1) and (2).

If the City determines that the statewide goals do not apply to a proposed amendment or new regulation, notice is not required.

- (12) **Manufactured Dwelling Park Notice.** If an application would change the zone of property, including all or part of a Manufactured Home Park, the City shall provide written notice by first class mail to each existing mailing address for tenants of the Manufactured Home Park at least 20 days prior to the date of the first hearing on the application.
- (13) **Airport Notice.** If an application would change the zone of property located within 10,000 feet of the side or end of the Albany Airport runway, the City shall provide written notice by first class mail to the City of Albany and the Operator of the Albany Airport.

**SECTION 3.400 LIMITED LAND USE REVIEW PROCEDURES**

The following procedures govern the conduct of Limited Land Use Reviews by the Millersburg Planning Commission or Millersburg City Council for all Site Plan Reviews, Nonconforming Use Reviews and Subdivision or Partition Tentative Plans. Written comments may be submitted prior to the Planning Commission decision. No formal public testimony is taken at the Review unless the Planning Commission finds that clarification from the Applicant is needed. If the Planning Commission permits the Applicant to provide additional evidence, rebuttal from other participants shall be permitted.

- (1) At the commencement of a review the Chairperson shall request a summary of the Staff Report that:
  - (a) States the address or geographic location of the subject property.
  - (b) Explains the nature of the application and the proposed use or uses which could be authorized.
  - (c) Lists the applicable criteria from the ordinance and the plan that apply to the application at issue.
  - (d) State that written testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances, which the person believes to apply to the decision.
  - (e) State that a failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue, including failure of the Applicant to raise constitutional or other issues relating to Conditions of Approval, precludes appeal to LUBA based on those issues.
  - (f) State that the City shall provide written notice of the decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision making process and contain an explanation of appeal rights.
- (2) The Chair shall request members of the hearing body to declare and identify any actual or potential conflict of interest or any ex parte contacts on the issue.

Members shall place on the record the substance of any written or oral ex parte communications concerning the decision or action.
- (3) The Deciding Authority may choose to schedule a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.



**SECTION 3.510 QUASI-JUDICIAL PUBLIC HEARING PROCEDURES**

The following procedures govern the conduct of Quasi-judicial Public Hearings by the Millersburg Planning Commission or the Millersburg City Council on an application for a land use decision:

- (1) A Quasi-judicial Public Hearing is required by the Planning Commission for discretionary land use decisions including, but not limited to: Conditional Uses and Variances. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing.
- (2) Quasi-judicial Public Hearings are required by both the Planning Commission and City Council for discretionary land use decisions for a Zone Change Map Amendment initiated by an applicant for a specific property. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing.
- (3) The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. Following the joint public hearing, the Planning Commission will deliberate and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.
- (4) An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- (5) At the commencement of a hearing the Chairperson of the Hearing Body shall:
  - (a) Announce the purpose of the hearing.
  - (b) State that the applicable substantive criteria will be presented in the Staff Report.
  - (c) State that testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances, which the person believes to apply to the decision.
  - (d) State that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue including failure of the Applicant to raise constitutional or other issues relating to Conditions of Approval precludes appeal to LUBA or to bringing an action for damages in Circuit Court based on that issue.
- (6) The Chair shall request members of the hearing body to declare and identify any potential conflict of interest or any ex parte contacts on the issue:
  - (a) Members shall place on the record the substance of any written or oral ex parte communications concerning the decision or action.
  - (b) Members shall make a public announcement of the content of the communication.

- (c) Opposition parties' have a right to rebut the substance of any ex parte communication at the first hearing following said communication.
  - (d) In accordance with **ORS 227.180**, no decision or action by the Planning Commission or City Council shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body if the member makes the declarations cited above.
- (7) The Chair shall request presentation of the Staff Report.
- (8) The Chair shall request reports or testimony from any Governmental Agencies.
- (9) The Chair shall make the following statements before presentation of testimony:
  - (a) A person shall first stand and state his full name and address.
  - (b) The Chair, members of the Hearing Body, or others, with the approval of the Chair may question a witness.
- (10) The Chair shall call for the Applicant's Presentation.
- (11) The Chair shall call for other Proponent testimony in favor of the Request.
- (12) The Chair shall call for Opponent's testimony in opposition to the Request.
- (13) The Chair shall call for general comments.
- (14) The Chair shall call for Applicant's rebuttal to opponent's testimony. The Applicant has the right of rebuttal - Opponents do not.
- (15) The Chair shall close the hearing or continue it to an announced time and place.
- (16) Unless there is a continuance, if a participant so requests, before the conclusion of the initial evidentiary hearing, the record shall remain open for at least 7 days after the hearing. When a record is reopened to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue. In addition, if requested, the Applicant will be allowed an additional 7 days to provide final written rebuttal argument.
- (17) The Hearing Body may continue the hearing to gather additional evidence, to consider the application fully, to give notice to additional persons, or for any purpose allowed by this Code. If written or oral notice of the rescheduling of a hearing is provided at the originally scheduled hearing, no additional notice is required. The hearing shall be rescheduled to a specific date, time, and place. If written or oral notice of a continued hearing was not provided at the originally scheduled hearing, then renotification is required.
- (18) Call for deliberation by Hearing Body following the close of the Hearing or the Record. The Hearing Body may make its decision following the hearing or may continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.



**SECTION 3.520 LEGISLATIVE PUBLIC HEARING PROCEDURES**

The following procedures govern the conduct of Legislative land use public hearings conducted before the Millersburg Planning Commission or the Millersburg City Council on an Amendment to this Code:

- (1) Legislative public hearings are required by both the Planning Commission and City Council for text amendments or zone change map amendments that affect a group or class of properties. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing.
- (2) The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. The Mayor or President of the City Council shall preside at joint hearings. Following the joint public hearing, the Planning Commission will deliberate at a separately scheduled meeting and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.
- (3) The Hearing is a DeNovo Hearing in which all evidence and comment is accepted for consideration. Approval of a Legislative Decision may be appealed to the Land Use Board of Appeals (LUBA) for Review in accordance with ORS 197.830. Denial of a Legislative Decision is not subject to Review.
- (4) At the commencement of a hearing a statement by the Chairperson shall be made to those in attendance that:
  - (a) Announces the purpose of the hearing.
  - (b) Asks if any member of the deciding body has an actual or potential conflict of interest in the matter before the Hearing Body.
  - (c) States that the applicable criteria will be presented in the Staff Report.
  - (d) States that all testimony and evidence relevant to the issue will be accepted for consideration by the Hearing Body.
- (5) The Chair shall request presentation of the Staff Report.
- (6) The Chair shall request reports or testimony from any Governmental Agencies.
- (7) The Chair shall make the following statements before presentation of testimony:
  - (a) A person shall first stand and state his full name and address.
  - (b) The Presiding Officer, members of the Hearing Body, or others, with the approval of the chair may question a witness.
- (8) Call for public testimony in any order determined by the Hearing Body.
- (9) Call for any general comments.
- (10) Close the hearing or continue it to another announced time and place.

- (11) Call for deliberation by Hearing Body following close of the Hearing. The Hearing Body may make its decision following the hearing or may continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.



**SECTION 3.600 DECISION**

Applicants and participants in a land use proceeding are entitled to a decision based upon a fair and impartial review or hearing of the factual evidence presented in conformance with the relevant standards and criteria contained in the City's Comprehensive Plan, Codes or Ordinances.

- (1) **Decision Justification.** The review or hearing body shall make a decision on a land use application and, except for legislative land use decisions, provide a brief statement that explains the standards and criteria considered relevant to decision, states the facts relied upon and explains the justification for the decision, with findings that summarize the facts believed by the review or hearing body and how the standards and criteria are satisfied by the accepted facts.
- (2) **Findings.** Findings are based on the information presented in the application, the staff report and evidence presented in the proceedings. **ORS 227.173** requires:
  - (a) An explanation of the relevant criteria applicable to the decision.
  - (b) A statement of the facts supporting the decision.
  - (c) An explanation of how the standards and criteria are satisfied by the accepted facts and justify the decision.
- (3) **Findings for Approval.** The findings must contain a statement that the applicable policy or criteria is satisfied by the accepted facts presented.
- (4) **Findings for Approval with Conditions.** The findings must contain a statement that the applicable policy or criteria cannot be satisfied by the facts presented without the application of conditions of approval as authorized in this Code.
- (5) **Findings for Denial.** The findings must contain a statement that the applicable policy or criteria are not satisfied by the facts presented and cannot be made to comply with the application of conditions of approval as authorized in this Code.
- (6) **Notice of Decision.** Written notice shall be given to the Applicant and all parties to the proceedings. The notice shall contain the following information:
  - (a) The name of the Applicant and/or Owner of the subject property.
  - (b) The address or geographic description of the subject property.
  - (c) A description of the requested action by the City.
  - (d) The date of decision.
  - (e) A summary of the decision made.
  - (f) Identification of any actual or potential conflict of interest or any ex parte contacts on the issue by any member of the decision body.
  - (g) An explanation of appeal rights.
  - (h) The location where the record may be reviewed.

- (7) The failure of a property owner to receive notice shall not invalidate the action provided a good-faith attempt was made to notify all persons entitled to notice.
- (8) Personal notice is deemed given when the notice is deposited with the United States Postal Service.
- (9) The records of the Linn County Assessor's Office shall be the official records used for giving notice required by this Ordinance. A person's name and address which is not on file at the time the notice mailing list is initially prepared shall not be deemed a person entitled to notice.



**SECTION 3.700 APPEAL PROVISIONS**

An appeal issue shall be raised at the time of the review or hearing, either in person or by letter. The appeal issue raised must be specific and shall be presented with enough clarity to afford the decision body an opportunity to adequately respond to the issue. Failure to raise the issue at the review or hearing or failure to clearly define the issue shall preclude appeal to the City or to the Land Use Board of Appeals (LUBA) on that issue.

- (1) Written notice of the appeal shall be filed with the City on forms provided by the City. An Appeal request shall contain:
  - (a) The name of the appellant(s) and a statement by the appellant that they were a party to the initial proceedings.
  - (b) Identification of the decision being appealed.
  - (c) The date of the decision being appealed.
  - (d) The form and basis of the appeal and the criteria relied upon for the appeal request.

- (2) An action or ruling of the City Administrator or designee pursuant to this Code may be appealed to the Planning Commission within 15 days after the decision is made. If an appeal is not filed within the above specified period, the decision of the City Administrator or designee shall be final. If the appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the City Administrator or designee and shall hold public hearing on the appeal.

- (3) An action or ruling of the Planning Commission pursuant to this Code may be appealed to the City Council within 15 days after the Planning Commission decision is mailed.

Written notice of the appeal shall be filed with the City. If the appeal is not filed within the above specified period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall request a report from the Planning Commission summarizing the reasons for their decision and shall hold a public hearing on the appeal. The City Council may continue the hearing for good cause. Following the hearing, the City Council may sustain any recommendations or ruling of the Planning Commission provided such action complies with the provisions of this Code, or the City Council may decide the issue or refer the issue back to the Planning Commission for reconsideration.

- (4) An action or ruling of the City Council pursuant to this Code may be appealed to the Land Use Board of Appeals (LUBA) under **ORS 197.828 to 197.845** by filing a notice of intent to appeal with LUBA not later than 21 days after the City's decisions becomes final.

- (5) **Notice.** A "Notice of Appeal" shall be provided in the same manner as provided for in the original Application and Notice of Decision including all parties to the previous proceedings. A "Notice of Appeal" shall contain:

- (a) The name of the appellant and a statement that they were a party to the initial proceedings.
- (b) Identification of the decision being appealed.

- (c) The date of the decision being appealed.
- (d) The form and basis of the appeal and the criteria relied upon for the appeal.
- (6) **Scope of Review.** The hearing body shall determine the scope of review on the appeal to be one of the following:
  - (a) Review on specific issues relative to the decision being appealed.
  - (b) Review only on the official record of the decision being appealed.
  - (c) A "de novo" hearing as if the request had not been previously heard, except that all testimony, evidence and other materials in the record of the previous review or hearing may be included in the new record of review.
- (7) A party aggrieved by the City's final determination in a proceeding for a land use decision, limited land use decision or discretionary permit may have the determination reviewed by the Land Use Board of Appeals (LUBA) under **ORS 197.828 to 197.845** by filing a notice of intent to appeal with LUBA not later than 21 days after the decisions becomes final.



**SECTION 3.800 REVOCATION**

A decision on a land use application may be overturned, revoked or modified by the City Council with recommendation by the Planning Commission on any one or more of the following grounds after a public hearing on the issue:

- (1) A material misrepresentation or mistake of fact was made in the application or evidence submitted, either intentionally or unintentionally.
- (2) The use for which approval was granted has ceased to exist.
- (3) Failure to comply with the terms and conditions of approval.
- (4) The use is in violation of a provision of this Code or other applicable statutes, ordinances, or regulations.
- (5) The approval decision was overturned on appeal.

A decision on a land use application for a text or map amendment, vacation or annexation requiring implementation by ordinance that is overturned, revoked or modified requires adoption of an ordinance repealing, modifying and/or reversing the original implementing ordinance.

## ARTICLE 4 ZONING DISTRICTS

### SECTION 4.010 CLASSIFICATION OF PRIMARY LAND USE ZONES

For the purpose of this Code the following Primary Land Use Zones are hereby established:

| <u>PRIMARY LAND USE ZONES</u>      | <u>ABBREVIATED DESIGNATION</u> |
|------------------------------------|--------------------------------|
| Urban Residential                  | UR                             |
| Rural Residential-Urban Conversion | RR-2.5-UC                      |
| Rural Residential-Urban Conversion | RR-10-UC                       |
| Community Commercial               | CC                             |
| Limited Industrial-Commercial      | LIC                            |
| Limited Industrial                 | LI                             |
| General Industrial                 | GI                             |

### SECTION 4.020 APPLICATION OF DEVELOPMENT STANDARDS

Each zoning district Section contains development requirements and standards relative to the zone. In addition to these standards there are other development standards that may apply to individual properties in more than one zone. There are Site Developments Standards that apply in more than one zone, Use Standards that apply to specialized uses that can occur in more than one zone and Special Area Standards that can apply to areas that may occur in more than one zone. These Standards are contained in the following Articles of this Code:

|                  |                               |
|------------------|-------------------------------|
| <b>Article 5</b> | <b>Development Standards</b>  |
| <b>Article 6</b> | <b>Use Standards</b>          |
| <b>Article 7</b> | <b>Special Area Standards</b> |

**Article 8** **Improvement Requirements** specifies the public improvement requirements and procedures for developments with the City of Millersburg.

### SECTION 4.030 LOCATION OF ZONES

The City's **Zoning Districts** are also the City's **Comprehensive Plan Land Use Districts**. The boundaries for the Zoning Districts listed in this Code are indicated on the **Millersburg Comprehensive Plan & Zoning District Map** which is hereby adopted by reference and made a part of this Code.

### SECTION 4.040 ZONING MAPS

A zoning map adopted by **Section 4.030** of this Code or an amendment thereto shall be dated with the effective date of the Code that adopts the map or ordinance that adopts a map amendment. A certified print of the adopted map or map amendment shall be maintained in the Millersburg City Hall as long as this Code remains in effect.

### SECTION 4.050 ZONE BOUNDARIES

Unless otherwise specified, zone boundaries are section lines, sub-division lines, lot lines, center lines of street or railroad right-of-way or such lines extended except where a boundary line clearly divides a lot, then the boundary line shall be determined by use of a scale designated on the County Assessor Maps.

### SECTION 4.060 ZONING OF ANNEXED AREAS

- (1) All areas annexed to the Millersburg City Limits shall be rezoned at the time of annexation consistent with the Millersburg Comprehensive Plan as determined



by the City Council with recommendation from the Planning Commission as specified in **Section 2.800 (4)**.

- (2) All areas added to the Millersburg Urban Growth Boundary shall be rezoned at the time the Urban Growth Boundary is amended consistent with the Millersburg Comprehensive Plan as determined by the City Council with recommendation from the Planning Commission as specified in **Section 2.700**. Amendments to an Urban Growth Boundary outside of the City Limits shall require concurrence with Linn County in conformance with the City of Millersburg/Linn County Urban Growth Boundary Management Agreement.

#### **SECTION 4.070 SIMILAR USE AUTHORIZATION**

The Planning Commission may permit in a particular zone a use not listed in this Code, provided the use is of the same general type as the uses permitted by this Code. However, this section does not authorize the inclusion in a zone where it is not listed, a use specifically listed in another zone. The decision of the Planning Commission may be appealed to the City Council using procedures specified in **Section 3.700** of this Code.

#### **SECTION 4.080 NONCONFORMING USE**

It is the intent of the nonconforming use sections of this Code to permit pre-existing uses and structures which do not conform to the use or dimensional standards of this Code to continue under conditions specified herein. However, alteration or expansion of these nonconforming uses and structures that could cause potentially adverse effects in the immediate neighborhood or in the City as a whole, are not permitted as outlined in this section.

- (1) **Continuation of a Nonconforming Use.**
  - (a) Subject to the provisions of this section, a nonconforming use of a structure or a nonconforming use, may be continued and maintained, but shall not be altered or extended except as provided herein.
  - (b) The extension of a nonconforming use to a portion of a structure which was arranged or designed for such use at the time of passage of this Code is not an extension of a nonconforming use.
  - (c) In any industrial or commercial zone, a pre-existing dwelling may be altered or extended, provided that such alteration or extension shall not exceed the yard, lot coverage and building height requirements specified in the adjacent Residential Zone.
- (2) **Nonconforming Structure.** A structure conforming as to use but nonconforming as to height, setback, lot coverage or similar dimensional standards, may be altered or extended if the alteration or extension does not cause the structure to deviate from the standards of this Code.
- (3) **Discontinuance of a Nonconforming Use.**
  - (a) If a nonconforming use involving a structure is discontinued from active use for a period of one (1) year, further use of the property shall be for a conforming use unless the Planning Commission approves continuation of the nonconforming use.
  - (b) If a nonconforming use not involving a structure is discontinued from active use for a period of six (6) months, further use of the property shall be for a conforming use unless the Planning Commission approves continuation of the nonconforming use.

- (4) **Change of a Nonconforming Use.** If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zone in which it is located.
- (5) **Destruction of a Nonconforming Use or Structure.** If a nonconforming structure or a structure containing a nonconforming use is totally destroyed or destroyed to the extent of more than fifty percent (50%) of its fair market value by any cause, a future structure or use on the site shall be either in accordance with the provisions of the district in which the property is located or the property owner may apply for a Conditional Use Permit to continue with the existing use or to replace the structure in the previous location at which it was destroyed. A residence may be replaced in any zoning district.
- (6) **Partial Destruction of a Nonconforming Use or Structure.** If a nonconforming structure is destroyed by any cause to the extent of less than fifty percent (50%) of its fair market value, the nonconforming structure may be reconstructed with the same right to continue use of such nonconforming building as existed prior to the damage, provided such reconstruction is commenced within one year from the date of the damage and continues uninterrupted to completion provided the building is not increased in cubic content or floor area. A residence may be replaced in any zoning district.
- (7) **Repairs and Maintenance.** Any building housing a nonconforming use may be maintained or restored to conform with the standards of the building code, including repair or replacement of fixtures, wiring, or plumbing, provided the building is not increased in cubic content or floor area.
- (8) **Completion of Structure.** Nothing contained in this Code shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been lawfully issued and construction has commenced prior to adoption of this Code, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within one (1) year from the time the permit is issued.



**SECTION 4.100 PRIMARY ZONES****SECTION 4.111 URBAN RESIDENTIAL ZONE - UR**

- (1) **Purpose.** The Urban Residential Zone is applied in existing residential areas that have developed to urban densities in the southern area of the City and may be applied to other rural residential properties as an Urban Conversion 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) **Permitted Uses.** In an UR Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code:
  - (a) One single-family dwelling or manufactured dwelling in conformance with **Section 6.163.**
  - (b) Residential Accessory Structures in conformance with **Section 6.110.**
  - (c) Temporary Manufactured Dwelling Use in conformance with **Section 1.117 (f)** and **Section 6.164.**
  - (c) One Duplex per corner tax lot.
- (3) **Conditional Uses.** In an UR Zone, the following uses and their accessory uses may be permitted subject to the additional provisions of **Section 2.500.**
  - (a) Home Occupation in conformance with **Section 6.120.**
  - (b) Residential Care Homes for 5 or less people or 12 or less children in compliance with State standards and requirements and **Section 6.130.**
  - (c) Residential Care Facility for 15 or less people or 13 or more children compliance with State standards and requirements and **Section 6.140.**
  - (d) Multiple-Family Housing may be permitted in accordance with the Use Standards contained in **Section 6.150.**
  - (e) Manufactured dwelling parks in conformance with **Section 6.165.**
  - (f) Public or Semi-public uses in conformance with **Section 6.210.**
  - (g) Special Area Standards of **Article 7.**
- (4) **UR Zone Development Standards.**
  - (a) Minimum lot area - 7,000 square feet.
  - (b) Minimum lot depth - 100 feet.
  - (c) Minimum lot width - 60 feet.
  - (d) Maximum lot depth to width ratio - 3:1 unless approved by the Planning Commission:
  - (e) Maximum Impervious Surface Coverage coverage - 50%.

- (f) Yard Setbacks:
  - 1. Exterior Yards abutting a street right-of-way - 15 feet.
  - 2. Garage or carport setbacks - 20 feet.
  - 3. Interior Yards abutting adjacent property
    - Side Yard: - 5 feet
    - Rear Yard - 20 feet.
  - 4. See **Section 5.117** for additional required street setbacks.
- (g) Maximum Building Height - Two stories - 35 feet unless approved by the Planning Commission.
- (5) **Article 5 Development Standards, Article 6 Use Standards and Article 7 Special Area Standards** contain additional conditions and standards that may apply to certain properties.



**SECTION 4.112 RURAL RESIDENTIAL - URBAN CONVERSION - RR-2.5-UC**

- (1) **Purpose.** The Rural Residential - Urban Conversion Zone is applied in rural residential areas with standards for continued rural development until a transition to urban residential use occurs. Urban Residential standards shall apply to approved Urban Conversion areas where municipal water and sewer facilities are provided.
- (2) **Permitted Uses.** In an RR-2.5-UC Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code.
  - (a) One single-family dwelling or manufactured dwelling in conformance with **Section 6.163.**
  - (b) Residential Accessory Structures in conformance with **Section 6.110.**
  - (c) One Temporary Manufactured Dwelling in conformance with **Section 6.164.**
  - (c) Crop Cultivation and the raising of fowl, bees and domestic farm animals subject to the standards contained in **Section 6.410** except as limited by Item (3) Conditional Uses.
- (3) **Conditional Uses.** In an RR-2.5-UC Zone, the following uses and their accessory uses may be permitted subject to the additional provisions of **Section 2.500.**
  - (a) Home Occupation in conformance with **Section 6.120.**
  - (b) Residential Care Homes for 5 or less people or 12 or less children in compliance with State standards and requirements and **Section 6.130.**
  - (c) Residential Care Facility for 15 or less people or 13 or more children compliance with State standards and requirements and **Section 6.140.**
  - (d) Multiple-Family Housing may be permitted in accordance with the Use Standards contained in **Section 6.150.**
  - (e) Manufactured dwelling parks in conformance with **Section 6.165.**
  - (f) Public or Semi-public uses in conformance with **Section 6.210.**
  - (g) Neighborhood Commercial Center for an Urban Conversion area in accordance with the standards of **Section 6.311.**
  - (h) Special Area Standards of **Article 7.**
- (4) **Rural Residential Development Standards.**  
Rural Standards shall apply until Urban Conversion occurs.
  - (a) Minimum Rural Lot Area:  
Rural Standard for RR-2.5-UC - 2.5 Acres
  - (b) Minimum Rural Lot Width – 200 feet unless approved by the Planning Commission:

- (c) Maximum Rural Lot depth to width ratio - 3:1 unless approved by the Planning Commission:
  - (d) Rural Yard Setbacks:
    - 1. Exterior Yards abutting a street right-of-way - 20 feet.
    - 2. Garage or carport setbacks - 20 feet from a street right-of-way.
    - 3. Interior Yards abutting adjacent property
      - Side Yard: -15 feet      Rear Yard - 20 feet.
    - 4. Roadway Setbacks shall be 30 feet from the centerline of existing streets or future road right-of-ways identified on the "Arterial & Collector Street Plan". Roadway setbacks shall be in addition to the Yard Setbacks. See **Section 5.117** for additional required street setbacks.
  - (e) Maximum Building Height: 35 feet and two stories - unless approved by the Planning Commission.
- (5) **Urban Conversion Standards**  
Rural Standards shall apply until Urban Conversion occurs. Urban Conversion may only be approved if municipal water and sewer facilities are provided.
- (6) **Urban Residential Development Standards.**  
Rural Standards shall apply until Urban Conversion occurs.
- (a) Minimum Urban Lot Area:  
Urban Standard for RR-2.5-UC - 10,000 sq. ft.
  - (b) Minimum Urban Lot Width - 80 feet unless approved by the Planning Commission:
  - (c) Maximum Urban Lot depth to width ratio - 3:1 unless approved by the Planning Commission:
  - (d) Urban Yard Setbacks:
    - 1. Exterior Yards abutting a street right-of-way - 15 feet.
    - 2. Garage or carport setbacks - 20 feet from a street right-of-way.
    - 3. Interior Yards abutting adjacent property
      - Side Yard: -5 feet      Rear Yard - 20 feet.
    - 4. Roadway Setbacks shall be 30 feet from the centerline of existing streets or future road right-of-ways identified on the "Arterial & Collector Street Plan". Roadway setbacks shall be in addition to the Yard Setbacks. See **Section 5.117** for additional required street setbacks.
  - (e) Maximum Building Height: 35 feet and two stories - unless approved by the Planning Commission.
- (7) **Article 5 Development Standards, Article 6 Use Standards and Article 7 Special Area Standards** contain additional conditions and standards that may apply to certain properties.



**SECTION 4.113 RURAL RESIDENTIAL - URBAN CONVERSION - RR-10-UC**

- (1) **Purpose.** The Rural Residential - Urban Conversion Zone is applied in rural residential areas with standards for continued rural development until a transition to urban residential use occurs. Urban Residential standards shall apply to approved Urban Conversion areas where municipal water and sewer facilities are provided or approved by the City.
- (2) **Permitted Uses.** In an RR-10-UC Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code.
  - (a) One single-family dwelling or manufactured dwelling in conformance with **Section 6.163**.
  - (b) Residential Accessory Structures in conformance with **Section 6.110**.
  - (c) One Temporary Manufactured Dwelling in conformance with **Section 6.164**.
  - (c) Crop Cultivation and the raising of fowl, bees and domestic farm animals subject to the standards contained in **Section 6.410** except as limited by Item (3) Conditional Uses.
- (3) **Conditional Uses.** In an RR-10-UC Zone, the following uses and their accessory uses may be permitted subject to the additional provisions of **Section 2.500**.
  - (a) Home Occupation in conformance with **Section 6.120**.
  - (b) Residential Care Homes for 5 or less people or 12 or less children in compliance with State standards and requirements and **Section 6.130**.
  - (c) Residential Care Facility for 15 or less people or 13 or more children compliance with State standards and requirements and **Section 6.140**.
  - (d) Multiple-Family Housing may be permitted in accordance with the Use Standards contained in **Section 6.150**.
  - (e) Manufactured dwelling parks in conformance with **Section 6.165**.
  - (f) Public or Semi-public uses in conformance with **Section 6.210**.
  - (g) Neighborhood Commercial Center for an Urban Conversion area in accordance with the standards of **Section 6.311**.
  - (h) Special Area Standards of **Article 7**.
- (4) **Rural Residential Zone Development Standards.**  
Rural Standards shall apply until Urban Conversion occurs.
  - (a) Minimum Rural Lot Area:  
Rural Standard for RR-10-UC - 10.0 Acres
  - (b) Minimum Rural Lot Width - 300 feet unless approved by the Planning Commission:

- (c) Maximum Rural Lot depth to width ratio - 3:1 unless approved by the Planning Commission:
  - (d) Rural Yard Setbacks:
    - 1. Exterior Yards abutting a street right-of-way - 20 feet.
    - 2. Garage or carport setbacks - 20 feet from a street right-of-way.
    - 3. Interior Yards abutting adjacent property
      - Side Yard: -15 feet      Rear Yard - 20 feet.
    - 4. Roadway Setbacks shall be 30 feet from the centerline of existing streets or future road right-of-ways identified on the "Arterial & Collector Street Plan". Roadway setbacks shall be in addition to the Yard Setbacks. See **Section 5.117** for additional required street setbacks.
  - (e) Maximum Building Height: 35 feet and two stories - unless approved by the Planning Commission.
- (5) **Urban Conversion Standards**  
Rural Standards shall apply until Urban Conversion occurs. Urban Conversion may only be approved if municipal water and sewer facilities are provided.
- (6) **Urban Residential Development Standards.**  
Rural Standards shall apply until Urban Conversion occurs. Urban Conversion may only be approved if municipal water and sewer facilities are provided.
- (a) Minimum Urban Lot Area:  
Urban Standard for RR-10-UC – 10,000 sq. ft.
  - (b) Minimum Urban Lot Width - 80 feet unless approved by the Planning Commission:
  - (c) Maximum Urban Lot depth to width ratio - 3:1 unless approved by the Planning Commission:
  - (d) Urban Yard Setbacks:
    - 1. Exterior Yards abutting a street right-of-way - 15 feet.
    - 2. Garage or carport setbacks - 20 feet from a street right-of-way.
    - 3. Interior Yards abutting adjacent property
      - Side Yard: -5 feet      Rear Yard - 20 feet.
    - 4. Roadway Setbacks shall be 30 feet from the centerline of existing streets or future road right-of-ways identified on the "Arterial & Collector Street Plan". Roadway setbacks shall be in addition to the Yard Setbacks. See **Section 5.117** for additional required street setbacks.
  - (e) Maximum Building Height: 35 feet and two stories - unless approved by the Planning Commission.
- (7) **Article 5 Development Standards, Article 6 Use Standards and Article 7 Special Area Standards** contain additional conditions and standards that may apply to certain properties.



**SECTION 4.121 COMMUNITY COMMERCIAL ZONE - CC**

- (1) **Purpose.** The Community Commercial Zone is applied to existing Commercial areas and may be applied to future commercial development proposals as the City grows. It is intended to provide areas appropriate for centralized commercial facilities to serve the needs of area residents and employees.
- (2) **Permitted Uses.** In a CC Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 2.400** and the standards, provisions and exceptions set forth in this Code, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building:
  - (a) Retail stores or shops.
  - (b) Personal or business service.
  - (c) Repair shops (See 3 (b) below).
  - (d) Eating or drinking establishments.
  - (e) Offices, business or professional.
  - (f) Financial institutions.
  - (g) Indoor commercial amusement or recreation establishments.
  - (h) Public or semi-public buildings and uses.
  - (i) Residential Care Facility for 15 or less people or 13 or more children compliance with State standards and requirements and **Section 6.140**.
  - (i) Conversion of residence to a permitted commercial use in accordance with **Section 6.314 (1)**.
  - (k) Attached residences to a commercial use in accordance with **Section 6.314 (2)**.
- (3) **Conditional Uses.** In a CC Zone, the following uses and their accessory uses may be permitted, subject to the provisions of **Section 2.500**.
  - (a) Uses requiring an Emission Discharge Permit from the Oregon Department of Environmental Quality.
  - (b) Automotive service facilities with access from a designated arterial.
  - (c) Limited fabrication or assembly operations including plumbing, sheet metal and cabinet shops.
  - (d) Permitted uses listed in (2) above, requiring open display or storage.
  - (e) A manufactured dwelling for the owner or caretaker whenever onsite residence is necessitated by such use. The manufactured dwelling shall comply with the Use Standards of **Section 6.164**.

- (f) Residential uses in association with commercial developments in accordance with **Section 6.314 (3)**.
  - (g) Special Area Standards of **Article 7**.
- (4) **CC Zone Development Standards.**
- (a) Community Commercial development standards shall comply with one of the following Use Standards of **Sections 6.310, 6.311, 6.312, 6.313, and 6.314**.
  - (b) Minimum lot area – Lot size shall be approved by the Planning Commission as part of the Site Plan Review procedures of **Sections 2.400**. . Lots are required to be large enough to accommodate the building, required parking, service access and pedestrian circulation including persons with disabilities and landscaping.
  - (c) Minimum lot depth and width - As approved by the Planning Commission.
  - (d) Maximum Impervious Surface coverage - 80%. unless approved by the Planning Commission.
  - (e) Yard Setbacks:
    - 1. Exterior yards - See **Section 6.310-6.314** for commercial setbacks.
    - 2. Interior yards - 10 -foot landscaped in accordance with **Section 5.134**. where abutting residential property and zero where abutting commercial or industrial property.
    - 3. See **Section 5.117** for additional setbacks on identified streets.
  - (f) Maximum Building Height - As approved by the Planning Commission.
  - (g) Access shall be from an arterial or collector street and shall be designated to cause a minimum interference with traffic and shall be subject to the review and approval of the City or County Engineer. Upon recommendation of the City or County Engineer, the dedication of additional right-of-way and street improvements may be required of the Applicant to facilitate traffic circulation.
  - (h) The capacity of city roads and freeway interchanges is a development factor that must be addressed by proposed developments. The City shall require development proposals to identify the potential traffic impacts on city roads and interchanges. The improvements may be required to accommodate the proposed development traffic.
- (5) **Article 5 Development Standards, Article 6 Use Standards and Article 7 Special Area Standards** contain additional conditions and standards that may apply to certain properties.



**SECTION 4.131 LIMITED INDUSTRIAL-COMMERCIAL ZONE - LIC**

- (1) **Purpose.** The Limited Industrial-Commercial Zone is applied to areas suitable for limited manufacturing, warehousing and commercial activities that have minimal emissions or characteristics potentially detrimental to the public health, safety or general welfare.
- (2) **Permitted Uses.** In an LIC Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 2.400** and the standards, provisions and exceptions set forth in this Code.
  - (a) Interim farm use in accordance with **Section 6.410**.
  - (b) All uses permitted in the Community Commercial Zone.
  - (c) 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 unless approved by the Planning Commission. There shall be no emissions or nuisance characteristics discernible without instruments at the property line as identified in the Applicant's application.
  - (d) Automotive, truck, RV, equipment or other repair shops
- (3) **Conditional Uses.** In an LIC Zone, the following uses and their accessory uses may be permitted, subject to the provisions of **Section 2.500**.
  - (a) Permitted Uses listed above requiring exterior operations or storage of materials or equipment.
  - (b) A manufactured dwelling for the owner or caretaker whenever onsite residence is necessitated by such use. The manufactured dwelling shall comply with the Use Standards of **Section 6.164**.
  - (c) Truck Dispatch Operations.
  - (d) Uses requiring an Emission Discharge Permit from the Oregon Department of Environmental Quality or other county, state or federal agencies.
  - (e) Uses possessing nuisance characteristics or emissions potentially detrimental to Public health, safety and general welfare of the community such as noise, vibrations, smoke, odor, fumes, dust, heat, glare or electromagnetic interference shall not be permitted unless additional safeguards are specified by the Planning Commission. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use.
  - (f) Waste processing, storage or disposal.
  - (g) Special Area Standards of **Article 7**.
- (4) **LIC Zone Development Standards.**
  - (a) Minimum lot area – Lot size shall be approved by the Planning Commission as part of the Site Plan Review procedures of **Sections 2.400**. Lots are required to be large enough to accommodate the building, required parking,

service access and pedestrian circulation including persons with disabilities and landscaping.

- (b) Minimum lot depth and width - As approved by the Planning Commission.
  - (c) Maximum Impervious Surface coverage - 80%. unless approved by the Planning Commission.
  - (d) Yard Setbacks:
    - 1. Exterior yards – 20-foot landscaped in accordance with **Section 5.134**. See **Section 6.310-6.314** for commercial setbacks
    - 2. Interior yards – 10-foot landscaped in accordance with **Section 5.134**. where abutting residential property and zero where abutting commercial or industrial property.
    - 3. See **Section 5.117** for additional setbacks on identified streets.
  - (e) Maximum Building Height - As approved by the Planning Commission
  - (f) Access shall be from an arterial or collector street and shall be designated to cause a minimum interference with traffic and shall be subject to the review and approval of the City or County Engineer. Upon recommendation of the City or County Engineer, the dedication of additional right-of-way and street improvements may be required of the Applicant to facilitate traffic circulation.
  - (g) The capacity of city roads and freeway interchanges is a development factor that must be addressed by proposed developments. The City shall require development proposals to identify the potential traffic impacts on city roads and interchanges. The improvements may be required to accommodate the proposed development traffic.
- (5) **Article 5 Development Standards, Article 6 Use Standards and Article 7 Special Area Standards** contain additional conditions and standards that may apply including:



**SECTION 4.132 LIMITED INDUSTRIAL ZONE - LI**

- (1) **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) **Permitted Uses.** In an LI Zone, the following uses and their Accessory uses are permitted subject to the Site Plan Review provisions of **Sections 2.400** and the standards, provisions and exceptions set forth in this Code.
  - (a) Interim farm use in accordance with **Section 6.410**.
  - (b) 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 unless approved by the Planning Commission. There shall be no emissions or nuisance characteristics discernible without instruments at the property line as identified in the Applicant's application.
  - (c) Automotive, truck, RV, equipment or other repair shops
- (3) **Conditional Uses.** In an LI Zone, the following uses and their Accessory uses may be permitted, subject to the provisions of **Section 2.500**.
  - (a) Permitted Uses listed above requiring exterior operations or storage of materials or equipment.
  - (b) A manufactured dwelling for the owner or caretaker whenever onsite residence is necessitated by such use. The manufactured dwelling shall comply with the Use Standards of **Section 6.164**.
  - (c) Truck Dispatch Operations.
  - (d) Uses requiring an Emission Discharge Permit from the Oregon Department of Environmental Quality or other county, state or federal agencies.
  - (e) Uses possessing nuisance characteristics or emissions potentially detrimental to Public health, safety and general welfare of the community such as noise, vibrations, smoke, odor, fumes, dust, heat, glare or electromagnetic interference shall not be permitted unless additional safeguards are specified by the Planning Commission. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use.
  - (f) Waste processing, storage or disposal.
  - (g) All uses permitted in the Community Commercial Zone.
  - (h) Special Area Standards of **Article 7**.
- (4) **LI Zone Development Standards.**
  - (a) Minimum lot area – Lot size shall be approved by the Planning Commission as part of the Site Plan Review procedures of **Sections 2.400**. Lots are required to be large enough to accommodate the building, required parking,

service access and pedestrian circulation including persons with disabilities and landscaping.

- (b) Minimum lot depth and width - As approved by the Planning Commission.
  - (c) Maximum Impervious Surface coverage - 80%. unless approved by the Planning Commission.
  - (d) Yard Setbacks:
    - 1. Exterior yards - 20 -foot landscaped in accordance with **Section 5.134**. See **Section 6.310-6.314** for commercial setback standards.
    - 2. Interior yards - 10 -foot landscaped in accordance with **Section 5.134**. where abutting residential property and zero where abutting commercial or industrial property.
    - 3. See **Section 5.117** for additional setbacks on identified streets.
  - (e) Maximum Building Height - As approved by the Planning Commission.
  - (f) Access shall be from an arterial or collector street and shall be designated to cause a minimum interference with traffic and shall be subject to the review and approval of the City or County Engineer. Upon recommendation of the City or County Engineer, the dedication of additional right-of-way and street improvements may be required of the Applicant to facilitate traffic circulation.
  - (g) The capacity of city roads and freeway interchanges is a development factor that must be addressed by proposed developments. The City shall require development proposals to identify the potential traffic impacts on city roads and interchanges. The improvements may be required to accommodate the proposed development traffic.
- (5) **Article 5 Development Standards, Article 6 Use Standards and Article 7 Special Area Standards** contain additional conditions and standards that may apply including:



**SECTION 4.133 GENERAL INDUSTRIAL ZONE - GI**

- (1) **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) **Permitted Uses.** In an GI Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 2.400** and the standards, provisions and exceptions set forth in this Code.
  - (a) Interim farm use in accordance with **Section 6.410**.
  - (b) Industrial Buildings and Uses. All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, treating, or testing or any combination thereof of items, materials or goods is permitted subject to the conditions and standards of this Code.
  - (c) Activities possessing emissions or nuisance characteristics and activities requiring a county, state or federal permit shall require mitigation of impacts.
  - (d) Additions, accessory structures or equipment added to existing uses may be reviewed and permitted administratively by the City Administrator in lieu of the Site Plan Review procedures provided they do not constitute a new manufacturing or processing operation and provided they comply with all other requirements of this Code.
- (3) **Conditional Uses.** In an GI Zone, the following uses and their accessory uses may be permitted, subject to the provisions of **Section 2.500**.
  - (a) A manufactured dwelling for the owner or caretaker whenever an on-site residence is necessitated by such use. The manufactured dwelling shall comply with Use Standards of **Section 6.164**.
  - (b) Quarrying and related activities.
  - (c) Waste processing, storage or disposal.
  - (d) Manufacturing, processing or storage of hazardous materials.
  - (e) Commercial uses that are accessory to and support the primary use of the zone.
  - (f) Special Area Standards of **Article 7**.
- (4) **GI Zone Development Standards.**
  - (a) Minimum lot area – Lot size shall be approved by the Planning Commission as part of the Site Plan Review procedures of **Sections 2.400**. . Lots are required to be large enough to accommodate the building, required parking, service access and pedestrian circulation including persons with disabilities and landscaping.
  - (b) Minimum lot depth and width - As approved by the Planning Commission.

- (c) Maximum Impervious Surface coverage - 80%. unless approved by the Planning Commission.
  - (d) Yard Setbacks:
    - 1. Exterior yards - 20 -foot landscaped in accordance with **Section 5.134**. See **Section 6.310-6.314** for commercial setback standards.
    - 2. Interior yards - 10 -foot landscaped in accordance with **Section 5.134**. where abutting residential property and zero where abutting commercial or industrial property.
    - 3. See **Section 5.117** for additional setbacks on identified streets.
  - (e) Maximum Building Height - As approved by the Planning Commission.
  - (f) Access shall be from an arterial or collector street and shall be designated to cause a minimum interference with traffic and shall be subject to the review and approval of the City or County Engineer. Upon recommendation of the City or County Engineer, the dedication of additional right-of-way and street improvements may be required of the Applicant to facilitate traffic circulation.
  - (g) The capacity of city roads and freeway interchanges is a development factor that must be addressed by proposed developments. The City shall require development proposals to identify the potential traffic impacts on city roads and interchanges. The improvements may be required to accommodate the proposed development traffic.
- (5) **Article 5 Development Standards, Article 6 Use Standards and Article 7 Special Area Standards** contain additional conditions and standards that may apply including:



## **ARTICLE 5                      DEVELOPMENT STANDARDS**

### **SECTION 5.100                      DEVELOPMENT STANDARDS**

In addition to the development standards specific to each zoning district, there are many standards that apply to more than one zone or use. The following Sections specify development standards applicable to all developments within the City of Millersburg.

### **SECTION 5.110                      PLAN CONFORMANCE**

All developments within the City shall conform to any Official Area Development Plan adopted by the City. Developments located within an area that has an Official Plan shall comply with the design standards of the Official Plan in addition to those contained in this Code. Developments located within an area that has an approved Planned Development shall comply with the design and construction standards of the Planned Development in addition to those contained in this Code. In cases of conflict, the approved Planned Development standards shall govern.

### **SECTION 5.111                      HEIGHT STANDARDS**

Building height standards are specified in **Item (4)** of each Zoning District.

### **SECTION 5.112                      BUILDING HEIGHT EXCEPTIONS**

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers and similar attachments not used for human occupancy shall not exceed the building height limitations of this Code by more than ten (10) feet unless approved by the Planning Commission as part of the Site Plan Review procedures of **Section 2.400**.

Other freestanding structures such as flag poles, communication towers, reservoirs, fire towers, bell towers and similar structures shall not exceed 50 feet unless approved by the Planning Commission as part of the Site Plan Review procedures of **Section 2.400**.

### **SECTION 5.113                      BUILDING PROJECTION EXCEPTIONS**

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 30 inches into a required yard unless approved by the Planning Commission as part of the Site Plan Review procedures of **Section 2.400**.

### **SECTION 5.114                      LOT SIZE**

Lot size standards are specified in **Item (4)** of each Zoning District.

### **SECTION 5.115                      LOT SIZE EXCEPTIONS**

If an existing lot or parcel does not meet the lot size requirements of the zone in which the property is located, the property may be utilized for a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the lot-area-per-dwelling-unit requirement of the zone.

If individual contiguous lots, held in a single ownership are sub-standard then the lots shall be reconfigured to a lot size in conformance with the standards of the zone prior to sale or development.

### **SECTION 5.116                      YARD SETBACKS**

Yard setback standards are specified in **Item (4)** of each Zoning District.

**SECTION 5.117 YARD SETBACK EXCEPTIONS**

The following exceptions to the yard standards specified for each zone are required for any property in any zone under the following conditions:

- (1) No building shall be erected on a lot which abuts a street having only a portion of its required width dedicated, unless, the yards provided and maintained in connection with such building have a width and/or depth needed to complete the street width plus the width and/or depth of the yards required on the property specified in this Code.
- (2) The placement of buildings and the establishment of yards shall conform the right-of-way widths for existing and proposed street alignments shown on the Millersburg Street Plan as follows:

| <u>TYPE OF STREET</u>                          | <u>RIGHT-OF-WAY WIDTHS</u> |              |
|------------------------------------------------|----------------------------|--------------|
| <b>Arterials:</b>                              |                            |              |
| Old Salem Road                                 | 80                         | feet         |
| Conser Road                                    | 60                         | feet         |
| Millersburg Drive                              | 60                         | feet         |
| Morning Star Road                              | 60                         | feet         |
| Future Arterial Streets                        | 60                         | feet         |
| <b>Collectors:</b>                             |                            |              |
| Woods Road                                     | 60                         | feet         |
| Alexander Lane                                 | 60                         | feet         |
| Future Collector Streets                       | 60                         | feet         |
| <b>Local Access Streets</b>                    | 52-60                      | feet         |
| Existing and Future Local Access Streets       |                            |              |
| <b>Private Roads &amp; Easements</b>           | 25                         | feet minimum |
| Additional width may be required.              |                            |              |
| <b>Industrial Service Streets</b>              | 60                         | feet         |
| Existing and Future Industrial Service Streets |                            |              |

- (3) **Additional Setbacks:**  
To permit eventual widening of heavily traveled streets and streets of substandard width, the required setback shall include the half of the street right-of-way width measured from the centerline of the street plus the required yard setback specified for the zone or use:
- (4) The Planning Commission may require additional setbacks, street right-of-way dedications and street improvements for development projects that are submitted for review and approval as a Planned Development, Site Plan Review, Conditional Use or Variance.
- (5) The Planning Commission may reduce the required yard setbacks for special and unusual site conditions in conformance with **Section 2.600, Variances** where compliance with the setback provisions of this Code would create an undue or unnecessary hardship.
- (6) **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.

- (7) Automobile Service Station Setbacks. In a district where automobile service stations are permitted, freestanding gasoline pumps and pump stands may occupy a required exterior yard, provided they are a minimum of 15 feet from the property line.
- (8) Solar Access. It is necessary and desirable that every building and use have a right to adequate air, light and access to solar energy.
  - (a) The City may require additional setbacks to protect access to solar energy for non-residential buildings requiring a Site Plan Review or Conditional Use.
  - (b) This shall apply only in zones where it is permitted to build directly up to the property line.
  - (c) No obstruction by one building to another shall occur where the height of the new building will obstruct an existing building from solar exposure on the opposite side of a property line. This condition does not apply to buildings constructed on the same property.

#### **SECTION 5.118 DRAINAGEWAY SETBACKS**

- (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. Additional setbacks are required for riparian areas, wetlands and floodplains as identified in **Sections 7.100, 7.200 and Section 7.300**. Also refer to **Section 5.126, Storm Drainage**.
- (3) The Willamette River Greenway is intended to protect the natural, scenic and recreation qualities of lands along the Willamette River in conformance with the requirements of **Section 7.300**. The Willamette River Greenway Boundary for the City of Millersburg as shown on the official City zoning map. The boundary is also shown in detail on aerial photo maps on file with the City. Interpretation of the exact location of the boundary shall be made by the City Administrator from these photo maps.

A Greenway Conditional Use permit in conformance with **Section 2.500** shall be obtained before any development, change or intensification of use commences within the Willamette River Greenway Boundary.

#### **SECTION 5.119 WETLANDS & RIPARIAN AREAS**

**The City of Millersburg does not have a Local Wetlands Inventory (LWI).** The City requires all applicants to identify riparian areas, wetlands and floodplains on the Application. All applications are required to comply with State Law and with the



standards required by this Code. **Refer to Sections 7.100, 7.200 and 7.300 for additional Special Area Standards.**

**Wetlands** 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. ( Hydric Soils ). Wetlands include swamps, bogs, marshes and similar areas.

**Riparian Areas** are defined as the area immediately adjacent to surface water such as rivers, streams, ponds, lakes, wetlands and springs consisting of transition areas between aquatic ecosystem to terrestrial ecosystems.

#### **SECTION 5.120 PARKING**

**The Albany Construction Specifications (ACS) is the City of Millersburg's adopted standard for all public construction.** For each new structure or use or for each change of structure or use there shall be provided and maintained off-street parking areas in conformance with the provisions of this Section.

(1) Design and Improvement Requirements for Parking Lots:

- (a) All parking areas and driveway approaches shall be paved in accordance with the **ACS** unless gravel is approved by the Planning Commission as a temporary use to facilitate drainage through the Site Plan Review, Conditional Use or Variance procedures of this Code. Permitted graveled areas are a temporary use and shall be paved in accordance with the **ACS** when requested by the City.
- (b) Service drives and parking spaces on surfaced parking lots shall be clearly and permanently marked. Handicapped Parking must comply with State Standards.
- (c) Parking areas for other than single-family and two-family dwellings shall be served by a service driveway so that no backing movements or other maneuvering shall occur within a street other than an alley. Design for parking lots shall conform to the **Parking Diagram** at the end of **Article 5, Diagram DSD-1**. Two-way driveways shall have a minimum width of 20 feet and one-way driveways shall have a minimum width of 12 feet
- (d) The outer boundary and all landscaped islands of a parking area shall be contained by a 6" high curb for protection of landscaping, pedestrian walkways and to contain rainwater runoff. No motor vehicle shall project over the property line.
- (e) All parking areas, except those in conjunction with a single family or two-family dwelling, shall have adequate drainage to dispose of the run-off generated by the impervious surface area of the parking area. On-site collection of drainage water shall not allow sheet flow of water onto sidewalks, public right-of-ways or abutting property and shall detain out-flow velocities to that of undeveloped land. All drainage systems shall conform to the standards contained in the **ACS** and shall be approved by the City as part of the review and approval process for Planned Developments, Site Plan Reviews, Conditional Uses and Variances and shall be approved for all Building Permits.
- (f) Service driveways to off-street parking areas shall not be designed and constructed to impede the flow of traffic, limit safety of traffic access and egress, and limit safety of pedestrian and vehicular traffic on the site. The



number of service driveways shall not exceed the minimum that will allow the property to accommodate and service the traffic anticipated.

- (g) All off-street parking areas within or abutting residential districts or uses shall be provided with a sight-obscuring fence, wall or hedge as approved by the City to minimize disturbances to adjacent residents pursuant to **Section 5.134 (9)**.

(2) Location Standards for Parking Lots:

- (a) Off-street parking shall be provided on the development site unless approved by the Planning Commission.
- (b) Off-street parking areas may be located in a required exterior yard for multi-family residential, commercial and industrial uses with an approved 12-foot landscaped buffer.
- (c) Driveways may be used for off-street parking for single-family and two-family dwellings.

- (3) Required parking spaces shall be available for the parking of operable motor vehicles for residents, customers, patrons and employees only and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or for repair of servicing.

- (4) The provisions and maintenance of off-street parking spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented that show parking spaces. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this Code.

- (5) Should the owner or occupant of a lot or building change the use of the property to a use that increases the off-street parking requirements, it shall be unlawful and a violation of this Code to begin to maintain such altered use until the required increase in off-street parking is provided.

- (6) 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 several uses computed separately unless a Variance is approved by the City pursuant to **Section 2.600**.

- (7) Owners of two or more uses, structures or properties may agree to use the same parking spaces jointly provided the off-street parking is the sum of the requirements of the several uses. If the hours of operation do not overlap, the parking requirement shall be for the largest number of required parking spaces. An agreement shall be submitted and approved by the Planning Commission as a Conditional Use or Variance for the cooperative use of the parking facilities.

- (8) A plan, drawn to scale, indicating how the off-street parking requirements are to be fulfilled, shall accompany a request for a Building Permit.

- (9) Parking lots shall be provided with landscaping as provided in **Section 5.134** and other suitable devices in order to divide the parking lot into sub-units to provide for pedestrian safety, traffic control, and to improve the appearance of the parking lot.
- (10) Off-street parking shall be sufficient to accommodate the needs of the on-site use and shall not be less than the off-street parking requirements specified in **Section 5.121**. Fractional space requirements shall be counted as a whole space. When square feet are utilized to determine the required parking spaces, the area measured shall be the gross floor area of the building primary to the use but shall exclude any area within a building used for off-street parking, loading, or service functions not primary to the use. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season.

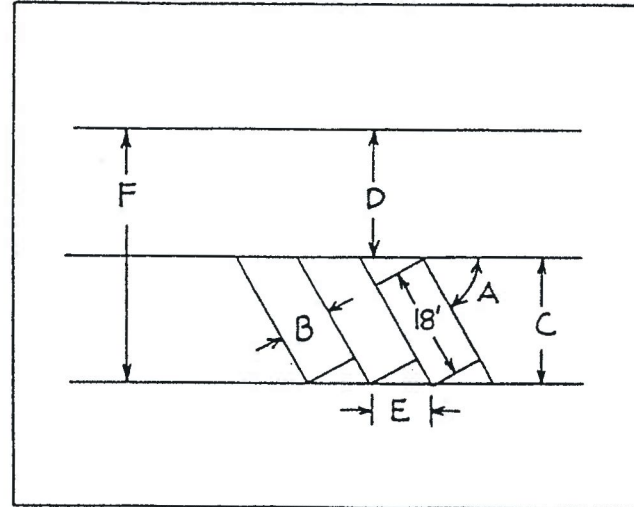


**PARKING DIAGRAM**

Dimensions are in feet  
and (meters)

A = Parking Angle  
B = Parking Stall width  
C = Parking Row Depth  
D = Backup and Drive Width

SEE SECTION 5.120



| A  | B             | C             | D             | E             | F              |
|----|---------------|---------------|---------------|---------------|----------------|
| // | 8.0' (2.44m)  |               | 12.0' (3.66m) | 22.0' (6.71m) | 20.0' (6.10m)  |
| 20 | 8.0' (2.44m)  | 13.6' (4.15m) | 12.0' (3.66m) | 23.4' (7.13m) | 25.6' (7.80m)  |
|    | 8.5' (2.59m)  | 14.1' (4.30m) | 12.0' (3.66m) | 24.9' (7.59m) | 26.1' (7.96m)  |
|    | 9.0' (2.74m)  | 14.6' (4.45m) | 12.0' (3.66m) | 26.3' (8.02m) | 26.6' (8.11m)  |
|    | 9.5' (2.90m)  | 15.1' (4.60m) | 12.0' (3.66m) | 27.8' (8.47m) | 27.1' (8.26m)  |
|    | 10.0' (3.05m) | 15.5' (4.72m) | 12.0' (3.66m) | 29.2' (8.90m) | 27.5' (8.38m)  |
| 30 | 8.0' (2.44m)  | 16.0' (4.88m) | 12.0' (3.66m) | 16.0' (4.83m) | 28.0' (8.53m)  |
|    | 8.5' (2.59m)  | 16.4' (5.00m) | 12.0' (3.66m) | 17.0' (5.18m) | 28.4' (8.66m)  |
|    | 9.0' (2.74m)  | 16.8' (5.12m) | 12.0' (3.66m) | 18.0' (5.49m) | 28.8' (8.79m)  |
|    | 9.5' (2.90m)  | 17.3' (5.27m) | 12.0' (3.66m) | 19.0' (5.79m) | 29.3' (8.93m)  |
|    | 10.0' (3.05m) | 17.7' (5.40m) | 12.0' (3.66m) | 20.0' (6.10m) | 29.7' (9.05m)  |
| 45 | 8.0' (2.44m)  | 18.4' (5.61m) | 14.0' (4.27m) | 11.3' (3.44m) | 32.4' (9.88m)  |
|    | 8.5' (2.59m)  | 18.7' (5.70m) | 13.5' (4.12m) | 12.0' (3.66m) | 32.2' (9.82m)  |
|    | 9.0' (2.74m)  | 19.1' (5.82m) | 13.0' (3.96m) | 12.7' (3.87m) | 32.1' (9.78m)  |
|    | 9.5' (2.90m)  | 19.4' (5.91m) | 13.0' (3.96m) | 13.4' (4.08m) | 32.4' (9.88m)  |
|    | 10.0' (3.05m) | 19.8' (6.04m) | 13.0' (3.96m) | 14.1' (4.30m) | 32.8' (10.00m) |
| 60 | 8.0' (2.44m)  | 19.7' (6.01m) | 19.0' (5.79m) | 9.2' (2.80m)  | 38.7' (11.80m) |
|    | 8.5' (2.59m)  | 20.0' (6.10m) | 18.5' (5.64m) | 9.8' (2.99m)  | 38.5' (11.74m) |
|    | 9.0' (2.74m)  | 20.3' (6.19m) | 18.0' (5.49m) | 10.4' (3.17m) | 38.3' (11.67m) |
|    | 9.5' (2.90m)  | 20.5' (6.25m) | 18.0' (5.49m) | 11.0' (3.35m) | 38.5' (11.74m) |
|    | 10.0' (3.05m) | 20.8' (6.34m) | 18.0' (5.49m) | 11.5' (3.51m) | 38.8' (11.83m) |
| 70 | 8.0' (2.44m)  | 19.8' (6.04m) | 20.0' (6.10m) | 8.5' (2.59m)  | 39.8' (12.13m) |
|    | 8.5' (2.59m)  | 20.1' (6.13m) | 19.5' (5.94m) | 9.0' (2.74m)  | 39.6' (12.07m) |
|    | 9.0' (2.74m)  | 20.4' (6.22m) | 19.0' (5.79m) | 9.6' (2.93m)  | 39.4' (12.01m) |
|    | 9.5' (2.90m)  | 20.6' (6.28m) | 18.5' (5.64m) | 10.1' (3.08m) | 39.1' (11.92m) |
|    | 10.0' (3.05m) | 20.9' (6.37m) | 18.0' (5.49m) | 10.6' (3.23m) | 38.9' (11.86m) |
| 80 | 8.0' (2.44m)  | 19.2' (5.85m) | 25.0' (7.62m) | 8.1' (2.47m)  | 44.2' (13.47m) |
|    | 8.5' (2.59m)  | 19.3' (5.88m) | 24.0' (7.32m) | 8.6' (2.62m)  | 43.3' (13.20m) |
|    | 9.0' (2.74m)  | 19.4' (5.91m) | 24.0' (7.32m) | 9.1' (2.77m)  | 43.4' (13.23m) |
|    | 9.5' (2.90m)  | 19.5' (5.94m) | 24.0' (7.32m) | 9.6' (2.93m)  | 43.5' (13.25m) |
|    | 10.0' (3.05m) | 19.6' (5.97m) | 24.0' (7.32m) | 10.2' (3.11m) | 43.6' (13.29m) |
| 90 | 8.0' (2.44m)  | 18.0' (5.49m) | 26.0' (7.93m) | 8.0' (2.44m)  | 44.0' (13.41m) |
|    | 8.5' (2.59m)  | 18.0' (5.49m) | 25.0' (7.62m) | 8.5' (2.59m)  | 43.0' (13.11m) |
|    | 9.0' (2.74m)  | 18.0' (5.49m) | 24.0' (7.32m) | 9.0' (2.74m)  | 42.0' (12.80m) |
|    | 9.5' (2.90m)  | 18.0' (5.49m) | 24.0' (7.32m) | 9.5' (2.90m)  | 42.0' (12.80m) |
|    | 10.0' (3.05m) | 18.0' (5.49m) | 24.0' (7.32m) | 10.0' (3.05m) | 42.0' (12.80m) |

**SECTION 5.121 OFF-STREET PARKING REQUIREMENTS**

| <b><u>USE</u></b>                                              | <b><u>SPACE REQUIREMENT</u></b>                                                                                                                                          |
|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(1) Residential</b>                                         |                                                                                                                                                                          |
| (a) One and two family dwelling                                | 2 spaces per dwelling unit.                                                                                                                                              |
| (b) Multiple family dwelling                                   | Studio 1 space/unit.<br>1-2 Bedrooms 1.5 space/unit.<br>3+ Bedrooms 2 space/unit.                                                                                        |
| (c) Rooming or boarding house                                  | Spaces equal to 80% of the number of guest accommodations plus 1 space per staff person.                                                                                 |
| (d) Home Occupation                                            | 1 space per 500 sf of occupational space plus the residential requirement.                                                                                               |
| (e) Hotel, Motel, Inn                                          | 1 space per guest room plus 1 space per staff person.                                                                                                                    |
| <b>(2) Institutional</b>                                       |                                                                                                                                                                          |
| (a) Convalescent hospital, nursing home, sanitarium, rest home | 1 space per 2 beds for patients or residents plus 1 space per staff person.                                                                                              |
| <b>(3) Place of Public Assembly</b>                            |                                                                                                                                                                          |
| (a) Church or Mortuary                                         | 1 space per 4 seats or 8 feet of bench length, or one space for each 36 sq. ft. of floor area not containing fixed seats.                                                |
| (b) Library, reading room                                      | 1 space per 400 sq. ft. of floor area plus 1 space per two employees                                                                                                     |
| (c) Pre-school nursery, kindergarten                           | 2 spaces per teacher.                                                                                                                                                    |
| (d) Elementary, Junior High, High School or Commercial School  | 2 space per classroom plus 1 space per administrative employee or 1 space per 4 seats or 8 ft. of bench length in the auditorium or assembly room, whichever is greater. |
| (e) Other Public Assembly or Meeting Rooms                     | 1 space per 4 seats or 8 ft of bench length, or one space for each 36 s/f of floor area for assembly room not containing fixed seats.                                    |



| <u>USE</u>                                                                                                         | <u>SPACE REQUIREMENT</u>                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (4) <b>Commercial Amusement</b>                                                                                    |                                                                                                                                                                      |
| (a) Stadium, Arena, Theater                                                                                        | 1 space per four seats or 8 ft of bench length.                                                                                                                      |
| (b) Bowling alley                                                                                                  | 5 spaces per alley plus 1 space per two employees.                                                                                                                   |
| (c) Dance Hall, Skating Rink                                                                                       | 1 space per 100 s/ft. of floor area, plus 1 space per two employees.                                                                                                 |
| (5) <b>Commercial</b>                                                                                              |                                                                                                                                                                      |
| (a) Retail store except as provided in subsection (b) of this subsection                                           | 1 space per 200 s/ft. of floor area designated for retail sales.                                                                                                     |
| (b) Service or repair shop, retail store exclusively handling bulky merchandise such as automobiles and furniture. | 1 space per 400 s/ft. of floor area.                                                                                                                                 |
| (c) Bank and Offices (except medical and dental)                                                                   | 1 space per 300 s/ft. of floor area.                                                                                                                                 |
| (d) Medical and dental clinic                                                                                      | 1 space per 200 s/ft. of floor area plus 1 space per 2 employees.                                                                                                    |
| (e) Eating or drinking establishment                                                                               | 1 space per 100 s/ft. of floor area plus 1 space per 2 employees.                                                                                                    |
| (6) <b>Industrial</b>                                                                                              |                                                                                                                                                                      |
| (a) Manufacturing, Fabrication Processing, Assembly                                                                | 1 space per employee plus 1 space per 300 sf of office or public area                                                                                                |
| (b) Wholesale Sales, Warehouses Mini-storage, rail or trucking freight terminal                                    | 1 space per employee plus 1 space per 300 sf of office or public area                                                                                                |
| (7) <b>Parking Requirement</b>                                                                                     | Required off-street parking shall support all on-site uses including the public and employees if it exceeds the standards specified herein.                          |
| (6) <b>Unspecified Uses</b>                                                                                        | Any use not specifically listed in this section shall have a parking requirement determined by the City based on the parking space requirements for comparable uses. |

**SECTION 5.122 TRANSPORTATION STANDARDS**

The City of Millersburg has adopted the **Albany Construction Specifications (ACS)** for all public construction. Each application to the City shall address the transportation needs and issues relative to that request in conformance with the provisions of this Section.

**(1) General Provisions**

- (a) The following provisions shall apply to the dedication, construction, improvement or other development of public right-of-ways in the City of Millersburg. All public improvements shall be designed in conformance with the **(ACS)**.
- (b) Development proposals shall provide for the continuation of existing and proposed streets, bikeways and pedestrian facilities located outside the development, to maintain the continuity of traffic circulation for all modes of travel in the City.
- (c) Development proposals shall provide their proportional share of the transportation infrastructure necessary to accommodate the proposal, and to ensure the practicality and efficiency of providing adequate services to and through the subject property.
- (d) Development proposals shall address the transportation needs of the community by planning for improvements to existing and new transportation facilities to accommodate the vehicle, bicycle, and pedestrian needs of the community.
- (e) Development proposals within the City shall comply with the Millersburg Street Plan contained in the Millersburg Comprehensive Plan.

**(2) Millersburg Street Plan Conformance**

- (a) At the time of development, property owners shall ensure that sufficient transportation infrastructure is available to serve the development. This can be accomplished through any of the following methods approved by the City:
  - 1. Dedicate right of way and construct streets indicated on the Millersburg Streets Plan.
  - 2. Participate in a Local Improvement District or similar mechanism to effect the construction of the streets indicated on the Millersburg Streets Plan.
  - 3. Enter into an agreement with the City of Millersburg, acceptable to the City, indicating when and how the improvements will be completed and dedicated.
  - 4. Any other method approved by the City that ensures the appropriate level of transportation infrastructure is available to serve the proposed development.
- (b) The level of participation by property owners in street improvements shall be determined based upon evaluation of the amount of frontage that exists on an existing or future public street and upon the impacts of the proposed development to the City's street system.



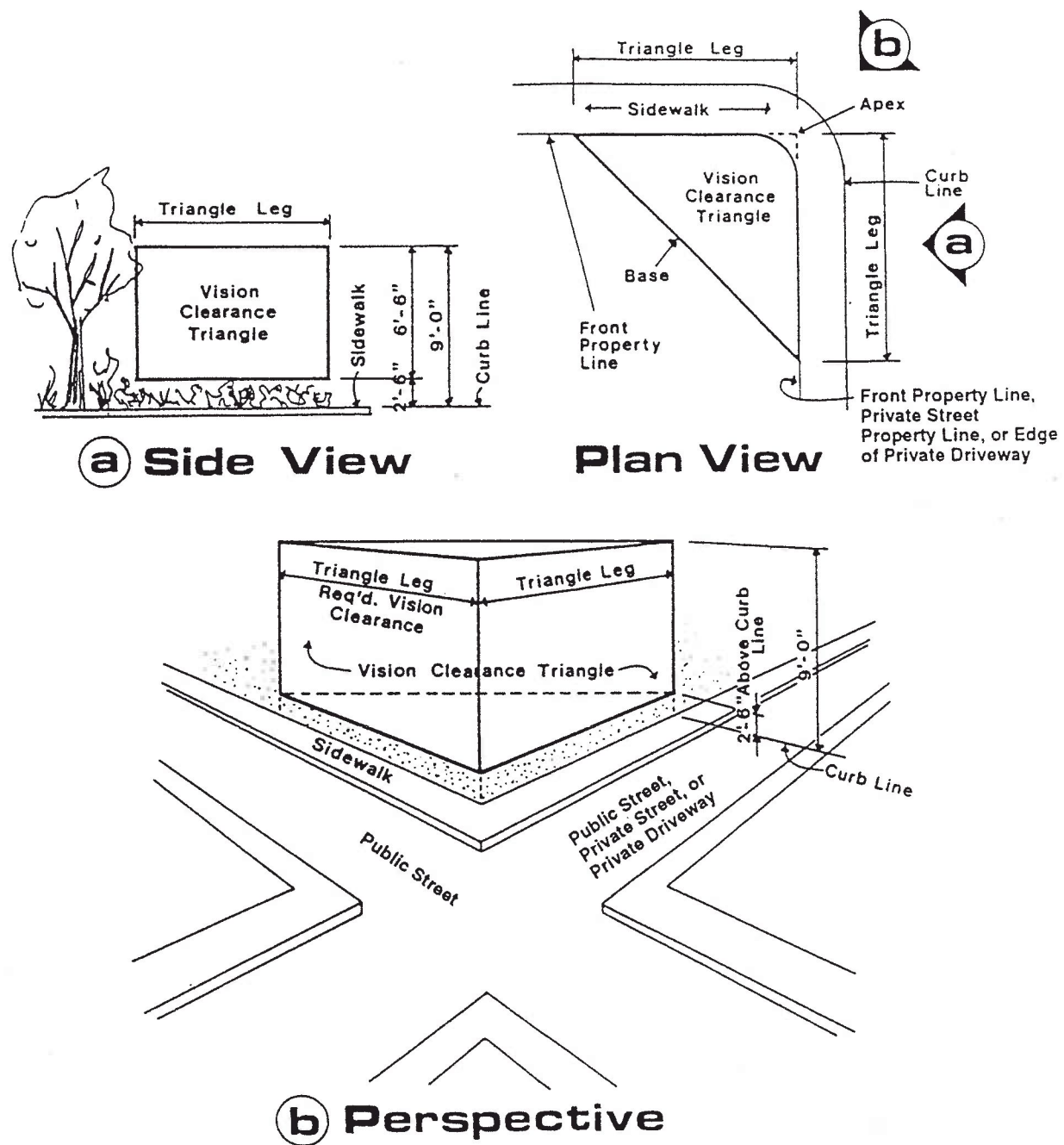
- (c) New streets indicated on the Millersburg Streets Plan are conceptual in their location, and may be modified by the City or upon request by an applicant in conjunction with a specific development request. Such a change may only be effected upon a demonstration that:
    - 1. The requested modification will reasonably allow the continuation of the general layout for future streets.
    - 2. The public benefits of the development outweigh specific conformance with the City Street Plan
    - 3. No adjustment shall result in a future right-of-way indicated on the Millersburg Streets Plan being relocated off-site from the proposed development.
  - (d) New street dedications and/or constructions may be required in conjunction with land divisions or development approvals based upon a public need identified by the City. It shall be the burden of the developer to provide internal streets for new subdivisions, land partitions, manufactured dwelling parks, industrial parks and commercial centers sufficient to serve the needs of those developments.
- (3) **Pedestrian & Bicycle**
- (a) New developments shall provide safe and convenient pedestrian, bicycle and vehicular circulation on-site and off-site. Streets and accessways shall provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided. New development shall minimize automobile conflicts that could interfere with or discourage pedestrian or bicycle travel. The City of Millersburg shall consider pedestrian and bikeways when reviewing all development proposals and street improvements.
  - (b) Subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts adjacent to residential areas shall provide on-site facilities to accommodate safe and convenient pedestrian and bicycle traffic within the development with connections to neighborhood activity centers within one-half mile of the development. New office parks and commercial developments shall employ accessways and clustering of buildings to provide internal pedestrian and bicycle circulation.
  - (c) Sidewalks shall be required along arterial, collector, and local streets and designated bikeways shall be provided on arterial and collector streets. Local streets may accommodate bicycles by use of shared street use.
- (4) **Existing Street Improvements**
- (a) Proposed development on property that is served by an existing public street or right of way that does not meet the City's adopted street standards shall improve the existing street or right of way to accommodate the proposal and bring the street into compliance with City standards.
  - (b) Streets, parking areas, pedestrian ways and bikeways shall include a drainage plan for approval by the City to ensure that the new construction will not cause or augment ponding or flood damage.
  - (c) The City may consider alternatives to compliance with City street standards where compliance is compromised by existing conditions.

(5) **Access Management**

- (a) Every property shall abut a street other than an alley, for a minimum width of 25 feet, except where the Planning Commission has approved an easement for access or where the easement existed prior to the adoption of this Code.
- (b) The following access alternatives to Flag Properties may be approved by the Planning Commission for partitions or, in some circumstances, small subdivisions:
  - (c) Approval of a single access road easement to serve all of the proposed parcels with a provision for conversion to a road right-of-way when the lots are redivided to an urban conversion standard in the future. The easement should have the same width as a right-of-way.
  - (d) Approval of a road right-of-way without providing the road improvements until the lots are redivided to an urban conversion standard in the future. This places the burden for road improvements on the City although the City can assess all of the benefiting properties when improvements are provided in the future. As a condition of approval, the City may require an agreement for improvements as a deed condition.
  - (e) Approval of a private road that does not have to meet all of the standards for public streets. This approach should only be used for isolated short streets serving a limited number of sites and where future City street alignments will not be needed.
  - (f) All new commercial or industrial uses, multi-family residential uses, subdivisions, and manufactured dwelling parks, including expansion of existing uses shall submit for City approval a Traffic Assessment, which shall include the following:
    - 1. Location of access points;
    - 2. Estimates of the amount of traffic that will utilize the above access points;
    - 3. Effect that the proposed development will have on traffic movement of both vehicles and pedestrians.
    - 4. The identification of all improvements that will be required to maintain adequate traffic flow.
    - 5. Access approval by the Linn County Road Department.
    - 6. Additional details or a Traffic Impact Study, may be required by the City if impacts warrant.
  - (g) Access to property at less than designated spacing standards shall be allowed only if that property does not have any other reasonable access and the designated spacing cannot be accomplished. Where possible, joint access options should be considered. Only one access per property shall be allowed to a street owned by either the City of Millersburg or Linn County, except that more than one access may be considered if the City finds that additional access is necessary to accommodate and serve the traffic associated with the use of the property.



- (h) Property access to arterial or collector streets will be provided only where adequate access to another street or driveway is not feasible.
  - (i) Intersections and driveway spacing shall be regulated by the City.
- (6) **Clear Vision Areas:** In all zones a clear vision area shall be maintained at the corners of all property located at the intersection of two streets, a street-alley or a street-railroad. A clear vision area shall also be maintained at all driveways intersecting a street.
- (a) All properties shall maintain a clear triangular area at street intersections, railroad-street intersections, alley-street intersections and driveway-street intersections for safety vision purposes.
  - (b) In conformance with **Diagram DSD-2** at the end of **Article 5**, the two sides of a triangular area along the exterior property lines at all street corners shall be 20 feet in length and 10 feet in length at all alley-street intersections and driveway-street intersections. Where streets intersect at less than 30 degrees, the triangular sides shall be increased to 30 feet in length. The third side of the triangle shall be a line connecting the two exterior sides.
  - (c) A clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstruction exceeding 3 feet in height, measured from the top of the curb, or, where no curb exists, from the established street center line grade. Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of 8 feet above grade.



### VISION CLEARANCE DIAGRAM

**SEE SECTION 5.122**

### DEVELOPMENT STANDARDS DIAGRAM

DSD-2



**SECTION 5.123 STREETS**

**The Albany Construction Specifications (ACS) is the City of Millersburg's adopted standard for all public construction. Compliance with the standards contained therein is required by this Code.** Urban public street improvements including curbs, gutters and storm drainage are required for all land divisions and property development in the City of Millersburg in conformance with the **ACS**.

Urban street improvements may be deferred by the City as a condition of approval for Subdivisions, Partitions, Site Plan Reviews, Conditional Uses or Variances where future urban roads or utility improvements will occur in the future and on property in the rural fringe of the City where urban construction standards have not yet occurred. Rural public streets in conformance with the adopted **Linn County Suburban Road Standards** that have shoulders and side ditches may be approved in lieu of the required urban streets. A property owner is obligated to provide the required urban street when requested by the City or is obligated to pay their fair share of street improvements if street improvements are deferred and will be installed by the City at a later date. The cost of deferred improvements shall be paid by the owner and shall be placed into the City's Street Fund to pay for future improvements.

- (1) 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 land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:
  - (a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  - (b) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
- (2) **Alignment:** As far as is practicable, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction.
- (3) **Future Extensions of Streets:** Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivisions or partition and the resulting dead-end streets may be approved without a turn-around. Reserve Strips may be required to preserve the objectives of street extensions. The control of the land comprising such strips shall be placed within the jurisdiction of the City by deed under conditions approved by the Planning Commission. In addition, a barricade shall be constructed at the end of the street by the land divider which shall not be removed until authorized by the City. The cost shall be included in the street construction costs by the land divider.
- (4) **Minimum right-of-way and roadway widths.** The width of streets and roadways in feet shall be adequate to fulfill city specifications as provided in **Article 8** of this Code and should not be less than the minimums shown in the following Table unless otherwise approved on a development plan.

**Arterial, Collector & Local Street Design Table**

| Street Type                          | ROW Width | Curb-to-Curb Width | Center Turn Lane Width | Travel Lanes / Width | Bike Lane Width Each Side | On-Street Parking Width and Location | Landscap e Strip Width | Sidewalk Width |
|--------------------------------------|-----------|--------------------|------------------------|----------------------|---------------------------|--------------------------------------|------------------------|----------------|
| Arterial                             | 80'       | 50'                | 14'                    | 2/12                 | 6'                        | None'                                | 5'                     | 5'             |
| Arterial                             | 60'       | 36'                | NA                     | 2/12                 | 6'                        | None                                 | 5'                     | 5'             |
| Collector w/ Parking                 | 60'       | 50'                | NA                     | 2/12'                | 6'                        | 7' Each Side                         | None                   | 5'             |
| Collector w/ Landscape               | 60'       | 36'                | NA                     | 2/12'                | 6'                        | None                                 | 5'                     | 5'             |
| Local w/ Parking on Both Sides       | 52        | 32"                | NA                     | 2/12'                | NA                        | 7' Each Side                         | 4'                     | 5'             |
| Local Skinny St. Parking on One Side | 40'       | 29'                | NA                     | 2/11'                | NA                        | 7' One Side                          | None                   | 5'             |

Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-ways may be approved by the Planning Commission. Where limited right-of-ways are permitted, additional easements may be required.

- (5) Street Design Considerations for Subdivision, Partition, Site Plan Review, Conditional Use or Variance approval:
- (a) A Center Turn Lane may be required at major intersections for traffic safety as determined by the City or County Engineer or the Oregon Department of Transportation, whichever has jurisdiction.
  - (b) Local Streets without designated bike lanes shall provide a "shared roadway" bikeway where there is not enough right-of-way to provide separate lanes.
  - (c) Private utility easements may be required adjacent to right-of-ways.
  - (d) The Planning Commission may approve 28-foot wide "Skinny Streets" in developments to reduce maintenance costs and provide a pedestrian-friendly environment. The City Engineer shall determine the adequacy of proposed streets considering:
    - 1. The street shall be adequate to serve the number of dwelling units
    - 2. The street shall be limited in length and not provide through access.



- (e) Street trees shall be provided as specified in **Section 5.134**.
  - (f) Any right-of-way remaining after constructing the above improvements shall be utilized for landscaping and utilities.
  - (g) Street design shall include landscape strips between the curb and sidewalk unless otherwise approved by the Planning Commission.
  - (h) Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-ways may be accepted, if necessary, and replaced with slope, sidewalk or utility easements dedicated on both sides of the right-of-way.
  - (i) Where topographical conditions necessitate cuts or fills for proper grading of streets, additional right-of-ways or slope easements shall be required.
- (6) Intersection Angles: Streets shall be laid out to intersect at angles as near to right angles as practical except where topography require a lesser angle, but in no case shall the acute angle be less than 75 degrees unless there is a special intersection design.
  - (7) Existing Streets: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division or project approval.
  - (8) Half Street: Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
  - (9) Cul-de-sac: A cul-de-sac shall have a maximum length of 600 feet but may be longer when approved by the Planning Commission. A cul-de-sac shall terminate with a circular turn-around in conformance with the **ACS** and the Fire District requirements.
  - (10) Street Names: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Planning Commission.
  - (11) Grades and Curves: Grades shall not exceed six per cent on arterials, ten per cent on collector streets or 12 per cent on other streets. Center line radii of curves shall not be less than 500 feet on major arterials, 300 feet on collector streets or 200 feet on other streets, and shall be to an even ten feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 per cent.
  - (12) The minimum street corner radius shall be in conformance with the **ACS**.

- (13) Streets & Lots Adjacent to Railroad Right-of-ways: Wherever a proposed land division contains, or is adjacent to a railroad right-of-way, a distance between the street or property line and the railroad right-of-way shall provide sufficient depth for landscape screening adjacent to the railroad right-of-way in conformance with **Section 5.134 (9)**.
- (14) Frontage Streets: Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require a frontage street or require access from a parallel street. Lots shall have suitable depth to provide screen planting buffers along the rear or side property line abutting the arterial street to provide protection of residential properties to maintain separation of through arterial traffic from local access traffic.
- (15) Private Streets: Private streets are permitted within Planned Unit Developments, Mobile Home Parks and singularly owned developments of sufficient size to warrant interior circulation on private streets. Design standards shall be the same as those required for public streets unless approved by the Planning Commission. The Planning Commission shall require verification of legal requirements for the continued maintenance of private streets.
- (16) Railroad Crossings: Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements shall be born by the land divider unless an equitable means of cost distribution is approved by the City.
- (17) Traffic Signs & Signals: Where a proposed intersection will result in the need for traffic signs or signals, they shall be provided by the land divider and the costs shall be born by the land divider unless an equitable means of cost distribution is approved by the City.
- (18) Street Signs: Street signs for identification shall be provided by the land divider and the costs shall be born by the land divider unless an equitable means of cost distribution is approved by the City.
- (19) Street Lights: Street lights shall be provided by the land divider for all public streets and may be required for private streets intersecting public streets. Lighting standards and locations shall be in conformance with the ACS, the serving utility and City requirements.
- (20) Mail Boxes: Joint mail boxes shall be provided as recommended by the Post Office in residential developments. Joint mail box structures shall be placed adjacent to roadway curbs having jurisdiction and shall be noted on the plan. The cost shall be born by the land divider.

#### **SECTION 5.124      SIDEWALKS**

Public sidewalk improvements are required for all land divisions and 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.



- (1) Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the Planning Commission determines that full right-of-way acquisition is impractical.
- (2) Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval process.
- (3) The Planning Commission may approve alternate sidewalk alignments and widths to accommodate obstructions that cannot be altered.
- (4) Sidewalks in residential areas shall be a minimum of five (5) feet in width and shall be installed adjacent to a planter strip at least four (4) feet in width unless curb side sidewalks are approved.
- (5) Sidewalks are required for Collector or Arterial Streets and shall be a minimum of five (5) feet in width separated by a landscape strip of 4 to 6 feet in width adjacent to the curb. Sidewalks may be approved adjacent to the curb where direct access is required. Sidewalks adjacent to the curb shall be a minimum of five (5) feet in width or a minimum of twelve (12) feet in width adjacent to Street Frontage Commercial properties. Planter openings adjacent to the curb are encouraged within the twelve (12) foot wide walks.
- (6) Planter strips and the remaining right-of-way shall be landscaped and maintained as part of the front yard of abutting properties.
- (7) Maintenance of sidewalks and planters shall be the continuing obligation of the abutting property owner.
- (8) 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. Mid-block sidewalks shall be raised and shall be a minimum of 6 feet in width.
- (9) Internal pedestrian circulation and accessways shall be provided within all commercial developments.

#### **SECTION 5.125      BIKEWAYS**

Bikeways are required along Arterial and Collector streets. Bikeways shall comply with the requirements and standards contained herein and those contained in the Oregon Transportation Planning Rule.

- (1) Developments adjoining existing or proposed bikeways shall include provisions for connection and extension of such bikeways through dedication of easements or rights-of-way. Developments that would benefit from bikeways may be required to include bikeway improvements as a condition of approval by the Planning Commission. Where possible, bikeways should be separated from other modes of travel, including pedestrianways.
- (2) Minimum width for bikeways shall be four (4) feet per travel lane. Widths of 5-6 feet are preferred

## (3) Pedestrian &amp; Bicycle Improvement Requirements

**Pedestrian and Bicycle Improvement Requirements**

| <b>Type of Use</b>                                                              | <b>Bikeway Parking &amp; Pedestrian Accessways</b> |
|---------------------------------------------------------------------------------|----------------------------------------------------|
| Single Family Dwelling & Duplex                                                 | No                                                 |
| Multi-family Dwelling                                                           | Yes(4+ units)                                      |
| New Commercial Building                                                         | Yes                                                |
| Commercial Expansion                                                            | No                                                 |
| New Industrial Building                                                         | Yes                                                |
| Industrial Expansion                                                            | No                                                 |
| Partitions, Subdivisions, Planned Developments, and Manufactured Dwelling Parks | Yes                                                |

## (4) Bicycle Parking

Minimum Development Requirements: At a minimum bicycle parking facilities shall be consistent with the following design guidelines.

- (a) Location: All bicycle facilities shall be:
  1. Within 100 feet from a building entrance.
  2. Located within a well lighted area.
  3. Clearly visible from the building entrance.
  4. Covered bicycle parking is encouraged but not required.
- (b) Bicycle parking shall be visible or a sign shall be used to direct users to the parking facility.
- (c) Each bicycle parking space shall be at least 2 feet by 6 feet with a vertical clearance of 6 feet.
- (d) An access aisle of at least 5 feet in width shall be provided in each bicycle parking facility.
- (e) Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object, "rack", upon which the bicycle can be locked. Structures that require a user supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured.
- (f) Bicycle parking provided for employees shall be covered or employees shall be provided access to a secure room within a building for bicycle parking.



- (g) Uses listed in this subsection shall provide bicycle parking at the following ratios:

**Bicycle Parking Spaces Table**

| Type of Use                                                                                    | Minimum Number of Spaces                                                                  |
|------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Single Family Residential                                                                      | None Required                                                                             |
| All other developments including expansions of more than 20 percent of the original floor area | Minimum of 2<br>Each use shall have a minimum of 2 spaces or the greater of the following |
| Multi-Family Residential Over 4 units                                                          | 1 space per dwelling unit                                                                 |
| New Retail, Office, Transit or Institutional facilities                                        | 1 space per 20 vehicle parking spaces plus 4 spaces per public entrance                   |
| New Industrial facility                                                                        | 1 space per 20 vehicle parking spaces plus 4 spaces per employee entrance                 |
| Schools                                                                                        | 4 spaces per classroom                                                                    |

#### **SECTION 5.126 STORM DRAINAGE**

Urban level curb inlets, catch basins, and drainage pipe improvements are required for all land divisions and property development in the City of Millersburg. Urban storm drainage systems may be deferred by the City in lieu of a rural system of culverts and open drainageways.

- (1) **General Provisions.** It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except within a continuous drainageway. Paving and catch basin outflows may require detention cells and/or discharge permits. Maintaining proper drainage is a continuing obligation of the property owner. The City will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City. The storm water drainage system must be separate and independent of any sanitary sewerage system. Inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development plan submitted for approval. All proposed drainage systems must be approved by the City as part of the review and approval process.
- (2) **Natural Drainageways.** Open natural drainageways of sufficient width and capacity to provide for flow and maintenance are permitted and encouraged. For the purposes of this Section, an open natural drainageway is defined as a natural path which has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation.  
  
Natural drainageways should be protected as linear open space features wherever possible within the community and shall be protected from pollutants and sediments.
- (3) **Easements.** Where a land division is traversed by a water course, drainageway, channel or stream, there shall be provided a public storm water easement or

drainage right-of-way conforming substantially with the lines of such water course and such further width as the City determines will be adequate for conveyance and maintenance. Improvements to existing drainageways may be required of the property owner. The property owner is also responsible for continuing maintenance and protection of natural drainageways.

- (4) **Drainageway Setbacks.** Setbacks are required for drainageways, streams, riparian areas, wetlands and floodplains in conformance with **Sections 5.118 & 5.119** 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 by grading or placement of structures or impervious surfaces is prohibited unless approved by the City in accordance with the procedures of city ordinances and state law. **Refer to Sections 7.100, 7.200 and 7.300 for additional Special Area Standards.**
- (5) **Accommodation of Upstream Drainage.** A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City must review and approve the necessary size of the facility, based on sound engineering principles and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.
- (6) **Effect on Downstream Drainage.** Where it is anticipated by the City that the additional run-off resulting from the development will overload an existing drainage facility, the City may withhold approval of the development until mitigation measures have been approved.
- (7) **Drainage Management Practices.** Developments within the City must employ drainage management practices approved by the City which limit the amount and rate of surface water run-off into receiving streams or drainage facilities. Stormwater runoff rates for new developments shall not exceed bare land runoff rates. Drainage management practices must include, but are not limited to one or more of the following practices:
  - (a) Temporary ponding or detention of water to control rapid runoff.
  - (b) Permanent storage basins.
  - (c) Minimization of impervious surfaces.
  - (d) Emphasis on natural drainageways.
  - (e) Prevention of water flowing from the development in an uncontrolled fashion.
  - (f) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.
  - (g) Runoff from impervious surfaces must be collected and transported to a natural drainage facility with sufficient capacity to accept the discharge.
  - (h) Other practices and facilities designed to transport storm water and improve water quality.



- (8) Design Requirements for New Development. All new development within the City shall make provisions for the continuation or appropriate projection of existing storm sewer lines or drainageways serving surrounding areas. Drainage extensions may be required through the interior of a property to be developed where the City determines that the extension is needed to facilitate upstream flows.
- (9) NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb 5 or more acres of land.

#### **SECTION 5.127 WATER**

**The Millersburg Water System Master Plan** and the **Albany Construction Specifications (ACS)** provide the City's standards for water system construction. Compliance with the standards contained therein is required by this Code.

The City shall require water systems to be installed with adequate fire flows in consultation with the Fire District and City Engineer, and to meet the requirements of Insurance Service Offices (ISO) for all categories of development.

- (1) When Municipal Water is Available. All new development including a single family residence must extend and connect to the municipal water system. Fire hydrants, mains, and related appurtenances shall be installed by the developer as required by the City and Fire District.
- (2) When Municipal Water is Not Available. Where municipal water is not available within 200 feet of the property the City may consider approval of one well serving a single property. Private water system shall be designed to City standards so that they can be incorporated into the City Municipal Water System.
- (3) Water Line Extensions. Water distribution lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City as necessary to accommodate likely system expansion. Water line extensions may be required through the interior of properties when necessary to provide for service to other properties or to provide system looping for fire flows.
- (4) Water Plan Approval. All proposed water plans and systems shall be approved by the City as part of the review and approval process.
- (5) Design Requirements for New Development. All new development within the City shall make provisions for the extension of municipal water lines to serve adjacent areas as provided in the Water System Master Plan.
- (6) Restriction of Development. The Planning Commission or City Council may limit development approvals where a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the proposed development improvements.

#### **SECTION 5.128 SANITARY SEWERS**

**The Millersburg Master Sanitary Sewer Plan** and the **Albany Construction Specifications (ACS)** provide the City's standards for sanitary sewer system construction. Compliance with the standards contained therein is required by this Code.

- (1) When Municipal Sewer is Available. All new development including a single family residence must extend and connect to the municipal sewer system.

- (2) When Municipal Sewer is Not Available. Where a municipal sewer is not available within 200 feet of the property the City may consider approval of an on-site sewage disposal system.
- (3) Sewer Line Extensions. Sewer collection lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City as necessary to accommodate likely system expansion.
- (4) Sewer Plan Approval. All proposed sewer plans and systems must be approved by the City of Millersburg as part of the review and approval process.
- (5) Design Requirements for New Developments. All new development within the City shall make provision for the extension of existing sewer lines to serve adjacent areas as provided for in the Master Sanitary Sewer Plan. Line extensions may be required through the interior of a property to be developed where the City determines that the extension is needed to provide service to other properties.
- (6) Restriction of Development. The City may limit development approvals where a deficiency exists in the sewer system or portion thereof that cannot be corrected as a part of the development improvements.

**SECTION 5.129 UTILITIES**

- (1) It is the intent of the City to place all utilities underground wherever practical except as otherwise provided herein.
- (2) All utilities shall be located underground in subdivisions.
- (3) All utilities shall also be located underground in all urban conversion partitions.
- (4) All subdivided lots and all urban conversion partition parcels shall have a covenant requiring underground utility installations in the Covenants, Conditions and Restrictions for each lot or parcel.
- (5) Exceptions. The Planning Commission may permit overhead utilities as a condition of approval of the Tentative Plan or Site Plan Review where the Applicant can demonstrate one of the following conditions:
  - (a) Underground utility locations are not feasible.
  - (b) The proposed lots or parcels are large rural lots where the existing properties in the vicinity have overhead utilities.
  - (c) Temporary or emergency installations.
  - (d) Major transmission facilities located within right-of-ways or easement.
  - (e) Industrial developments requiring large power overhead power facilities.
  - (f) Surface mounted structures, substations or facilities requiring above ground locations by the serving utility.

**SECTION 5.130 EASEMENTS**

- (1) Easements granting limited use of property for any defined purpose may be approved for any lot or parcel.



- (2) Access easements may be approved by the Planning Commission as provided in **Section 5.122**. Single lane easements shall be a minimum of 12 feet wide. Two lane access easements shall be 25 feet wide.
- (3) Utility easements shall be provided for sewers, water mains and public or private utilities necessary to provide full service to all developments. Land dividers shall show on the Tentative Plan and on the final Plat all easements and shall provide all dedications, covenants, conditions or restrictions with the Supplemental Data submitted for review.
- (4) Unless otherwise specified by the Planning Commission the minimum exterior easements adjacent to streets shall be 5 feet wide. Minimum interior easements shall be 10 feet wide centered on lot or parcel lines where feasible except for utility pole tieback easements which may be 6 feet in width.
- (5) Water Courses. If a tract is traversed by a water course such as a drainage way, channel or stream, there shall be provided a setback containing the top of bank, vegetative fringe, and such further width as will be adequate for protection and maintenance purposes as specified in **Section 5.118 & 5.119**. Culverts or other drainage facilities shall be sized to accommodate storm and flood run-off from the entire upstream drainage area and shall be verified and approved by the City Administrator. **Refer to Sections 7.100, 7.200 and 7.300 for additional Special Area Standards.**
- (6) Land dividers shall show on the Tentative Plan and on the final Plat all easements for sewers, water mains and public or private utilities necessary to provide full service to the development and shall provide all dedications, covenants, conditions or restrictions with the Supplemental Data submitted for review.

#### **SECTION 5.131 BLOCKS**

- (1) General: The length, width and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.
- (2) Size: No block shall be more than 600 feet in length between street corner lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum distance between arterial street intersections is 1,800 feet. A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception.
- (3) Large Lot or Parcel Block Configurations: When dividing tracts into large lots or parcels that may be redivided in the future, the Planning Commission may require that the blocks be of such size and shape to be so divided into building sites and contain such site restrictions as will provide for extension and opening of streets at intervals that will permit a subsequent division of any tract into lots or parcels of smaller size.
- (4) Traffic Circulation: Blocks shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas, neighborhood activity centers and commercial and industrial areas unless alternative pedestrian and bicycle accessways are provided.

**SECTION 5.132 BUILDING SITES**

- (1) Size and shape: The size, width, shape and orientation of building sites shall be appropriate for the location and use contemplated, and shall comply with the standards of the Zoning District, **Article 4**, and the standards of **Articles 5, 6 & 7** contained herein.
- (a) No lot or parcel shall be created or utilized unless there will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use.
  - (b) In areas that will not be served by a municipal sewer minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality for sewage disposal by septic tank or other approved on-site methods taking into consideration soil structure and water table.
  - (c) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate for the intended use, off-street service, parking and landscaping required by the type of use and development contemplated.
  - (d) Existing lots or parcels smaller than City standards may be maintained as a conforming use within the district. Damaged buildings or structures may be restored to their previous use and destroyed buildings may be replaced in conformance with **Section 4.080**.
  - (e) Large Lots or Parcels: Large lots or parcels that may be further divided into smaller lots in the future shall be of such size and shape that will accommodate the efficient provision of future streets and lots or parcels of smaller sizes. The land division request may be denied if the proposed lots or parcels do not provide for efficient future divisions and streets.
  - (f) Land division proposals for large rural lots that are capable of future division into smaller urban lots shall provide plans that show by dash lines future streets and lot divisions to urban standards as part of the Tentative Plan approval process. Proposed buildings shall be located within one of the future urban property line and setback standards to facilitate an orderly division and use of the property in the future.
  - (g) Flag Lots or Parcels: Flag lots or parcels are discouraged. They will only be allowed when other alternative means of access as described in **Section 5.122, Item (2)** cannot be provided. Minimum width for flag lot access is 25 feet.
  - (h) Through Lots and Parcels: Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten feet wide with no access, may be required along the line of building sites abutting a railroad, traffic arterial or other incompatible use.
  - (i) Lot and Parcel Side Lines: The lines of lots and parcels shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve. An alternative design may be approved when such a pattern is not practicable.



- (j) Building Lines: If special building setback lines are to be established in a land division, they shall be shown on the subdivision or partition plat or, if temporary in nature, they shall be included in the CC&R's.
- (k) The Planning Commission may adjust the above standards to provide an efficient division and utilization of sites when submitted for approval under the Site Plan Review procedure of **Section 2.400** or the Subdivision and Partition Tentative Plan procedures in **Section 2.320**.

#### **SECTION 5.133 GRADING**

General grading shall conform to the following standards unless engineered and approved by the City.

- (1) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- (2) Fill slopes shall not exceed two feet horizontally to one foot vertically.
- (3) The type and characteristics of imported fill soils shall be the same or compatible with the existing soils on the site.
- (4) Fills for streets and building sites shall be engineered and approved by the City.
- (5) All sites shall be graded to direct storm water to City storm sewers or to natural drainage ways.
- (6) All grading activities shall comply with any required removal or fill permits issued by the State or Federal agencies.

#### **SECTION 5.134 LANDSCAPING**

All required yards in each zone and the entire open space of all commercial and multiple-family dwelling sites exclusive of walks, drives, parking areas and buildings shall be landscaped and permanently maintained. Landscaping shall primarily consist of ground cover, trees, shrubs or other living plants with sufficient irrigation to properly maintain all vegetation. Decorative design elements such as fountains, pools, benches, sculptures, planters, fences and similar elements may be placed within the area.

All properties shall be landscaped and maintained according to the standards contained herein. All front yard or street side yard setbacks and parking areas shall be landscaped in accordance with the following requirements:

- (1) **General Provisions.** The general provisions stated below apply to all new developments where landscaping, buffering, screening or fencing is required.
  - (a) Landscaping shall primarily consist of ground cover, trees, shrubs or other living plants with irrigation to maintain all vegetation. Decorative design elements such as fountains, pools, benches, sculptures, planters, fences and similar elements may be placed within the landscape area.

**Exceptions:** Undeveloped properties or the undeveloped portion of large properties with an unused areas exceeding 4,000 square feet are exempt from the landscape requirements specified herein provided the lot or area is maintained so weeds and wild vegetation do not adversely affect adjacent developed properties. Removal of noxious weeds and vegetation will be enforced through the City's Nuisance Ordinance.



- (b) A site and species-specific, detailed landscape and irrigation plan shall be submitted to the City for review and approval with all applications. Existing trees, plantings and special site features shall be shown on all submitted plans and shall clearly indicate items proposed to be removed and those intended to be preserved. The plan shall be drawn to a scale that is a multiple of 1 inch equals 10 feet, shall include required fencing, buffering, screening, tree plantings, and any monument locations. The plans shall be of professional quality, and must be acceptable to the City. On-site development shall not be approved until the City determines that the plans comply with the standards of this Section. All required landscaping and related improvements shall be completed or financially guaranteed prior to the issuance of a Certificate of Occupancy.
- (c) Care and maintenance of on-site landscaping and landscaping in the adjacent right-of-way is the right and responsibility of the property owner, unless City Ordinances specify otherwise. City approval is required to plant, remove, or significantly prune any trees in a public right-of-way.
- (d) It shall be the continuing obligation of the property owner to maintain required landscaped, screened and fenced areas in an attractive manner free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained.
- (e) Existing plant and tree specimens and special site features shall be preserved, protected, maintained and integrated into the design of proposed developments. Plants to be saved and methods of protection shall be indicated on the detailed planting plan submitted for approval. Existing trees may be utilized in complying with this section if the tree is protected from damage during construction.
- (f) Irrigation systems shall be required for planting areas, unless specifically waived by the City. A detailed irrigation system plan shall be submitted with the development permit application and must be approved by the City. The plan shall indicate source of water, pipe location and size, and specifications of the backflow device. The irrigation system shall provide sufficient coverage to assure ninety percent coverage of plant materials.
- (g) In no case shall shrubs, conifer trees, or other screening be permitted within the vision clearance areas of street, alley, or driveway intersections, or where the City Engineer otherwise deems such plantings would pose a hazard.
- (h) Required landscaping, tree plantings, buffering, screening and fencing shall be installed prior to building occupancy. With the exceptions noted below, occupancy may be permitted prior to the complete installation of all required landscaping if security equal to 110% of the cost of materials and labor, as determined by the City Administrator, is filed with the City assuring such installation within nine months of issuance of the Occupancy Permit. An extension of three months may be granted by the City Administrator when circumstances beyond the control of the owner prevent earlier completion.

If the installation of the landscaping is not completed within the required period, the security may be used by the City to either complete the installation, or the security may be held by the City and other enforcement actions taken to ensure the improvements are completed.



- (i) Long expanses of fences and walls shall be designed to prevent visual monotony through use of offsets, changes of materials and textures, or landscaping.
  - (j) The Planning Commission may approve alternate standards as part of the approval process for Site Plan Reviews and Conditional Uses if the alternate standards do not alter the purpose and intent of this Section.
- (2) **Tree Plantings.** Tree plantings in accordance with the following standards are required:
- (a) **Street Tree Maximum Spacing**
    - 1. Large canopy trees - 50 feet
    - 2. Medium canopy trees - 30 feet
  - (b) **Parking Lot Minimum Tree Plantings**
    - 1. Medium canopy trees - 1 tree per 8 cars
    - 2. Large canopy trees - 1 tree per 12 cars
  - (c) It is unlawful to plant willow, cottonwood, or poplar trees anywhere in the City unless the City approves the site as one where tree roots will not likely interfere with public sewers.
  - (d) It is unlawful to plant any of the following trees in or adjacent to any street right-of-way or parking strip in the City: Box Elder, Tree of Heaven, Golden Chair, Holly, Silver Maple, Bamboo, Poplar, Willow, Conifers, Cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and Ailanthus.
  - (e) Trees may not be planted under the following conditions unless approved by the City:
    - 1. Three feet from permanent hard surface paving or walkways unless using special planting techniques and specifications approved by the City.
    - 2. Within 10' of fire hydrants and telephone poles;
    - 3. Within 20' of street light standards;
    - 4. Within 10' of a public sanitary sewer, storm drainage or water line;
    - 5. Where the tree poses a hazard to the public.
    - 6. Where the minimum clearance is less than eight feet above sidewalks and twelve feet above street and roadway surfaces.
  - (f) **Tree Species:** Tree species shall be selected from the City's approved list. Alternate selections may be approved by the City Administrator following written request.

- (3) **Minimum Street-Facing Yard Landscaping.** All street facing yard areas are required to be landscaped for all zones and uses including residential. Minimum landscaping per 1,000 square feet of required landscape area shall be as follows:
- (a) On-site Street Trees in conformance with **Item (2) (a)** unless Street Trees are provided in a street landscaped strip.
  - (b) A minimum of 1 tree at least 8 feet in height if Street Trees are provided in a street landscaped strip.
  - (c) Five 1-gallon shrubs or accent plantings.
  - (d) Fifty percent (50%) of the remaining landscaped area exclusive of walks, drives, parking areas and buildings shall be planted with suitable living ground cover, lawn, ivy, shrubs and other plantings exclusive of decorative design elements such as fountains, benches, sculptures, planters and similar elements placed within the required landscaping area. The remaining area may be concrete, rocks bark or other decorative ground cover.
  - (e) Dwellings in conjunction with farm uses are exempted from this requirement.
- (4) **Parking Lot Landscaping:** Trees in parking areas shall be dispersed throughout the lot to provide a canopy for shade and visual relief.
- (a) Parking lots abutting residential districts shall be screened from abutting residential districts by a combination of fences, walls, and landscaping adequate to screen lights, provide privacy and provide separation for the abutting residences.
  - (b) Parking lots shall have curbed landscaped islands and trees at the ends of parking rows to facilitate movement of traffic and to break large areas of parking surface. The minimum dimension of the landscaped area excluding the curbs shall be 4 feet and the landscaping shall be protected from vehicular damage by wheel guards.
  - (c) Parking lots containing more than 16 parking spaces shall have a minimum of 5 percent of the area devoted to landscaping and trees. Landscaping shall be evenly distributed throughout the parking lot and long rows of parking spaces shall be interrupted by landscaped islands. The 5 percent landscaping shall be within or abutting the parking area and shall be in addition to required yard landscaping.
- (8) **Landscape Buffering.** Commercial and Industrial Buffer Plantings are used to visually enhance the City, reduce building scale, provide transition between uses, and generally mitigate incompatible or undesirable views. They are used to soften rather than block views. Where required, a mix of plant materials shall be used to achieve the desired buffering effect. Buffering is not required for single-family residential properties.
- (a) A minimum 12-foot wide landscaped buffer is required for all commercial and industrial street facing yards and for side and rear yards where a proposed use differs from the abutting property use or zone. (e.g., proposed commercial development adjacent to a residential use ).



- (b) A buffer depth is 12-feet unless otherwise specified as part of the conditions specified for an approval. A buffer length is equal to the length of the property line with the street or the abutting use.
  - (c) A buffer area may only be occupied by landscaping, utilities, driveways, walkways, bikeways, and accessways. No buildings, or parking areas shall be allowed in a buffer area unless a Variance to this requirement has been approved by the City.
  - (d) The minimum improvements within a buffer area shall consist of the following:
    - 1. Trees, not less than 8 feet high for deciduous trees spaced not more than 30 feet apart and 5 feet high for evergreen trees spaced not more than 20 feet apart.
    - 2. At least 5 five-gallon shrubs or 10 one-gallon shrubs for each remaining 1,000 square feet of required buffer area; and
    - 3. The remaining area treated with living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.).
  - (e) Buffering requirements shall supercede the street-facing yard landscaping requirements specified in **Item (3)**.
  - (f) Required Buffering shall be shown on all Site Plan Review and Conditional Use plans submitted for approval.
- (9) **Landscape Screening.** Screening is used to obscure or block unsightly views or visual conflicts and where privacy and security are desired. Fences, hedges, berms and walls may be used for screening.
- (a) Screening may be required for the following uses in lieu of Buffering as part of the City's Site Plan Review or Conditional Use approvals:
    - 1. Any use other than a single-family residence that abuts a single-family residence or Single-family Residential Zone including commercial, industrial, public and multi-family developments shall have their yard setbacks landscaped and screened to protect the abutting single-family residential properties.
    - 2. Any Multi-family Development, Manufactured Dwelling Park, Subdivision or Planned Development.
    - 3. Any Parking Lot exceeding 8 Spaces.
    - 4. Any Industrial or Utility use abutting Residential, Commercial or Public Uses.
    - 5. Except for one and two family dwellings, garbage collection areas, and service facilities located outside the building shall be screened from public view and landscaped.

- (b) Where screening is required or provided, the following standards shall apply:
  - 1. One row of evergreen shrubs shall be planted that 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 five-foot wood fence or masonry wall shall be constructed, 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. At least 5 five-gallon shrubs or 10 one-gallon shrubs for each remaining 1,000 square feet of required buffer area; and
  - 5. The remaining area treated with attractive, living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.).
  - 6. Except for one and two family dwellings, any refuse container or disposal area that would otherwise be visible from a public street, or customer or resident parking area shall be screened from view by placement of a solid wood fence, masonry wall or evergreen hedge between 5 and 8 feet in height. All refuse materials and mechanical equipment shall be contained within the screened area.
- (10) The property owner of each proposed development is responsible for the installation and maintenance of all buffers and screens. The City may waive the buffering and/or screening requirements of this section under the City's review procedures where it is determined to be unnecessary due to existing conditions or because the buffering or screening is provided on the adjoining property in conformance with this section.
- (11) Single-family and two-family dwellings and farming are exempt from the buffering and screening provisions.
- (12) Buffering and screening provisions shall be superseded by Clear Vision requirements, where applicable.
- (13) **Fencing:**
  - (a) Residential fences, hedges and walls may be located within yard setbacks. Height is limited to 6 feet in required side, rear or interior yards. Height is limited in required front yards and Vision Clearance Areas to 3 feet in height. Commercial or industrial properties may have 8-foot high fences except in a street-facing front yard setback where fences are limited to 6 feet in height.
  - (b) Materials. Residential fences and walls shall not be constructed of or contain any material that would do bodily harm such as electric, barbed or razor wire, broken glass, spikes, or any other hazardous or dangerous materials. Commercial or industrial properties may have barbed wire above 6 feet in height except in the street-facing yards. Link fencing less than 6



feet in height shall be constructed so there will be no barbed ends at the top.

- (c) Protective fences other than those specified herein shall comply with State Laws and shall be submitted for approval of the City.
- (d) Sight-obscuring fences, walls or landscaping may be required to screen objectionable activities as part of the City's review and approval process. Sight-obscuring means 75% opaque when viewed from any angle at a point 25 feet away. Vegetative materials must be evergreen species that meet this standard year-round within 3 years of planting.
- (e) Maintenance. Fences shall be structurally maintained in a safe condition of repair and shall not lean over an adjoining property or sidewalk, have missing sections or slats, or broken supports.

#### **SECTION 5.135 EXTERIOR LIGHTING**

Street lighting shall be provided in all subdivisions and in all commercial and industrial parking lots unless exempted by the Planning Commission as part of the City's review procedures.

- (1) **Street Lighting** shall be provided for all public streets in conformance with the following standards unless otherwise approved by the City:
  - (a) Street light poles and arms shall be fiberglass poles designed to produce a 25-foot mounting height and shall have an integral grey or brown color and be a direct burial type.
  - (b) All luminaries shall be Cobrahead drop lens type using a 100 watt high pressure sodium light source with an acrylic lens and photoelectric control relay with a 6 foot mounting arm. The fixture shall produce a medium distribution, semi-cutoff, Type II lighting pattern.
  - (c) All street lighting materials, including wire and installation procedures shall comply with the requirements of the local serving utility.
  - (d) Lights shall be located at intersections and cul-de-sacs and spaced evenly along long streets at approximately 600 foot intervals unless otherwise approved by the City or serving utility.
- (2) **On-site Lighting** is required to protect the safety and welfare of employees, occupants, users, customers and the general public. Exterior lighting shall be provided in parking lots and may be provided elsewhere.
- (3) Lighting shall be located and designed to not face directly or reflect glare into on-coming traffic or onto an adjacent residence or residential district. There are no other specific design requirements for on-site lighting

#### **SECTION 5.136 SIGNS**

Signs and similar identification devices may be erected and maintained in compliance with the following standards unless other standards are approved by the Millersburg Planning Commission in conformance with the Site Plan Review procedures of **Section 2.400**.

(1) **Definitions**

**Sign:** Any writing (including letters, words or numerals); pictorial representation (including murals, illustrations or decorations); emblem (including devices, symbols or trademarks); flag (including banners or pennants); identification displays (including objects, inflatables or balloons); or any other device used to inform, attract attention or advertise that is visible from a public right-of-way.

**Freestanding Signs:**

**Ground level Signs:** Any ground level sign not over 6 feet high.

**Elevated Signs:** Any sign supported above 8 feet by any structure.

**Building Signs:**

**Wall Sign:** Any sign painted or attached to a building that projects less than 12 inches.

**Window Sign:** Any sign outside or inside a window visible from a public road.

**Projecting Signs:** Any sign attached to a building wall that projects more than 12 inches including awning signs.

(2) **General Sign Provisions:**

- (a) Each sign or outdoor advertising display shall be located on the same property as the use it identifies or advertises or be approved by the Millersburg Planning Commission.
- (b) Signs may be illuminated by indirect or internal lighting. Lighting and signs shall not, by light, brilliance, type, design, or character, create a public or private nuisance or interfere with traffic or limit visibility, and shall not produce glare into residences. **The use of flashing or rotating lights is prohibited.**
- (c) No sign shall be constructed or erected that inhibits or impairs the vision clearance area or other sight lines necessary for the safety of the traveling public.
- (d) Sign materials and design elements should be complimentary to the materials used in development.
- (e) All attached or freestanding signs shall be engineered and comply with the State of Oregon Structural Specialty and Life Safety Code and the adopted Electric Code for any electrically powered signs.
- (f) Any freestanding or projecting sign may be double-faced.
- (g) All signs, together with their supporting structure shall be maintained in a safe, clean and attractive condition.
- (h) Abandoned signs that no longer apply to the property shall be removed by the property owner within 90 days of disuse.

(3) **Permitted Signs**

- (a) Any on-site sign specifically identified as permitted herein.
- (b) Signs existing at the date of adoption of the sign ordinance provisions.



- (c) Flags of national, state or local government.
  - (d) Temporary signs for the duration of the event 32 square feet in area or less.
  - (e) Signs placed by local, state or federal agencies.
  - (f) Public safety and convenience signs including parking and directional signs, open/closed and business hour signs, restroom and other locational signs 12 square feet in area or less.
  - (g) Temporary seasonal signs and decorations subject to safety and nuisance standards.
  - (h) Construction Project signs 64 square feet in area or less per street frontage.
  - (i) Existing signs shall be considered non-conforming uses which may be maintained and repaired, but may not be replaced.
- (4) **Permitted Residential Sign Standards**
- (a) One name plate 4 square foot in area or less, placed flat against the building for each dwelling or Home Occupation as defined in **Section 6.120** of this ordinance.
  - (b) House or building numbers 6 inches or less in height.
  - (c) One non-illuminated temporary sign 12 square feet in area or less for real estate purposes, garage or personal property sales, or political advertisement.
  - (d) One Freestanding Ground level identification sign per street frontage for Subdivisions, Apartment complexes or Manufactured Home Parks 64 square feet or less in area per sign.
  - (e) One Temporary Freestanding Subdivision or Manufactured Home Park sales sign per street frontage 64 square feet in area or less per sign.
- (5) **Permitted Commercial & Industrial Sign Standards**
- (a) One Surface Wall or Window Sign per business.
  - (b) One Projecting Sign per street frontage not exceeding the roofline or 60 square feet in area per business. Projecting signs shall have a minimum height clearance of 8 feet in pedestrian areas and 15 feet over parking or drive areas.
  - (c) One Freestanding Ground level sign per street frontage of a property not to exceed 6 feet in height or 80 square feet in area per sign.
  - (d) One Freestanding Elevated Sign per street frontage of a property not to exceed 30 feet in height or 100 square feet in area. Elevated signs shall have a minimum height clearance of 8 feet in pedestrian areas and 15 feet over parking or drive areas.

- (e) The aggregate number of signs per street frontage shall be three per business or property.
  - (f) One Temporary business or property sales sign per street frontage 32 square feet or less in area per sign.
- (6) **Signs Requiring Approval**  
The following signs may be permitted subject to a Site Plan Review and approval by the Millersburg Planning Commission in conformance with **Section 2.400**.
- (a) Any on-site sign not specifically identified as "Permitted" herein or signs exceeding the standards specified herein.
  - (b) Rooftop signs.
  - (c) Moving electronic message signs.
  - (d) Business or personal identification flags or displays.
  - (e) Billboards or Outdoor Advertising signs require approval by the Millersburg City Council in accordance with **Ordinance Number 34**.
  - (f) Any off-site sign and any sign placed within a public right-of-way by other than a public agency.
- (7) **Application Information**  
Applications for signs requiring approval shall conform to **Sections 2.130** and **2.140** and **Section 2.400** of the **Millersburg Code** and shall include:
- (a) A Site Plan showing the sign locations on site.
  - (b) Building elevations showing sign locations.
  - (c) Sign construction showing dimensions, area, height, and structure.
  - (d) Sign design showing lettering, logos, symbols, materials, colors, and method of illumination.



**MEDIUM CANOPY TREES:**

|                                                                          |                          |
|--------------------------------------------------------------------------|--------------------------|
| <u>Acer platanoides "Almira":</u>                                        | Almira Norway Maple      |
| <u>Acer platanoides var.:</u>                                            | Norway Maple             |
| <u>Acer rubrum "Armstrong":</u>                                          | Armstrong Red Maple*     |
| <u>Acer rubrum "Scalon":</u>                                             | Scalon Red Maple         |
| <u>Carpinus betulus purpurea:</u>                                        | Purple European Hornbeam |
| <u>Cercidiphyllum japonicum:</u>                                         | Katsura Tree             |
| <u>Carpinus caroliniana:</u>                                             | American Hornbeam        |
| <u>Cladrastic lutea:</u>                                                 | American Yellow Wood     |
| <u>Fagus sylvatica</u><br><u>"Heterophylla"</u>                          | European Beech*          |
| <u>Fraxinus oxycarpa "Flame":</u>                                        | Flame Ash                |
| <u>Fraxinus holotricha</u><br><u>"Morain"</u>                            | Morain Ash               |
| <u>Fraxinus pennsylvanica</u><br><u>lanceolata:</u>                      | Marshall's Seedless Ash  |
| <u>Phellodendron amurense:</u>                                           | Amur Cork Tree           |
| <u>Prunus blieriana</u><br><u>"Newport" or</u><br><u>"Thundercloud":</u> | Flowering Plums          |
| <u>Prunus campanulata:</u>                                               | Taiwan Flowering Cherry  |
| <u>Prunus serrulata</u><br><u>"Kwansan":</u>                             | Kwansan Flowering Cherry |
| <u>Prunus subhirilla</u><br><u>"Autumnalis":</u>                         | Autumn Flowering Cherry  |
| <u>Pyrus calleryana</u><br><u>"Bradford":</u>                            | Bradford Pear*           |
| <u>Quercus phellos:</u>                                                  | Willow Oak*              |
| <u>Saphora japonica:</u>                                                 | Japanese Pagoda Tree     |
| <u>Styrax japonica:</u>                                                  | Fragrant Snowbell        |
| <u>Tilia cordata:</u>                                                    | Little Leaf Linden*      |

**LARGE CANOPY TREES:**

|                                    |                                                    |
|------------------------------------|----------------------------------------------------|
| <u>Acer rubrum spec.:</u>          | Red Maple*                                         |
| <u>Acer saccharum:</u>             | Sugar Maple*                                       |
| <u>Ginko biloba:</u>               | Ginko*                                             |
| <u>Gleditsia triacanthos var.:</u> | Moraine Thornless Honey Locust*                    |
| <u>Liriodendron tulipifera:</u>    | Tulip Tree                                         |
| <u>Paulownia tormentosa:</u>       | Empress Tree                                       |
| <u>Platanus acerifolia:</u>        | Sycamore (should have a 12' wide<br>planting area) |
| <u>Quercas coccinea:</u>           | Scarlet Oak                                        |
| <u>Quercas robur:</u>              | White Oak                                          |
| <u>Quercas rubra:</u>              | Red Oak                                            |

**\*Because of their strong central trunk growth pattern or large mature size, these trees should not be planted beneath overhead utilities.**



**ARTICLE 6 USE STANDARDS****SECTION 6.010 USE STANDARDS**

Use Standards apply to specialized uses that may occur in more than one zoning district. They are in addition to the standards specified for the Zoning District in **Article 4** and the General Development Standards in **Article 5**. The following Sections specify use standards applicable to specialized uses within the City of Millersburg.

**SECTION 6.110 RESIDENTIAL ACCESSORY USES**

An accessory use shall comply with all requirements for a principal use, except where specifically modified by this section. Accessory uses shall not be used for human habitation except as specified in this section. Accessory uses shall comply with the following standards:

- (1) Accessory buildings shall not be used for dwelling purposes unless submitted for approval under the Site Plan Review provisions of **Section 2.400**.
- (2) No sales shall be made from an accessory structure unless it has been approved as a Home Occupation under the conditional use provisions of **Section 2.500** and the home occupation standards of **Article 6**.
- (3) Accessory buildings in the Urban Conversion Zone shall be limited to one story not exceeding a height of 24 feet and 800 square feet in area unless submitted for approval under the Site Plan Review provisions of **Section 2.400**. Farm accessory buildings in the Rural Residential Zones are exempt from the size requirements.
- (4) A separate accessory structure shall be detached from all other buildings by at least eight (8) feet unless submitted for approval under the Site Plan Review provisions of **Section 2.400**.
- (5) Boats, trailers, detached campers, motorized dwellings and similar recreational equipment may be stored, but not used for continuous human habitation. Habitation is limited to 60 days in conformance with **Section 1.130 (7)**.

**SECTION 6.120 HOME OCCUPATION STANDARDS**

A home occupation is defined as any type of profession or occupation, full-time or part-time, that is carried on by any member of the immediate family residing on the premises, where such profession or occupation is subordinate to the primary use of the premises as a residence. Garage Sales are not considered a Home Occupation unless the frequency exceeds 6 sales per year.

A Home Occupation is a Conditional Use for any single-family home and must comply with the Conditional Use provisions of **Section 2.500** and the following additional standards:

- (1) The home occupation shall be secondary to the main use of the dwelling as a residence.
- (2) All aspects of the home occupation shall be contained and conducted within a completely enclosed building.
- (3) The home occupation shall be limited to either a pre-existing garage or accessory structure, or not over 25% of the floor area of the main floor of a dwelling. If located within an accessory structure or a garage, the home occupation shall not utilize over 500 square feet of floor area.

- (4) No structural alteration, including the provision of an additional entrance, shall be permitted to accommodate the home occupation, except when otherwise required by law. Such structural alteration shall not detract from the outward appearance of the property as a residential use.
- (5) No persons other than members of the immediate family residing within the dwelling shall be engaged in the home occupation unless approved under the Conditional Use procedures specified in **Section 2.500**.
- (6) No window display or sample commodities displayed outside the dwelling shall be allowed.
- (7) No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or any other factor.
- (8) No parking of customer vehicles in a manner or frequency that would cause disturbance or inconvenience to nearby residents or that would necessitate off-street parking shall be allowed.
- (9) No signs shall be permitted except for a single name plate not to exceed 4 square feet in area unless approved by the Planning Commission.
- (10) No home occupation shall be allowed which requires an emissions permit from any local, state or federal agency.
- (11) No more than one home occupation shall be carried on at any one time on one lot, regardless of the number of buildings on that lot.
- (12) A Bed & Breakfast Lodging facility may be approved as a specialized Home Occupation under the Conditional Use procedures specified in **Section 2.500**.

#### **SECTION 6.130 RESIDENTIAL CARE HOME STANDARDS**

A Residential Care Homes for 5 or less people and Group Child Care Homes for 12 or less children is a Permitted Use in a dwelling located within any residential district with the following additional standards:

- (1) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (2) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (3) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

#### **SECTION 6.140 RESIDENTIAL CARE FACILITY STANDARDS**

A Residential Care Facility other than a private residence for more than 12 children or for more than 5 adults is a Permitted Use in Residential Districts and may be allowed in accordance with the Conditional Use provisions of **Section 2.500** provided there is compliance with the following additional standards:

- (1) The facility is served by the municipal water and sewer systems.



- (2) Access shall be from a designated arterial or collector street.
- (3) Requirements for front, rear, side and street side yards may be increased to minimize potential impacts to adjacent single-family residences.
- (4) Additional landscaping, privacy fencing, buffers or other screening devices may be required to screen or protect the facility or adjacent properties.
- (5) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (6) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (7) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

#### **SECTION 6.150 MULTIPLE-FAMILY HOUSING STANDARDS**

Multiple-Family housing is allowed in accordance with the Conditional Use Provisions of **Section 2.500**, under the following Urban Conversion Standards provided municipal water and sewer service is available.

- (1) Minimum Lot Area - One Acre unless approved by the Planning Commission.
- (2) Maximum Density - 10 Units per Acre unless approved by the Planning Commission.
- (3) Access shall be from a designated arterial or collector street.
- (4) Requirements for front, rear, side and street side yards may be increased to minimize potential impacts to adjacent single-family residences.
- (5) On-site bicycle storage facilities, bicycle paths and pedestrian ways shall be provided for developments exceeding six dwelling units.
- (6) The City may require establishment of deed covenants, conditions and restrictions (CC&R's) or other conditions when deemed necessary for the mitigation of potential adverse impacts on a neighborhood or adjacent areas:
- (7) The City may regulate the type and style of multiple-family dwelling units to mitigate potential adverse impacts on a neighborhood or adjacent areas.
- (8) Additional landscape screening in conformance with **Section 5.134 (9)** may be required on the property boundary to mitigate potential adverse impacts on adjacent properties.

#### **SECTION 6.160 MANUFACTURED DWELLING STANDARDS**

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918 specify the standards and regulations for Manufactured Dwelling (MH) use in the State of Oregon. The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) defines the state standards and Section 6.170 provides additional supporting standards for all manufactured dwelling developments within the City of Millersburg. The standards contained herein are intended to support suitable living environments for

residents of manufactured dwellings and to increase compatibility with adjacent land uses.

#### **SECTION 6.161 GENERAL PROVISIONS**

- (1) **Definitions.** The definitions of terms used are as defined in the latest edition of the Oregon Manufactured Dwelling and Park Specialty Code (OMDS) and **Section 1.200** of this Code.
- (2) **Relationship to Deed Restrictions.** Nothing in these provisions shall be interpreted as superseding more restrictive deed covenants, conditions or restrictions (CC&R's). The Standards contain herein are the "minimum requirements" of the City. Applicant/Owners may specify more restrictive standards for their development as part of their CC&R's.
- (3) **Manufactured Housing Construction & Safety Standards.** All manufactured dwellings must comply with the minimum construction standards in effect at the time of construction, and all associated rules, regulations, amendments and interpretations of both federal and state authorities. All manufactured dwellings placed in the City of Millersburg must bear a U.S. Department of Housing and Urban Development, HUD, certification label or a State of Oregon Manufactured Dwelling Insignia of Compliance.
- (4) **Building Permit.** The owner of a lot upon which a manufactured dwelling is to be installed shall, before installation, obtain a Manufactured Dwelling Building Installation Permit from the City. In applying for and obtaining said permit, the owner of a lot shall be deemed to have agreed to comply with Oregon State Standards and the terms of this Code.
- (5) **Inspection.** The manufactured dwelling shall be inspected by the Building Inspector, who shall determine that the manufactured dwelling complies with State standards for manufactured dwelling construction and siting, the standards set forth in this Code and, prior to approval of installation, require the owner of said manufactured dwelling to bring the manufactured dwelling up to the required standards by repair and improvement.

No reconstruction or equipment installation shall have been made to the manufactured dwelling unless it has been state approved as evidenced by an appropriate State of Oregon insignia.
- (6) **Perimeter Enclosures & Support Systems.** All load bearing foundations, supports, and enclosures shall be installed in conformance with state regulations and with the manufacturer's installation specifications. There are two primary types of perimeter enclosures permitted:
  - (a) **Perimeter Skirting:** Skirting shall be constructed in accordance with the Oregon Manufactured Dwelling Standards. Permitted perimeter skirting materials are any material or system approved by the State of Oregon.
  - (b) **Perimeter Foundations:** shall be constructed in accordance with the Oregon State One and Two Family Dwelling Code in addition to the Oregon Manufactured Dwelling Standards. Permitted perimeter foundation materials are concrete, masonry, or other materials approved by the Building Official.
- (7) **Accessory Structures.** All accessory structures must be constructed to the Oregon State One and Two Family Dwelling Code.



- (8) **Removal.** If the manufactured dwelling is removed from its foundation, the owner shall, within (6) months of said removal, make application for and replace said manufactured dwelling with an approved manufactured dwelling, or remove the foundation which protrudes above the slab or ground level. Disconnect and cap all sewer, water and utility services. Should said owner fail to do so, the city may contract to make such removal and disconnection, and collect the costs thereof from said owner or place a lien against said real property for said costs unpaid by said owner.
- (9) **Continued Use.** Any manufactured dwelling in place at the time of passing this Code and appropriately connected to a sewer and water system, but otherwise not conforming to the above requirements, may be maintained in the place of location. Any replacement of said manufactured dwelling shall comply with the requirements stated herein and The State of Oregon Installation Standards.

#### **SECTION 6.162 CLASSIFICATION OF MANUFACTURED DWELLINGS**

Manufactured Dwelling Classes. For purposes of these regulations, manufactured dwellings are divided into two classes, "A" and "B". The classes are segregated by the size of the manufactured dwelling. All manufactured dwellings placed within the City after the effective date of this Code must comply with the following placement standards.

- (1) **Class "A"** A Class "A" manufactured dwelling is one which meets the following standards:
  - (a) A double-wide or multi-sectional unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official is required prior to placement.
  - (b) Contains more than one thousand (1,000) square feet of occupied space in a double-section or larger multi-section unit.
  - (c) Placed onto a permanent foundation system with perimeter walls, piers and skirting with wheels, axles, and hitch mechanisms removed in accordance with approved state installation standards.
  - (d) Minimum roof pitch shall be 3 inch rise for each 12 inches of run with materials commonly used for site-built houses such as composition, wood or tile shingles.
  - (e) Exterior materials shall be similar to those used on site-built houses.
  - (f) Placement: Class "A" manufactured dwellings are permitted outright on all individual lots in all Residential Districts, for temporary uses specified in **Section 6.164** and in all manufactured dwelling parks.
- (2) **Class "B"** A Class "B" manufactured dwelling is one which meets the following standards:
  - (a) A single-section unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition

and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official required prior to placement.

- (b) Contains more than five hundred (500) square feet of occupied space in a single or expando unit.
  - (c) Placed onto a permanent foundation system with perimeter walls, piers and skirting with wheels, axles, and hitch mechanisms removed in accordance with approved state installation standards.
  - (d) Exterior materials shall be similar to those used on site-built houses.
  - (e) Placement: Class "B" manufactured dwellings are permitted outright in all manufactured dwelling parks and all temporary uses specified in **Section 6.164**. Class "B" manufactured dwellings may also be permitted by Conditional Use on individual lots as specified in **Section 6.163**.
- (3) **Class "C"** A Class "C" manufactured dwelling is one which meets the following standards:
- (a) A single or double section unit built after June 15, 1976, and not classified as a Class "A" or "B" manufactured dwelling, bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in good condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official required prior to placement.
  - (b) Contains more than three hundred twenty (320) square feet of occupied space in a single, double, expando, or multi-section unit.
  - (c) Placed onto a permanent foundation system and enclosed with a perimeter foundation, siding or skirting with wheels, axles, and hitch mechanisms removed in accordance with approved state installation standards.
  - (d) Placement: Class "C" manufactured dwellings are permitted in all manufactured dwelling parks existing prior to the date of this Code. These units may also be allowed on individual lots under the conditions specified in **Section 6.163**.

#### **SECTION 6.163 PLACEMENT ON INDIVIDUAL LOTS**

- (1) **Manufactured Dwelling Placements.** Class "A" Manufactured Dwellings are permitted on individual parcels outside of Manufactured Dwelling Parks in the City's Rural Residential and Urban Conversion Zones in accordance with the standards of this Section and all other provisions of the Millersburg Land Development Code for conventional built dwellings placed within a Residential Zone.
- (a) All manufactured dwellings placed outside of manufactured dwelling parks shall be set onto an excavated area with a perimeter foundation of concrete or masonry.
  - (b) All manufactured dwellings placed on individual lots or parcels outside of manufactured dwelling parks shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards equivalent to



the performance standards required for single-family dwellings constructed under the state building code as defined in **ORS 455.010**.

- (2) Conditional Use approval in conformance with **Section 2.500** is required for placement of a Class "B" or "C" manufactured dwelling on an individual lot in the Rural Residential Zones. In order to be approved, the unit must be found to have design compatibility with other dwellings within 500 feet of the subject lot or parcel. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:
  - (a) Roofing materials shall be similar in appearance to site-built housing in the vicinity. The roof pitch shall be a minimum roof pitch of 2/12.
  - (b) Foundation, and siding materials shall be similar in appearance or complementary to other homes in the vicinity.
  - (c) The placement of the manufactured dwelling and accessory structures upon the lot shall be consistent with other homes in the review area in terms of setback dimensions, angle to the street, location of garage or carport, and any other special features of the neighborhood or vicinity.
  - (d) The location and design of porches, patios, driveways, walkways, and landscaping shall be similar to and complementary to the features of other homes in the vicinity.
  - (e) Class "C" manufactured dwellings may be allowed as replacement units for older non-conforming manufactured dwellings existing on individual lots and may be permitted as a Conditional Use on individual lots if the unit meets the compatibility standards of the area and is in good condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and approval by the Building Official is required prior to placement.

#### **SECTION 6.164      TEMPORARY MANUFACTURED DWELLING USE**

- (1) **Application:** Applicants for a temporary use permit shall make written application for review and approval on the City's Application Form. The City Administrator may grant approval for a Temporary Manufactured Dwelling use subject to **Section 1.170** and the Decision Criteria of **Section 2.400**. The Applicant shall provide a statement of intended use and the estimated length of time for the temporary use on the application form and shall submit the site plan information specified in **Section 2.140**.
- (2) **Approved Uses:** A temporary Manufactured dwelling use may be granted for the following uses:
  - (a) A manufactured dwelling as a temporary accessory dwelling to a residence for designated members of the immediate family to alleviate a financial or personal care hardship situation, or for a non-family member providing personal care to members of the family. Either the property owner, the family member or personal care provider may occupy the hardship dwelling.
  - (b) Temporary on-site residence for owners whose dwelling is under construction or a dwelling that has been destroyed.
  - (c) Caretaker residence for a commercial or industrial facility.

- (d) Temporary offices accessible to the general public for use during construction or remodeling.
  - (e) Temporary building space for public and semi-public agencies.
  - (f) Other temporary uses may be considered by the Planning Commission under the Conditional Use procedures specified in **Section 2.500**.
- (3) **Conditions of Use:** The Temporary Use Permit may be limited to a specified time period and shall be a Class "A" or "B" Manufactured Dwelling for use on a single lot in accordance with the following provisions:
- (a) Compliance with the State of Oregon Manufactured Dwelling Installation Standards.
  - (b) Manufactured dwellings shall not be included or sold as a part of any property on which it is located.
  - (c) Manufactured dwellings shall not be expanded or attached to a permanent structure.
  - (d) Manufactured dwellings shall have an approved perimeter enclosure permitted by the State of Oregon.
  - (e) Manufactured dwellings shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral.
  - (f) Use shall be limited to the function as set forth in the application for the temporary permit.
  - (g) The manufactured dwelling shall comply with residential setback requirements and shall be sited so as to have the least possible impact on adjacent properties or adjoining streets.
  - (h) The temporary use shall be subject to a Periodic Review by the City.
  - (i) The manufactured dwelling and all accessory elements shall be removed within 60 days of non-occupancy by the designated users identified in the Application.
- (4) **Renewal:** The permit as issued shall not exceed the designated approval period. The City shall notify holders of a permit at least thirty (30) days prior to the date of expiration. Applicants for renewal of a temporary use permit shall reapply and submit the same information as required for the original permit.
- (5) **Right of Revocation:** The City shall have the right to revoke any Temporary Use Permit granted under this section with thirty (30) days notice, if upon inspection, the use is found to be in noncompliance with the application for which the permit is issued.
- (6) **Removal:** If the Temporary Manufactured Dwelling is required to be removed from the site, the owner of the property shall remove the foundation and all additions to the Temporary Manufactured Dwelling and permanently disconnect and secure all utilities. The City may perform the work and place a lien against the property for the cost, after 60 days from the date on which the Temporary Manufactured Dwelling is required to be moved from the site. This condition



shall not apply in the event that another approved Temporary Manufactured Dwelling is placed on the original foundation within 60 days of the removal of the original unit.

#### **SECTION 6.165 MANUFACTURED DWELLING PARKS**

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. **Section 6.175** contains additional supporting standards for all Manufactured Dwelling Parks located within the City of Millersburg as permitted in Chapter 10 of the OMDS. In cases of conflict, the state standards of Chapter 10 shall govern.

- (1) **Where Permitted:** Class "A" or "B" Manufactured Dwellings are permitted in all Manufactured Dwelling Parks. Manufactured Dwelling Parks are permitted in the City's Rural Residential Zones in accordance with the standards of **Section 6.165** and the provisions for Conditional Use approval contained in **Section 2.500**.
- (2) **Minimum Site Area:** An area that provides space for four or more manufactured dwellings together with all conditions and standards required by Chapter 10 of the OMDS and the standards contained in **Section 6.165** herein.
- (3) **Density:** Maximum density of the park shall not exceed 7 units per gross acre.
- (4) **Access:** Manufactured Dwelling Park access shall occur from a public Collector or Arterial street.
- (5) **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.
- (6) **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:
  - (a) Limit the type of units to be installed to Class "A" or Class "B" or both.
  - (b) Additional landscaping or screening on the park boundary.
  - (c) Increased setbacks from park boundaries.
- (7) **Improvement Standards:** Park standards shall conform to The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) within the Park boundary and shall conform to City Standards when abutting public streets.
- (8) **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.
- (9) **Perimeter Setbacks:** Distance of a manufactured dwelling or accessory structure from an exterior park boundary or public right of way shall be 20 feet.

- (10) **Landscaping:** All common areas within a Manufactured Dwelling Park shall be landscaped and maintained by the Park owner in conformance with the approved Landscape & Irrigation Plan.
- (a) The following minimum standards per each 2,000 square feet of open area shall apply unless approved by the Planning Commission:
1. One tree at least six feet in height.
  2. ten shrubs or accent plants.
  3. The remaining area containing walkways and attractive ground cover at least 50% of which must be living ground cover within one year of planting.
  4. All manufactured dwelling spaces shall be landscaped within six months of manufactured dwelling placement. Such landscaping shall be the responsibility of the park owner.
- (b) **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 five-foot wood fence or masonry wall shall be constructed, 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. At least 5 five-gallon shrubs or 10 one-gallon shrubs for each remaining 1,000 square feet of required buffer area; and
  5. The remaining area treated with attractive, living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.).
- (11) **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.
- (12) **Design and Submission Requirements:**
- (a) **Professional Design Team:** The applicant for proposed Manufactured dwelling (MH) Parks shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.
- (b) **Site Plans Required:** The Conditional Use Application for a new or expansion of an existing MD Park shall be accompanied by 12 copies of the



site plan of the proposed park containing the following information in addition to that required in **Section 2.140** for Application Site Plans. The plot plan shall show the general layout of the entire Park and shall be drawn to scale. The drawing shall include all of the following information:

1. Name and type of Park, address, owner, Design Team members, scale, date and north point of plan.
2. A vicinity plan showing streets and properties within 500 feet of the development site.
3. Plot plan of park boundaries and the location, dimensions and number of MH spaces. Number each space and demonstrate that planned spaces can reasonably accommodate a variety of MH or RV types.
4. Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas.
5. Location and dimensions of roads, accessways, parking, loading facilities, garbage receptacles and walkways.
6. Extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
7. Location of lighting fixtures for park spaces and grounds.
8. Location and area of recreation spaces and buildings in square feet.
9. Locations where park water, sewer, drainage and utility systems connect to City systems.
10. Location of existing and proposed fire and irrigation hydrants.
11. Enlarged plot plan of a typical MH space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalk, utility connections, and landscaping.
12. Architectural drawings and sketches demonstrating the planning and character of the proposed development.
13. A construction time schedule and development phasing plan.
14. Detailed plans required. Prior to application for a building permit to construct a new Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:
  - a. A legal survey.
  - b. Plans of new structures.
  - c. Water and sewer systems.
  - d. Utility easements.
  - e. Road, sidewalk, and patio construction.
  - f. Drainage system, including existing and proposed finished grades.
  - g. Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.
  - h. Landscaping and irrigation plans.

**SECTION 6.170 RECREATION VEHICLE PARK STANDARDS**

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918, Division 650 specify the standards and regulations for Recreational Vehicle (RV) use in the State of Oregon. Approved RV parks shall comply with the State of Oregon Standards and the standards of this Section:

- (1) **Where Permitted:** RV Parks may be permitted in the Limited Industrial Zone - LI adjacent to a City Arterial Street in accordance with the Conditional Use procedures of **Section 2.500**.
- (2) Each RV space shall be not less than one thousand (1,200) square feet exclusive of any common park areas.
- (3) Roadways shall be paved and designed to permit easy access to each RV space. Road widths shall be not less than 30 feet if street parking is permitted on one side, or less than 20 feet if street parking is not permitted.
- (4) Each RV stand shall be paved and designed to provide runoff of surface water. All unpaved areas shall be landscaped and the park shall be screened on all sides by a 6 foot high sight-obscuring hedge or fence.
- (5) The total number of parking spaces in the park shall be equal to 1.25 spaces per RV space. All parking spaces shall be paved.
- (6) Each RV space shall be provided with electrical service, piped potable water and sewage disposal service. All RV's with service connections staying in the park shall be connected to these services.
- (7) The park shall be maintained in a neat appearance at all times. There shall be no outside storage of materials or equipment. Trash receptacles shall be provided at convenient locations and in adequate number and capacity.
- (8) RV's are limited to a stay of no more than six months in any 12 month period.
- (9) The park shall provide toilets, lavatories, and showers for each sex in ratios specified by the State of Oregon for each recreational vehicle space. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in separate buildings, or, if in the same building, shall be separated by a soundproof wall.
- (10) The park shall provide one utility building or room containing three clothes washing machines, one clothes drying machine, and 50 square feet of space for each 50 recreational vehicle spaces.
- (11) Public building spaces shall be lighted at all times of night and day; shall be ventilated; shall be provided with heating facilities which shall maintain a room temperature no lower than 65° F; shall have floor of waterproof material; shall have sanitary ceiling, floor, and wall surfaces; and shall be provided with adequate floor drains to permit easy cleaning.
- (12) **Design and Submission Requirements:**
  - (a) **Professional Design Team:** The applicant for proposed for Recreational Vehicle (RV) Parks shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.



(b) Plot Plans Required: The Site Plan Review application for a new or expansion of an existing RV Park shall be accompanied by twelve copies of the plot plan of the proposed park and shall contain the following information in addition to that required in **Section 2.400** for Site Plan Reviews:

1. Name and type of Park, address, owner, Design Team members, scale, date and north point of plan.
2. A vicinity plan showing streets and properties within 500 feet of the development site.
3. Plot plan of park boundaries and the location, dimensions and number of RV spaces. Number each space and demonstrate that planned spaces can reasonably accommodate a variety of MH or RV types.
4. Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas.
5. Location and dimensions of roads, accessways, parking, loading facilities, garbage receptacles and walkways.
6. Extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
7. Location of lighting fixtures for park spaces and grounds.
8. Location and area of recreation spaces and buildings in square feet.
9. Locations where park water, sewer, drainage and utility systems connect to City systems.
10. Location of existing and proposed fire and irrigation hydrants.
11. Enlarged plot plan of a typical RV space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalk, utility connections, and landscaping.
12. Architectural drawings and sketches demonstrating the planning and character of the proposed development.
13. A construction time schedule and development phasing plan.
14. Detailed plans required. Prior to application for a building permit to construct a new Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:
  1. A legal survey.
  2. Plans of new structures.
  3. Water and sewer systems.
  4. Utility easements.
  5. Road, sidewalk, and patio construction.
  6. Drainage system, including existing and proposed finished grades.

7. Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.
8. Landscaping and irrigation plans.

#### **SECTION 6.210 PUBLIC & SEMI-PUBLIC USE STANDARDS**

Public and Semi-public uses represent a wide range of "Civic" use types that include utilities, public safety, maintenance, governmental, recreational, educational, cultural, religious, and civic assembly uses or facilities. Public and semi-public uses shall comply with the following additional standards in addition to the standards of the zoning district in which the public use is located:

- (1) Public and Semi-public uses in residential districts may be permitted in accordance with the **Conditional Use** provisions of **Section 2.500** and the standards contained herein.
- (2) Public and Semi-public uses in commercial or industrial districts may be permitted in accordance with the **Site Plan Review** provisions of **Section 2.400** and the standards contained herein.
- (3) Requirements for front, rear, side and street side yards, for public uses shall not be less than that specified for the Primary or Overlay District unless specifically approved as part of the conditional use or site plan review procedures. Yard setbacks may be increased by one (1) foot for each foot by which the structure height exceeds that specified for the district.
- (4) Additional landscaping, fencing, buffers or other screening devices may be required to screen or protect adjacent properties or the street.
- (5) Off-street parking for the specified use shall comply with **Section 5.121**.
- (6) In a residential district, all equipment and material storage shall be within an enclosed building unless it is deemed necessary and approved in accordance with the **Conditional Use** provisions of **Section 2.500**.
- (7) Exterior lighting shall be directed away from abutting residential properties.
- (8) Offices and workshops should be located in the commercial or industrial districts whenever possible and should not be permitted in a residential district unless it is deemed necessary and approved in accordance with the **Conditional Use** provisions of **Section 2.500**.
- (9) Public utility facilities including treatment, maintenance and storage areas should be located in the industrial district whenever possible and should not be permitted in a residential or commercial district unless it is deemed necessary and approved in accordance with the **Conditional Use** or **Site Plan Review** provisions of **Section 2.500** or **Section 2.400**.
- (10) The minimum lot size requirement may be waived on finding that the waiver will not result in noise or other detrimental impacts to adjacent or nearby property.

#### **SECTION 6.310 COMMERCIAL USE STANDARDS**

The Code recognizes that commercial use patterns can vary depending upon the type and location of these facilities. The following conditions and standards shall apply in addition to the standards for the Community Commercial Zone in **Section 4.121**.



**SECTION 6.311 NEIGHBORHOOD COMMERCIAL**

Neighborhood commercial facilities in residential areas is intended for small retail grocery stores to serve nearby residential needs in convenient locations and may be approved in the residential Urban Conversion Zones as a Conditional Use in conformance with **Section 2.500** under the following conditions:

- (1) Commercial uses shall be limited to retail grocery and related convenience goods. A residence for the storeowner is also permitted.
- (2) The proposed location is an Urban Conversion residential lot with a minimum area of 10,000 sf located at the intersection of an Arterial or Collector Street with municipal water and sewer services.
- (3) No on-site commercial parking is permitted, curbside commercial parking is permitted. Rear access parking for a residence shall be provided on-site.
- (4) A front yard setback of 12 feet is permitted. Other setbacks shall be the same as the residential district with hedges or fencing provided adjacent to abutting residences in conformance with **Section 5.134 (9)**.
- (5) A minimum 12 foot wide street side sidewalk with planter openings, street trees, bicycle parking and benches shall be provided.

**SECTION 6.312 STREET FRONTAGE COMMERCIAL**

Street frontage commercial facilities are intended for locations adjacent to public streets in commercial zones where pedestrian facilities and access is available and may be approved as part of a Site Plan Review procedures of **Section 2.400** or as a Conditional Use in conformance with **Section 2.500** for the Limited Industrial Zone – LI under the following conditions:

- (1) Any permitted commercial use allowed in **Section 4.121** may be approved.
- (2) A front yard setback of 12 feet is permitted. Other setbacks shall be the same as the Commercial Zone with hedges or fencing provided adjacent to abutting residences.
- (3) A minimum 12 foot wide street side sidewalk with planter openings, street trees, bicycle parking and benches shall be provided.
- (4) Off-street parking for the specified use shall comply with **Section 5.121**.
- (5) On-site commercial parking shall not be located in the front yard but may be provided at the side or rear of the property.

**SECTION 6.313 PARKING FRONTAGE COMMERCIAL**

Commercial Centers are intended for locations adjacent to Arterial Streets in commercial zones where front yard vehicle parking is desired and may be approved as part of the Site Plan Review procedures of **Section 2.400** or as a Conditional Use in conformance with **Section 2.500** for the Limited Industrial Zone – LI under the following conditions:

- (1) Any permitted commercial use allowed in **Section 4.121** may be approved.
- (2) Any commercial lot with a minimum area of 5 acres unless a smaller lot can be demonstrated to fulfill the intent of this Code.

- (3) Off-street parking for the specified use shall comply with **Section 5.121**.
- (4) A minimum 10 foot wide landscaped buffer shall be provided between the street sidewalk and the front area parking lot. A minimum 10 foot wide building entry sidewalk with planter openings, street trees, bicycle parking and benches shall be provided.

#### **SECTION 6.314 MIXED USE COMMERCIAL**

- (1) **Existing Houses:** In commercial districts pre-existing residential structures may be occupied by commercial uses permitted in the commercial district provided the structure meets minimum building and safety standards as provided in the Building Code and provided further that the City approves a development plan for vehicular access and parking, signing, and exterior lighting in accordance with the **Site Plan Review** provisions of **Section 2.400**.
- (2) **Residences:** A single-family residence for the owner of a commercial business may be permitted in the CC District in accordance with Site Plan Review provisions of **Section 2.400** and the standards contained herein.
  - (a) On-site Parking shall be provided for both the commercial and residential uses in accordance with **Section 5.121**.
  - (b) Residences shall be located above or at the rear of the commercial business unless an alternative is approved by the Planning Commission. Residential side and rear yard setbacks and open space is required for ground floor residences in conformance with the Urban Conversion Zoning standards.
- (3) **Mixed Residential & Commercial:** Single-family or Multi-family housing may be permitted in combination with a commercial facility in the CC OR LIC District in accordance with the **Conditional Use** provisions of **Section 2.500** and the standards contained herein.
  - (a) On-site Parking shall be provided for both the commercial and residential uses in accordance with **Section 5.121**.
  - (b) Residential yard setbacks and open space is required for ground floor residences in conformance with the Urban Residential standards of the Urban Conversion Zoning Districts.

#### **SECTION 6.410 AGRICULTURAL USE STANDARDS**

Agricultural use of property in the City is permitted under the following conditions and standards:

- (1) Agricultural uses existing prior to adoption of this Code may continue in conformance with the standards contained herein.
- (2) The raising of crops in the general field of horticulture including berry, brush, tree, flower and vegetables for on-site home consumption is allowed on any lot within the city.
- (3) The raising of crops in the general field of horticulture including berry, brush, tree, flower and vegetables for seasonal sales on site is a Permitted Use and is an interim Permitted Use in the Industrial Districts.



- (4) The raising of commercial field crops in the general field of horticulture is permitted on any Rural Residential lot and is an interim Permitted Use in the Industrial Districts within the City.
- (5) The raising of farm animals in the general field of animal husbandry including fowl, rabbits, sheep, goats, pigs, cows, horses, llamas and similar domesticated animals for on-site home consumption, use, sale or trade is a Permitted Use on any Rural Residential lot and is an interim Permitted Use in the Industrial Districts within the City.
- (6) The raising of farm animals commercially in the general field of animal husbandry is Permitted on Rural Residential lots in the RR-10-UC Zone and is an interim Permitted Use in the Industrial Districts within the City. Smaller lots may be approved as a **Conditional Use** in accordance with **Section 2.500**.
- (7) It is the continuing responsibility of the owner to properly contain or restrain all animals or fowl and to maintain proper sanitation at all times including the following minimum standards:
  - (a) Animals or fowl shall be properly contained or restrained and proper sanitation shall be maintained at all times and further provided that such raising activities are not part of nor conducted in conjunction with any live stock sales yard, slaughter house, or animal by-product business.
  - (b) Fencing must be designed and constructed to confine all animals within the property line.
  - (d) Proper sanitation shall be maintained in conformance with applicable health standards for all farm animals. Proper sanitation includes:
    - 1. Not allowing animal waste to accumulate.
    - 2. Not allowing animal waste to contaminate groundwater or drainageways.
    - 3. Taking the necessary steps to limit odors resulting from farm animals.
    - 4. Storing all farm animal food in metal or other rodent proof containers.
  - (e) It is the responsibility of the owner/applicant to clearly demonstrate that proper health and sanitation standards will be maintained and that potential nuisance factors such as noise, smell and unsightly conditions are mitigated.
- (8) The above standards are the minimum standards applicable to property located within the City of Millersburg, additional site area or other standards may be required to comply with State Health and Sanitation Standards.

#### **SECTION 6.510 HISTORIC PRESERVATION USE STANDARDS**

Statewide Planning Goal 5 defines Historic Areas as lands with sites, structures and objects that have local, regional, statewide or national historical significance. Goal 5 also specifies that the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 and the recommendation of the State Advisory Committee on Historic Preservation should be utilized in designating historic resources. OAR 660-23-200 provides specific rules for compliance with Goal 5, Historic Resources.

A Statewide Comprehensive Historic Preservation Plan is authorized by ORS Chapter 358, administered by the State Department of Parks and Recreation as the State Historic Preservation Program. Local governments should encourage the preservation, management, and enhancement of structures, resources, and objects of historic significance in conformance with, but not limited by, the provisions of ORS 358.

**SECTION 6.511 MILLERSBURG HISTORIC RESOURCES**

In 1850 when Congress established the Donation Land Claim Act, six members of the Miller family filed land claims for the area now in the City of Millersburg.

In 1871, the Southern Pacific Railroad built a station on the Southern Pacific line near the present Tank Farm. This station was known as Millers Station and the surrounding area became known as Millersburg. A Post Office was added to the station in 1873.

During the 1880's, Millers Station became one of the largest cattle shipping points in the Willamette Valley, with 20 or more trains. Millersburg remained a rural area until after World War II. Economic activity consisted of cattle raising, dairying and row and field crops.

The Millersburg School District was established in 1876. A school was built on the site now occupied by the Millersburg Elementary School that has been closed by the School District and converted into the Weyerhaeuser Training Center.

Industrial development in Millersburg began in the 1950's. The Albany Paper Mill was established in 1955 and was followed by Wah Chang, Boise Cascade, Willamette-Duraflake, Simpson Timber, Georgia Pacific and others. It was not until 1974 however, that the City of Millersburg was actually incorporated.

The designation of historic resources allows the City to formally recognize and protect its historic heritage.

- (1) The Millersburg Planning Commission is recognized by the City as the committee for historic review and recommendation. The Planning Commission shall review all:
  - (a) Requests for designation or removal of a listed Historic Structure or designation of a Historic Resource.
  - (b) Requests for alteration, demolition and moving of a historic resource or proposed new construction within a designated Historic Area.

**SECTION 6.512 MILLERSBURG HISTORIC SITES & STRUCTURES**

**Miller Cemetery** is the primary historic site within the community. The cemetery covers an area of 2.20 acres and is located at Woods and Millers Cemetery Roads.

The cemetery contains the graves of early Millersburg area pioneers. The City has assumed responsibility for upkeep of the cemetery at the request of the Miller Cemetery Association. The City has fenced the site and is maintaining the cemetery.

The **Millersburg School Site** and the old **Railroad Station** site are historic locations but no physical features remain of historic significance.

The City is of very recent origin and the historic resources of the City are limited. There are no historical structures within the community. The City, as the de facto guardian of the community's historical heritage can however take some steps to guard what remains of that heritage and help identify sites and locations. Specifically, the City can undertake the following steps:

1. Continued maintenance of Miller Cemetery and placement of an identification sign at the site.



2. Designate and provide signs for other sites, such as the old school site and the former railroad depot site.
3. Act as a repository of information on the early history of the area.
4. The major industries in Millersburg represent, if not a historic resource, certainly a potential interest resource. The City should cooperate with these industries by helping to publicize tours and by encouraging signs which show plant lay out and describe the products produced.

#### **SECTION 6.513 HISTORIC RESOURCE DESIGNATION**

The designation of a Historic Structure or Site supplements the regulations of the Primary Land Use District and can apply to any historic resource within the City.

- (1) The City or a property owner may apply for designation of a Historic Structure or Site in combination with any Primary Zoning District in accordance with the application requirements of **Sections 2.130 and 2.140** and the **Conditional Use** procedures of **Section 2.500** and the requirements of this Section.
- (2) Applications shall first be submitted to the City in accordance with **Sections 2.130 and 2.140** together with the following additional information:
  - (a) A description and map of the location of the proposed Historic Structure or District or the proposed historic resource to be evaluated.
  - (b) A statement of the reasons why the proposed district or resource is appropriate for designation as a Historic Resource.
  - (c) A statement of the potential impact, if any, that a historic resource designation would have on the property owners or surrounding property owners of the proposed historic resource.
  - (d) A statement by the property owner agreeing to the Historic Resource designation.
- (3) Submitted applications shall be reviewed by the City Administrator for completeness and forwarded to the Millersburg Planning Commission for a public hearing in conformance with the **Conditional Use** procedures of **Section 2.500** and the requirements of this Section and the hearing procedures of **Section 3.510**.
- (4) The City Administrator shall provide the property owner and applicant with information regarding the benefits and obligations of a Historic Structure or District designation at the time of application.
- (5) **Decision Criteria.** Approval shall be based upon compliance with the submittal requirements and the following considerations:
  - (a) Property owner agreement.
  - (b) There is an 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.
  - (c) There is an association with an event that has made a significant contribution to the city, county, state or nation.

- (d) There is an association with broad patterns of political, economic, or industrial history in the city, county, state, or nation.
  - (e) The resource embodies distinguishing characteristics of design, style, construction, craftsmanship or materials.
  - (f) The resource retains its original design features, materials and/or character;
  - (g) The resource is unique, the only remaining or one of a few resources of a particular kind.
  - (h) It is a visual community landmark.
  - (i) The site contains, or may yield, historic, prehistoric or archaeological information.
  - (j) Existing land uses surrounding the resource contribute to the integrity of the historic period represented.
  - (k) The resource contributes to the continuity or historic character of the street, neighborhood, and/or the community.
  - (l) The property is 50 years old or older.
  - (m) The proposed landmark or district complies with the National Register Criteria for Evaluation or the Secretary of the Interior's Standards for Evaluation.
  - (n) The proposed landmark or district is listed in the State Historic Preservation Program or is on the National Register of Historic Places.
- (6) **Conditions of Approval.**
- (a) The City may attach conditions that are appropriate for the promotion and/or preservation of the Historic Resource.
  - (b) The City shall allow property owners of inventoried historic resources to refuse historic resource designation at any time prior to adoption of the Historic Resource designation and shall not add a site on a list of historic resources if the owner of the property objects to its designation.



## ARTICLE 7 SPECIAL AREA STANDARDS

### SECTION 7.010 CLASSIFICATION OF SPECIAL AREA STANDARDS

For the purposes of this Code the following Special Area Standards are hereby established:

| <u>SPECIAL AREA STANDARD</u> | <u>ABBREVIATED DESIGNATION</u> |
|------------------------------|--------------------------------|
| Flood Hazard Areas           | FH                             |
| Wetlands & Riparian Areas    | WR                             |
| Willamette Greenway Area     | WG                             |
| Airport Approach Area        | AA                             |
| Radon Impacted Area          | RI                             |
| Planned Development Area     | PD                             |

- (1) Special Area Standards may apply within any Primary Zoning District. The Special Area Standards shall establish additional requirements, standards and procedures for the use and development of property in the Primary Zone. In cases of conflict between the standards and requirements of the Primary Zone and the Special Area Standards, the standards and requirements of the Special Area Standards shall apply.
- (2) The **Conditional Use** procedures of **Section 2.500** shall be utilized to apply the Special Area Standards contained herein. A Conditional Use is a use of land or a structure that is normally appropriate in the zoning district where it is permitted, but due to the specific characteristics of the area additional development standards are required to safeguard the public health, safety and welfare.

### SECTION 7.100 FLOOD HAZARD AREA STANDARDS - FH

- (1) **Purpose.** It is the purpose of this Code to minimize public and private losses due to flood conditions in specific areas by provisions designed:
  - (a) To protect human life and health.
  - (b) To minimize expenditure of public money and costly flood control.
  - (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  - (d) To minimize prolonged business interruptions.
  - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets and bridges located in areas of special flood hazard.
  - (f) To provide for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
  - (g) To ensure that potential buyers are notified that property is in an area of special flood hazard.
  - (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

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

- (i) Restricting or prohibiting 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.
- (j) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (k) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
- (l) Controlling filling, grading, dredging, and other development which may increase flood damage.
- (m) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(2) **General Provisions.**

- (a) This Section shall apply to all areas of special flood hazards within the jurisdiction of the City of Millersburg. The degree of flood protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Code shall not create liability on the part of the City of Millersburg, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Code or any administrative decision lawfully made thereunder.
- (b) The areas of special flood hazard identified by the Federal Insurance Administration in the "Flood Insurance Study" for the City of Millersburg and the Flood Insurance Rate Maps (FIRM), #410284 0001B-0002B dated June 15, 1982, and any revision thereto are adopted by reference and declared to be a part of this Code. The Flood Insurance Study is on file at the Millersburg City Hall, 4222 Old Salem Road N.E., Millersburg, Oregon 97321.
- (c) A Conditional Use, subject to the provisions of **Section 2.500** shall be required before construction or development begins within any Flood Hazard Area. The permit shall apply to all structures including manufactured dwellings and all other development including fill and other activities. The following additional information shall be submitted:
  - 1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
  - 2. Elevation in relation to mean sea level to which any structure has been floodproofed.



3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing standards of this Section.
  4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (d) In addition to the standards and procedures of **Section 2.500**, the Planning Commission shall:
1. Determine that the requirements of this Code have been satisfied.
  2. 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 proposals to determine if proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this Code, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
    - a. If it is determined that there is no adverse effect, then the proposal shall be granted consistent with provisions of this Code without further consideration of these effects.
    - b. If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
  4. When base flood elevation data has not been provided, the Planning Commission shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer this Section.
  5. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of **Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76)**.
  6. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  7. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  8. Information to be obtained and maintained:

- a. Where base flood elevation data is provided through the Flood Insurance Study, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  - b. For all new or substantially improved floodproofed structures:
    - (i) verify and record the actual elevation (in relation to mean sea level), and;
    - (ii) maintain the floodproofing certifications required in Section 4.1 (3) of the NFIP.
  - c. Maintain for public inspection all records pertaining to the provisions of this Code.
- (e) In approving or disapproving a Flood Hazard development proposal, the Planning Commission shall also consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and:
- 1. The danger that materials may be swept onto other lands to the injury of others.
  - 2. The danger to life and property due to flooding or erosion damage.
  - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - 4. The importance of the services provided by the proposed facility to the community.
  - 5. The necessity to the facility of a waterfront location, where applicable.
  - 6. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage.
  - 7. The compatibility of the proposed use with existing and anticipated development.
  - 8. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area.
  - 9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  - 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.



- (3) **Flood Hazard Development Standards.** In all areas of special flood hazards the following standards are required:
- (a) **Anchoring**
    - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
    - 2. All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Dwelling Installation in Flood Hazard Areas" guidebook for additional techniques).
  - (b) **Construction materials and methods**
    - 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
    - 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
    - 3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - (c) **Utilities**
    - 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
    - 2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
    - 3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  - (d) **Subdivision proposals**
    - 1. All subdivision proposals shall be consistent with the need to minimize flood damage.
    - 2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
    - 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
    - 4. Base flood elevation data shall be provided for subdivision proposals and other proposed developments that contain at least 50 lots or 5 acres (whichever is less).

- (e) Review of building permits  
Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, Applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these areas may result in higher insurance rates.
- (f) Residential construction
  1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
  2. 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 two openings having a total net area of not less than one 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.
- (g) Nonresidential construction  
New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  1. Be floodproofed 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 design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Millersburg Planning Commission.
  4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 5.2-1(2) of the NFIP.



5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
- (h) **Manufactured Dwellings**  
All manufactured Dwellings to be placed or substantially improved within Flood Zones A1 through A30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured Dwelling is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Item (3) (a) 2. above.
- (i) **Floodways**  
Development within areas of special flood hazard designated as floodways is extremely hazardous due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, and the following additional provisions shall apply:
  1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  2. If item 1. above is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.
- (4) **Flood Hazard Definitions.**

**AREA OF SHALLOW FLOODING** means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and intermediate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicated ponding.

**AREA OF SPECIAL FLOOD HAZARD** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

**BASE FLOOD** means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**FLOOD or FLOODING** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

  - (1) The overflow of inland or tidal waters and/or

- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** means 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.

**FLOODWAY** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**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 Code.

**MANUFACTURED DWELLING** 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 Dwelling" does not include park trailers, travel trailers, and other similar vehicles.

**MANUFACTURED DWELLING PARK OR SUBDIVISION** means a parcel (or contiguous parcels) or land divided into two or more manufactured dwelling lots for rent or sale.

**NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective date of this Code.

**START OF CONSTRUCTION** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured Dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STRUCTURE** means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL IMPROVEMENT** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of a structure either:



- (1) Before the improvement or repair is started, or
- (2) If the structure has been damaged or is being restored, before the damage occurred. For the 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 structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**SECTION 7.200 WETLAND & RIPARIAN AREA STANDARDS - WR**

**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.

- (1) **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.
- (2) **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.
- (2) **City Notice.** **ORS 227.350** specifies that cities shall provide notice of proposed wetlands development to the Division of State Lands.

The city shall provide notice to the DSL, the applicant and the owner of record, within 5 working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory Map or other sources utilized by the City

- (a) Subdivisions;
  - (b) Building permits for new structures;
  - (c) 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;
  - (d) Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
  - (e) Planned unit development approvals.
- (3) The provisions of Subsection (2) of this Section do not apply if a permit from the division has been issued for the proposed activity.
  - (4) Approval of any activity described in Sub-section (2) above shall include one of the following notice statements:



- (a) 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;
  - (b) Notice from the division that no permit is required; or
  - (c) Notice from the division that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.
- (5) 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.
- (6) The City may issue conditional local approval for property identified as having wetlands or riparian areas by providing the applicant and the owner of record of the affected property a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the division with a copy of the notification.
- (7) Notice of activities authorized within an approved wetland conservation plan shall be provided to the division within five days following local approval.
- (8) Failure by the City to provide notice as required in this section will not invalidate City approval.
- (9) **Application.** The WR Special Area Standards 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.
- (10) **Development Standards.** No development shall be permitted within designated wetland or riparian areas unless a permit has been acquired from DSL and any other regulatory agency having jurisdiction.

**SECTION 7.300 WILLAMETTE GREENWAY AREA STANDARD - WG**

(1) **Purpose.** The purpose of the Greenway Management (WG) Standard 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) **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 Administrator. 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.

(3) **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.

- (4) **Greenway Conditional Use Permit.** Except as provided in Item (3), 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 Administrator'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 **Section 7.100** and the Conditional Use provisions of **Section 2.500**.

- (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.

- (5) **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.
- (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 affects 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.



- (6) **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 **Section 2.500**.

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.

- (7) **Notification.**

(a) In addition to the notification requirements of **Section 3.300** of this Code, written notice including the Greenway Conditional Use Permit application will be sent immediately to the Oregon Department Parks & 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.

(b) Notice of the Planning Commission's decision shall also be mailed to the Oregon Department of Parks & Recreation.

- (8) **Greenway Management Definitions.**

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

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

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



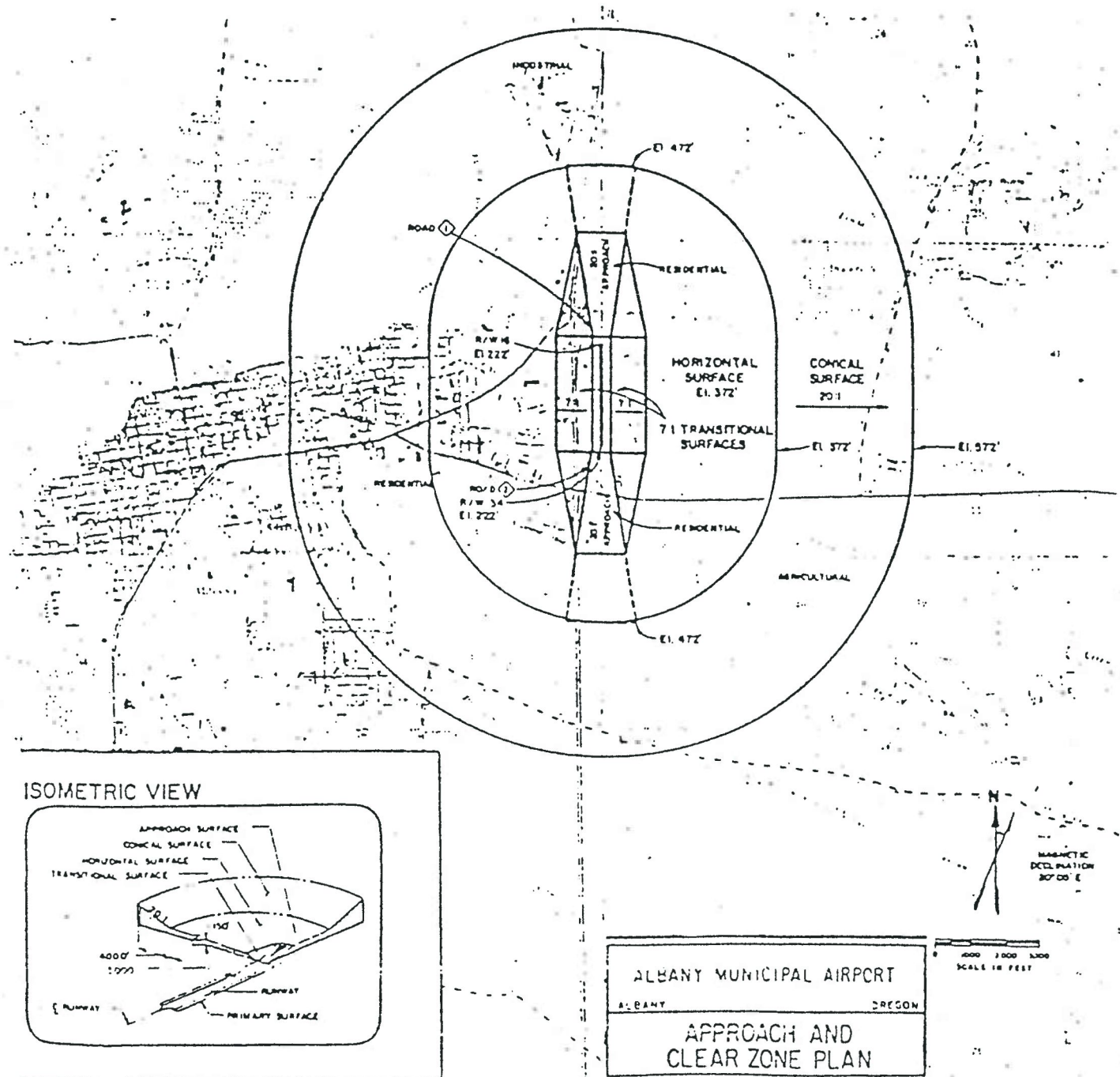
**SECTION 7.400 AIRPORT APPROACH AREA STANDARDS - AA**

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.

- (1) **Application.** The AA Area Standards may be combined with any Primary Zone when located within the designated air approach areas.
- (2) **Height Restrictions.** No structure, mast antenna, or wire shall be erected, altered, or maintained; and no tree shall be allowed to grow to a height in excess of the height limit established within each of the following described zones which are also graphically represented in **Section 10.300, Map DSD-3**:
  - (a) **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.
  - (b) **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.
  - (c) **Horizontal Zone.** Established at 150 feet above the airport elevation or at a height of 372 feet above mean sea level.
  - (d) **Conical Zone.** Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- (3) **Other Interference Prohibited.** Notwithstanding any other provisions of this Code, no use may be made of land or water within any zone established by this Code in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- (4) **Noise Construction Standards.** Within the designated airport, noise contours which are projected future noise levels and are indicated in **Section 10.300, Map DSD-4**, the following regulations shall apply:
  - (a) 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.
  - (b) Development of "noise sensitive property" (residentially zoned areas, group quarters used for sleeping, motels, hotels, schools, churches, hospitals,

libraries) within the 60 Ldn area and above shall be subject to the provisions of Site Plan Review outlined in **Section 2.400** and may be required to include additional sound buffering features within the development as a condition of approval.

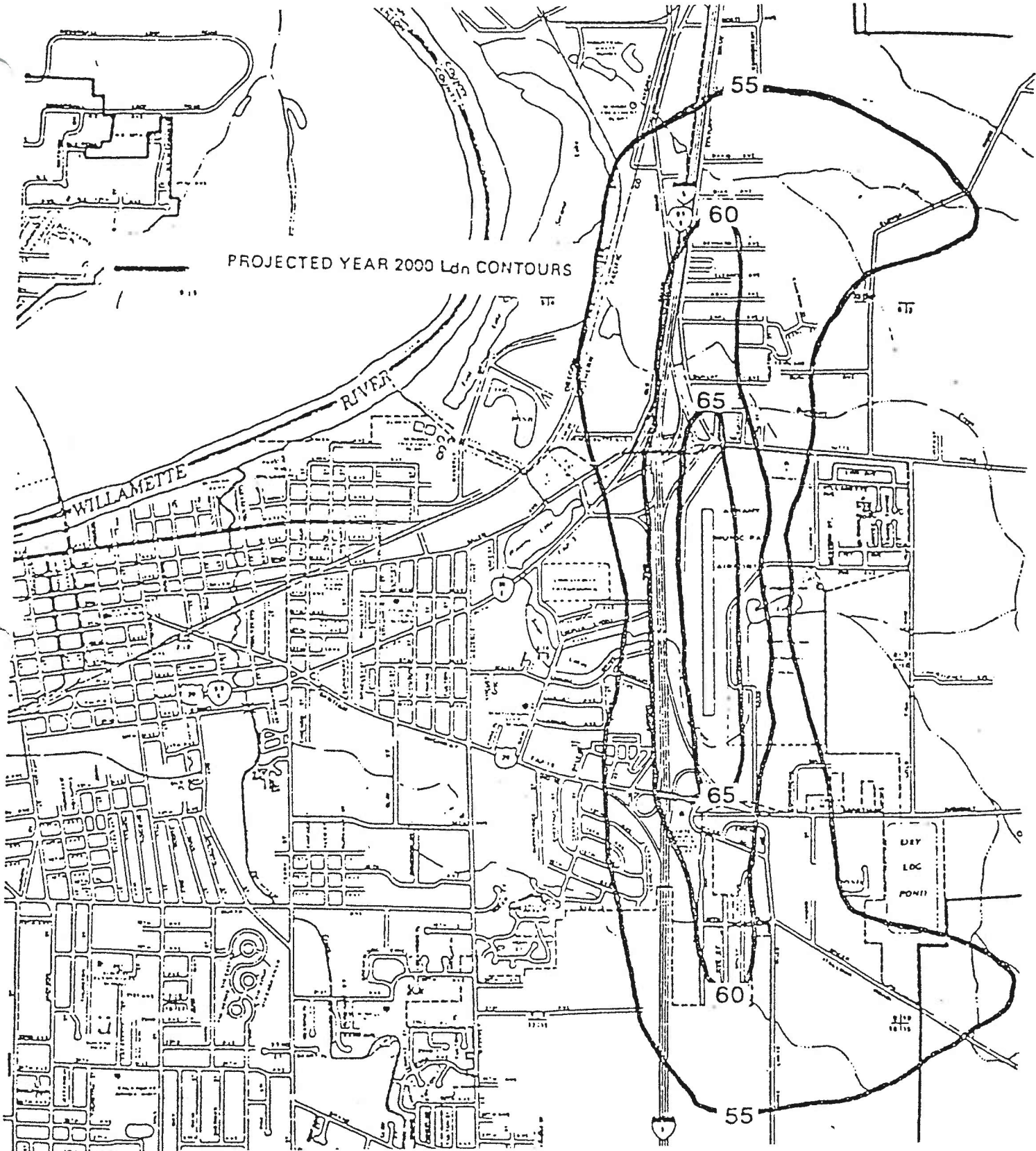




**ALBANY MUNICIPAL AIRPORT  
AIRPORT APPROACH ZONE**

CITY OF MILLERSBURG

LAND USE DEVELOPMENT CODE



ALBANY MUNICIPAL AIRPORT  
AIRPORT Ldn NOISE ZONE

DEVELOPMENT STANDARDS DIAGRAM

DSD-4



**SECTION 7.500 RADON IMPACTED AREA STANDARDS - RI**

The purpose of the Radon Impacted Area (RI) Standards is to promote the public health, safety and welfare by preventing migration of radon from the soil to indoor air in amounts that exceed EPA standards and to promote industrial development of such areas consistent with Statewide Planning Goal 9, "Economic Development," and the acknowledged Millersburg Comprehensive Plan.

- (1) **Area Subject to the Radon Impacted Area.** The City shall record a notice in the Linn County public records that legally describes the area subject to the Radon Impacted Area, including a map showing the area's boundaries, state that the area is subject to the requirements of the Radon Impacted Area and that the Radon Impacted Area requires radon resistant construction methods and testing. The provisions of Section 7.500 shall apply to all areas described in the recorded notice and map.
- (2) **Allowed Methods of Addressing Radium Contamination.** An applicant may elect to address radium contamination by one of the two following methods:
  - (a) Use radon-resistant construction methods in accordance with Item (4)(a), below.
  - (b) Obtain prior EPA approval that the levels of radon in the buildings will be less than the Indoor Air Standard for buildings for which radon controls are not appropriate (such as open-sided sheds and parking structures). Under this method of addressing radium contamination, applicants must demonstrate to EPA's satisfaction through estimates of indoor radon concentration, using methods approved by EPA and parameters which match the particular buildings to be constructed. If this demonstration is made to EPA's satisfaction, the City may approve building permits for the building without requiring radon-resistant construction methods or soils excavation. Any subsequent changes to the building require a new land use permit under **Section 7.500** to ensure that the change in the building would not change the assumptions used in the initial modeling, or to update the modeling to EPA's satisfaction. All costs associated with obtaining EPA approval for buildings to be constructed other than with radon-resistant construction methods shall be borne solely by the applicant.
- (3) **Land Use Permits.**
  - (a) Application and Land Use Permit Approval.
    1. An approved Conditional Use land use permit shall be required pursuant to **Section 2.500** of this ordinance prior to approval of a building permit issued pursuant to Item (4)(a), below.
    2. The applicant for such permit shall submit to the City Administrator the following, which shall constitute a complete application:
      - 2A Any fee required by the City Council.
      - 2B Any completed and signed application form required by this ordinance.

- 2C A site plan drawn to scale showing all proposed principal and accessory structures and their proposed uses and such other information as the City Administrator may require.
- 2D An election of one of two alternative methods of addressing radium and a written description of how radium will be addressed under the elected method.
- 3. The City Administrator shall determine that the application is complete and, if not, shall advise the applicant in writing what information is missing pursuant to **Section 2.130** and **2.140** of this ordinance.
- 4. The City Administrator shall give notice of a complete application pursuant to **Section 2.130** of this ordinance except that:
  - 4A The notice shall specify that any party may provide written comments on the application to the City Administrator within ten (10) days of the notice's mailing date; and
  - 4B The notice shall specify which method of addressing radium contamination has been elected by the applicant. The City shall give notice to the EPA. If the applicant changes its election of method addressing radium contamination, the City shall give EPA an amended notice.
- 5. The City Planning Commission may approve or deny the application after the written comment period in Item (3)(a) 4., above, has ended. The City Planning Commission may impose conditions as the Commission determines are appropriate; however, at a minimum, an approval under Item (3)(a) for radon resistant construction methods shall include the following conditions:
  - 5A No building permit shall be issued pursuant to **Section 2.200** of this ordinance unless it complies with Item (4)(a), below.
  - 5B No final certificate of occupancy shall be issued until radon tests satisfactory to the City have been conducted and show that indoor radon levels in all principal and accessory structures are below the Indoor Air Standard. The Indoor Air Standard shall be 4 pCi/liter or EPA's published target level or promulgated standard in effect at the time for indoor radon for occupational exposure, whichever is stricter. All radon testing shall be conducted in conformance with EPA's published radon testing guidance in effect at the time the tests are conducted. If radon concentrations exceed the Indoor Air Standard in effect at the time, building owners shall be required to put in place additional radon controls and shall conduct additional testing until retesting shows that concentrations are below the standard. Such additional testing, and controls if necessary, shall also be required after major structural changes are made to the building or its HVAC system that could affect the effectiveness of the radon controls. Once testing shows that the radon concentrations meet the Indoor Air Standards, the City may issue a final certificate of occupancy for the building.



- 5C The condition required in Item (3)(a) 5B, above, shall be satisfied within six (6) months of the issuance of a temporary certificate of occupancy. The City Administrator may grant reasonable extensions if the applicant makes a written request and demonstrates good cause.
  - 5D Building owners and lessees shall be required to maintain the radon control system in proper working order. Satisfactory maintenance shall, at a minimum, conform to maintenance requirements set forth in the Large Building Guidance, or updated EPA guidance.
  - 5E At least once every five years, buildings shall be inspected for slab settling, floor or basement wall cracks and other conditions that may reduce the effectiveness of the radon-resistant construction. If such conditions are found during the inspection, the affected buildings must be tested for radon using EPA-approved sampling methods. Building owners and lessees shall be required to take appropriate actions to reduce radon concentrations if radon levels in buildings exceed the Indoor Air Standard in effect at the time.
  - 5F All radon testing results shall be submitted to the City. All testing results must identify the building address and ownership and shall include a description of the reason for radon sampling (i.e. for occupancy, results of prior sampling, changes in building or HVAC configuration, etc). Where results exceed the Indoor Air Standard, the information shall include a description of measures taken to modify the radon system to reduce concentrations and the retest results showing compliance with the standard. Records of radon testing, radon system maintenance, and inspection logs shall be kept on site or be electronically accessible on site and must be readily available for inspection by building occupants, and/or representatives of the City, EPA, or DEQ.
  - 5G Building owners and lessees shall provide notifications to building occupants in writing or electronically that the building they occupy needs radon controls for potential risk reduction. Such notification shall include, at a minimum, a posted notice in a prominent place within the building. Content of the notification to building occupants shall include information on the location of the site records, the radon controls that are in place at the site, and the reasons for the radon controls.
  - 5H The Applicant shall provide access on, over and across the property, and the City of Millersburg, EPA and DEQ shall have the right to enter upon any portion of the property at all reasonable times, for purposes of verifying any data or information submitted to the City, EPA or DEQ or verifying that no action is being taken on the Property in violation of the terms of this ordinance. As a condition to approval under this ordinance, such access will last indefinitely and so long as the land at issue may be described by Item (2) above.
6. An appeal of the City Administrator's decision in Item (3)(a) 5., above, shall be pursuant to **Sections 1.170** and **3.700** of this ordinance.

- (4) **Building Permit.** All building permits approved under a land use approval for radon resistant construction methods under Item (2)(a) must comply with the following:
- (a) All principal and accessory structures shall use radon resistant construction methods consistent with the most current edition of the EPA publication entitled "Radon Prevention in the Design and Construction of Schools and Other Large Buildings" (June, 1993)(EPA625-R-92-016) or the latest adopted edition of the "State of Oregon Structural Specialty Code", whichever the City Administrator determines, pursuant to **Section 1.170** of this ordinance, provides greater radon resistant construction methods. Construction will utilize either: (1) active systems such as active soil depressurization ("ASD") or building pressurization or (2) passive soil depressurization combined with sealing of radon entry routes. ASD consists of a layer of coarse aggregate below the building slab, radon suction pits below the slab, vent pipes and suction fans. If passive soil depressurization is used, the system consists of the same components as ASD except for the fans, but will include a rough-in for the addition of fans to convert it to ASD if necessary. Sealing of radon entry routes shall be done using the methods described in the EPA guidance or using a gas-impermeable membrane.
  - (b) No building permit shall be issued pursuant to **Section 2.200(1)** of this ordinance unless an approval has been granted pursuant to Item (3)(a), above.
  - (c) The City Administrator may issue a temporary certificate of occupancy prior to a final certificate of occupancy.
- (5) **Residential Development Prohibited.** Residential development shall be prohibited in the Radon Impacted Area.



**SECTION 7.600 PLANNED DEVELOPMENT AREA STANDARDS - PD**

The purpose of the Planned Development is to provide opportunities to create more desirable working or living environments by the application of new development standards applied under an approved plan and program that is professionally prepared. The PD Standards are intended to be used to encourage the application of new techniques and new technology to community development that can achieve economies in land development while providing building groupings, open spaces and circulation systems that enhance the working or living environment of the inhabitants. A Planned Development may be residential, commercial or industrial or a mixed combination of land uses. Application procedures are as follows:

**(1) Planned Development Applications:**

- (a) The City or a property owner may request a PD Area Standard in combination with any Primary Zone or other Area Standards in accordance with the application requirements of **Sections 2.110 through 2.140** and the **Conditional Use** procedures of **Section 2.500** and the requirements of **Sections 7.600** contained herein.
- (b) A property owner located in an existing PD Area may request approval of a new **PD Plan** in conformance with the requirements of **Sections 2.110 through 2.140**.
- (c) Application for a PD Area or a PD Plan is divided into three phases:
  - 1. The Applicant shall first submit a **PD Conceptual Plan** containing drawings and a written program that is presented in enough detail to clearly describe the proposed development. An informal pre-application review by City Staff and members of the Planning Commission or City Council will be scheduled in conformance with **Sections 2.110 and 2.120** to determine if the requested PD conforms to the City's PD requirements and is conceptually acceptable to the City. This preliminary process is intended to save time and expense for the Applicant and the City.
  - 2. After receiving approval in principle of the conceptual Planned Development the applicant shall have a **PD Development Plan** prepared by a professional design team that contains drawings and a written program for a formal public hearing and decision by the City.
  - 3. Verification of compliance with the conditions of approval by the City Administrator and acceptance of the **PD Official Plan** in conformance with the approved **PD Development Plan**.

**SECTION 7.610 PD DEVELOPMENT STANDARDS**

- (1) **Minimum Site Size.** A Planned Development shall not be established on less than 5 acres unless the City finds a smaller area is suitable by virtue of the development characteristics or location.
- (2) **Comprehensive Plan Compliance & Adjacent Property Protection.**
  - (a) The Planned Development plan and program shall present an organized arrangement of buildings, service facilities, open spaces and improvements in compliance with the intent of the Comprehensive Plan that also protects the property rights of adjacent property owners.

- (b) Periphery yards of a **PD Plan** shall be at least as deep as those required by the yard regulations of the underlying Zoning District unless the City finds that equal protection will be accorded through the specific design features of the approved plan.
- (3) **Lot coverage and Building Height.** Lot coverage and building height shall be no greater than for the underlying Zoning District unless the City finds that an exception is warranted in terms of the adjacent property protection and amenities proposed in the total development.
- (4) **Open Space.** Open space in a Planned Development means the land area to be used for scenic or open recreational purposes within the development.
  - (a) Open space does not include street right-of-way, driveways, parking areas, required setbacks, or public service easements unless these areas have some special recreational design or purpose.
  - (b) Open space shall be adequate for the recreational and leisure use of the population occupying the development and shall be designed to enhance the development.
  - (c) To the maximum extent possible, the plan and program shall assure that natural features of the land are preserved and landscaping is provided.
  - (d) Instruments guaranteeing the maintenance of open space shall be provided with the proposed plan. Documents dedicating development rights and provisions for maintenance of open space shall be approved as to form by the City Attorney.
- (5) **Density.** Greater overall density than that specified for the Primary Zoning District may be allowed for an approved **PD Plan** based on the entire development design. Generally the density provision of the underlying District shall be used as a guideline for a deviation from the standard density. Areas used for public street right-of-way or private roadway intended to provide access to more than two (2) structures shall be excluded when determining the overall density of the development. Water courses woodlands and open spaces may be included in determining the density of development.
- (6) **Subdivision Lot Sizes.** Minimum area, width, depth and frontage requirements for subdivision lots in a PD Area shall be the same as the Primary District unless smaller lots are approved in accordance with proposed plan and program.
- (7) **Additional Standards and Controls.** The City may require additional standards or controls to protect adjacent property rights or the health, safety and welfare of the general public based upon the specific development request. Additional standards and controls may include, but are not limited to, the following:
  - (a) Increasing the required setbacks to protect adjacent properties or solar access.
  - (b) Controlling the location and number of vehicular access points.
  - (c) Establishing new streets, increasing the right-of-way or roadway width of existing streets, requiring curbs and sidewalks, and in general, improving the traffic circulation system.



- (d) Requiring improvements for utilities or storm drainage facilities.
  - (e) Increasing the number of parking spaces and improving design standards for parking areas.
  - (f) Limiting the number, size, location, and lighting of signs.
  - (g) Designating sites for open space and recreation and, in general, improving landscaping requirements.
  - (h) Requiring view obscuring screening or fencing.
  - (i) Establishing time limits for completion of all or any portion of the project, including, but not limited to utilities, drainage facilities, streets, curbs, gutters, sidewalks, parking areas, landscaping, fencing, screening or recreation areas.
  - (j) Requiring contractual agreements with the City to assure development of streets, sidewalks, drainage facilities, utilities, and other improvements to standards acceptable to the City.
- (8) **Phased Development.** The applicant may elect to develop the site in successive stages as proposed in the Planned Development Plan & Program.
- (a) Each such stage shall be a substantially complete unit of development.
  - (b) The City may require that development be done in stages if public facilities are not adequate to service the entire development initially.
- (9) **Permitted Uses in Residential Planned Developments.** The following uses and their accessory uses may be permitted in an approved Planned Development in a Residential District.
- (a) Residential use of land.
  - (b) Related commercial uses when approved by the City.
  - (c) Related community service uses when approved by the City.
  - (d) Proposed standards or controls shall be specified in the PD Plan and signed by the owners. Where applicable the requirements may be made part of deed CC&R's.

#### **SECTION 7.620 PD CONCEPTUAL PLAN**

An applicant shall submit five 8 1/2 x 11 inch or 11 x 17 inch black & white reproducible conceptual drawings to the City for review and acceptance of the proposed development in principle. Color or larger drawings may also be submitted for group review and detailed analysis. An informal review by City Staff and members of the Planning Commission and City Council will be scheduled to determine if the requested PD conforms to the City's PD requirements and is conceptually acceptable to the City. The proposal shall address the following elements.

- (1) **Elements of the Plan.**
- (a) Vicinity map showing location of streets and lots in the area within 300 feet of the proposed development.

- (b) Existing lands uses.
  - (c) Proposed land uses including housing unit densities (number of units per acre, type of residence, and number of bedrooms by type of residence); commercial facilities such as shopping and community facilities such as schools or parks.
  - (d) Building types and approximate bulk.
  - (e) Vehicular and pedestrian access, circulation, and parking pattern. Status of street ownership.
  - (f) Proposed Subdivision layout.
  - (g) Parks, playgrounds, and open spaces.
  - (h) Existing natural features such as trees, streams and topography.
  - (i) Landscaping, screening, and fencing proposals.
  - (j) Proposed method of solid waste disposal.
  - (k) Proposed method for provisions of water supply and sewage disposal.
  - (l) Proposed utilities.
  - (m) Proposed method for the handling of surface water drainage.
  - (n) Proposed grading patterns.
  - (o) Street and open space lighting proposals.
- (2) **Elements of the Program.**
- (a) Proposed members of the Professional Design Team.
  - (b) Proposed ownership pattern.
  - (c) Proposed development amenities
  - (d) Operation and maintenance proposal, such as condominium, co-op, or Homeowners Association.
  - (e) Development schedule, to include expected starting dates, projection of completion time, and project phasing, if anticipated.
  - (f) Method of public improvements financing, if any.
- (3) **Review of PD Conceptual Plan**
- (a) An informal review with the Applicant and City Officials will be scheduled to determine if the requested PD conforms to the City's PD requirements and is conceptually acceptable to the City.
  - (b) Members of the Planning Commission and City Council shall informally review the PD Conceptual Plan and may recommend either preliminary approval in principle, with or without modifications, or denial. Such action



shall be based upon compliance with the intent of City's Comprehensive Plan, the intent of City development standards and the extent of deviation from City standards proposed in the PD.

- (c) Approval in principle of the PD Conceptual Plan shall be limited to the preliminary acceptability of the land uses proposed and their interrelationships and shall not be construed to endorse the precise location of uses nor engineering feasibility. The City may require the submission of additional information for the PD Development Plan review.
- (d) The City shall review and may recommend expansion, additions, or modifications in the proposed design team for the preparation of the PD Development Plan.
- (e) The City shall determine the extent of any environmental assessment to be included with the PD Development Plan.

#### **SECTION 7.631 PD DEVELOPMENT PLAN**

- (1) After receiving approval in principle of the PD Conceptual Plan, the Applicant shall have a PD Development Plan prepared by a professional design team in such design-related fields as Architecture, Landscape Architecture, Urban Planning, and Civil Engineering.
- (2) An application for a PD Development Plan shall request a Conditional Use Hearing in conformance with **Section 2.500**. Submit 8 1/2 x 11 inch or 11 x 17 inch black & white reproducible conceptual drawings to the City for distribution and review. Color or larger drawings may also be submitted for the public hearing and for detailed analysis by the City. The PD Development Plan shall be submitted to the City at least 30 days prior to the date of the public hearing.
- (3) Upon receipt of the PD Development Plan, the Planning Commission and City Council shall hold separate public hearings or a single joint public hearing in accordance with the provisions of **Section 3.510**. At the public hearing the applicant shall present the PD Development Plan.
- (4) **Plan Elements.** In addition to the Application required in **Section 2.140**, the PD Development Plan shall contain the following elements:
  - (a) A complete site development plan in conformance with the approved conceptual plan.
  - (b) Existing and proposed contour map of the site to a scale commensurate with the size of the development.
  - (c) Location, widths, and names of all existing or platted streets or other public ways, railroad and utility rights-of-way, parks, or other public open spaces and land uses within 300 feet of the development.
  - (d) Existing sewers, water mains, and other underground facilities within and adjacent to the development and their certified capacities.
  - (e) Proposed location and capacity of sewers or other disposal facilities, water mains and other underground utilities.
  - (f) Proposed system for the handling of storm drainage.

- (g) A Subdivision Tentative Plan in conformance with **Section 2.300**, if the property is proposed to be subdivided as part of the Planned Development request.
  - (h) A land use plan indicating the uses planned for the development.
  - (i) Areas proposed to be dedicated or reserved for interior circulation, public parks, playgrounds, school sites, public buildings, or other uses dedicated or reserved to the public, if any.
  - (j) Open space that is to be maintained and controlled by the owners of the property and the proposed uses thereof.
  - (k) A traffic flow map showing the circulation pattern within and adjacent to the proposed development.
  - (l) Location and dimensions of bikeways, pedestrian walkways, malls, trails, or easements.
  - (m) Location, arrangement, number and dimensions of automobile garages and parking spaces, width of aisles, bays, and angle of parking.
  - (n) Location, arrangement, and dimensions of truck loading and unloading spaces, if any.
  - (o) Preliminary architectural plans and elevations of typical buildings and structures, indicating the general height, bulk, appearance and number of dwelling units.
  - (p) A preliminary tree planting and landscaping plan. All existing trees over six (6) inches in diameter and groves of trees shall be shown. Trees to be removed by the proposed development shall be so marked.
  - (q) The approximate location, height, materials of all walls, fences, and screen plantings. Elevation drawings of typical walls and fences shall be included.
  - (r) The stages, if any, of development construction. Such stages shall be clearly marked on the PD Plan.
- (5) **Program Elements.**
- (a) Narrative statement of the basic purposes of the planned development.
  - (b) An environmental assessment if requested by the City during review of the PD Conceptual Plan.
  - (c) Tables showing the total number of acres and the percentage of the total area which is designated for each type of use including each dwelling type, off-street parking, streets, parks, playgrounds, schools, and open spaces as shown on the proposed development plan.
  - (d) Tables showing the overall density of the proposed residential development showing density by dwelling types including a comparison with the specified Code densities.



- (e) Drafts of appropriate restrictive covenants and drafts of documents providing for the maintenance of any common open space, or required dedications or reservations of public open spaces and of any dedications of development rights.
- (f) A schedule indicating when utility and drainage facilities intended to serve the development are to be installed. If the development is to be constructed in stages, the schedule shall reflect this.

#### **SECTION 7.632 DECISION AND FINDINGS**

- (1) **Planning Commission Decision.** The Planning Commission, after a public hearing in accordance with the provisions of **Section 3.510**, may recommend approval, denial or approval with conditions of the proposed PD Development Plan.
- (2) **City Council Decision.** The City Council, after a public hearing in accordance with the provisions of **Section 3.510** and after receiving the recommendation from the Planning Commission on the proposed PD Development Plan shall either approve the application, deny the application or approve the application with conditions.
- (3) A single joint public hearing by the Planning Commission and City Council may be utilized in conformance with **Section 3.510 (3)**.
- (4) **PD Development Plan Elements.** Approval of the PD Development Plan includes approval of all attached drawings, the program and other elements including a Subdivision Tentative Plan and all Conditions of Approval.
- (5) **Decision Criteria.** The recommendation of the Planning Commission and decision by the City Council shall be based upon the following findings:
  - (a) That the proposed PD Development Plan is in conformance with the intent of the City's Comprehensive Plan.
  - (b) That exceptions from the standards of the underlying Zoning District are warranted by the design and amenities incorporated in the proposed PD Development Plan.
  - (c) That the proposed PD Development Plan is consistent with the purpose and intent of the Primary Zoning District and that adjacent properties are protected from potential adverse impacts resulting from the proposed development by appropriate controls or development standards.
  - (d) That the proposed PD Development Plan, or a phase thereof, can be substantially completed within Two (2) years of final approval.
  - (e) That the streets are adequate to support the anticipated traffic and that the development will not overload the streets outside the Planned Development.
  - (f) That the proposed utilities and drainage facilities are adequate for the population densities and type of development proposed and will not create drainage or pollution problems outside the Planned Development.

- (g) That the timing of installation of utility and drainage facilities will be closely coordinated with development construction and will not create a hardship to residents either within or outside the Planned Development.
- (h) That the proposed density for the proposed Planned Development will not result in any substantial negative impact on public facilities or utilities.

**SECTION 7.641 PD OFFICIAL PLAN**

- (1) Following approval of the PD Development Plan by the City Council, the applicant shall make all required changes in the PD Development Plan to comply with the Conditions of Approval and submit it to the City Administrator for verification of compliance with the approved PD Development Plan and the Conditions of Approval applied by the City.
- (2) If the approved PD Development Plan is found to be in compliance with the approval conditions, it shall be so certified by the City Administrator and placed in the Record File of the Application as the PD Official Plan for the specified property along with all documents relating to dedications, improvements, agreements, restrictions, and associations.
- (3) The Subdivision procedures set forth in **Section 2.320** shall be followed and included in the Record File if the property is to be divided or streets are to be dedicated unless private street exceptions have been approved by the City Council.
- (4) All public site dedications, development rights to open spaces or other dedications for the entire site or approved staged portion shall be certified and placed in the Record File prior to the issuance of any building permit.
- (5) Final copies of all approved articles governing operation and maintenance shall be placed in the Record File prior to the issuance of any building permit.
- (6) The Planned Development Area shall be numbered and shown on the official zoning map as a PD-(Number) overlay area on the Primary Zoning District. All building permits shall be issued only in conformance with the Official Planned Development recorded in the Record File.

**SECTION 7.642 BONDING**

- (1) A developer may be required to post one of the following instruments, to assure his full and faithful performance in completion of the PD Official Plan.
  - (a) A surety bond executed by a surety company authorized to transact business in the State of Oregon. The bond shall be in a form approved by the City.
  - (b) In lieu of said bonds:
    - 1. The developer may deposit with the City Administrator cash money in an amount fixed by the City.
    - 2. The developer may provide certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvement and that it will be released only upon authorization of the City.
    - 3. The developer may submit bonds acceptable to the City Council.



- (2) If the developer fails to carry out the PD Official Plan as approved and the City has costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursements. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the developer shall be liable to the City for the difference.

**SECTION 7.643 PROPOSED CHANGES IN PD OFFICIAL PLAN**

- (1) Major Changes. Major changes in the PD Official Plan after it has been adopted shall be considered a new petition and shall comply with the procedures for adoption.
- (2) Minor Changes. Minor changes in an approved PD Official Plan may be approved by the City Administrator, provided that such changes:
  - (a) Do not change the character of the development or the density.
  - (b) Do not change the boundaries of the PD Area.
  - (c) Do not change any use, such as residential to commercial.
  - (d) Do not change the development configuration or the total amount of land devoted to a specific land use.
  - (e) Do not relax dimensional standards or other specific requirements established by the City as a Condition of Approval.

**SECTION 7.644 EXPIRATION**

- (1) If substantial construction or development has not taken place within two (2) years from the date of final approval and acceptance of the PD Official Plan, the City Administrator shall review the status with the owner and make a report of the findings to the Planning Commission and City Council.
- (2) Upon abandonment of a particular Planned Development, or if its development has not been substantially completed within the time specified in the PD Official Plan, the City may schedule public hearings to remove the Planned Development designation unless a request to extend the time limit is approved.
- (3) The procedure for removal of a Planned Development is essentially the same as for adoption. The proposed removal of the Planned Development shall be reviewed at a public hearing of the Planning Commission to determine whether or not its continuation in whole or in part is in the public interest. If the Planned Development is found not to be in the public interest, the Planning Commission shall recommend to the City Council that the Planned Development designation be removed. The City Council shall then hold a public hearing on the revocation of the Planned Development and shall either maintain the Planned Development, revoke the Planned Development approval, or grant a time extension if it appears justifiable. If the Planned Development is repealed, further use of the property and future structures thereon shall be in accordance with the existing Primary Zoning District.

## ARTICLE 8 IMPROVEMENT REQUIREMENTS

### SECTION 8.100 IMPROVEMENT PROCEDURES

In addition to other requirements, public improvements and connections to public facilities installed by a developer or land divider, either as a requirement of these regulations or at the option of the developer, shall conform to the requirements of this Code and all design standards and construction specifications of the City including the City of Albany Standard Construction Specifications (**ACS**) and shall be installed in accordance with the following procedures. As used in this section, the terms developer and land divider includes the property owner. In the event that the persons making application for a land division or development are not the owner of record, a signed and notarized authorization must be provided by the owner, authorizing the applicant to act in his behalf.

- (1) Improvement work shall not be commenced until plans and specifications have been checked for adequacy and approved by the City. To the extent necessary for evaluation of an Application, the plans may be required before approval of a Site Plan or land division Tentative Plan.
- (2) All required improvements shall be provided and approved by the City prior to approval of the final Plat or the owner may propose an agreement in conformance with **Section 8.410** and a form of Security in conformance with **Section 8.420** subject to acceptance by the City.
- (3) A Pre-construction Conference shall be scheduled before issuance of a public utility permit. The Developer shall be responsible for notification to all public and private utility providers.
- (4) Improvement work shall not commence until after the City is notified, and if work is discontinued for more than 7 working days, for any reason, it shall not be resumed until after the City is notified.
- (5) Improvements shall be constructed under the inspection and to the satisfaction of the City. All utilities shall remain uncovered until inspected and approved by the City. The City may require changes in typical sections and details in the public interest, or if unusual conditions arise during construction to warrant the change. The cost of City inspections shall be paid by the developer or land divider.
- (6) Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be located to prevent the necessity for disturbing the street improvements when service connections are made.
- (7) "As-built" drawings and specifications of the installed public improvements shall be filed with the City upon completion of the improvements.
- (8) A property owner is obligated to provide all of the required public improvements. In the event the City determines it is not currently necessary to provide some of the required improvements, the City may defer the improvements. If deferred the owner shall pay their fair share of the cost of improvements and the funds shall be placed into the City's specified Improvement Fund to pay for the improvements at a later date.



**SECTION 8.200 REQUIRED PUBLIC IMPROVEMENTS**

The following improvements shall be installed to serve each building site and each property in a subdivision or partition at the expense of the developer or land divider. However, if the City finds that the conditions of development makes installation of some improvements impractical at the time of development or division, the City may defer those improvements. If deferred the owner shall pay their fair share of the cost of improvements and the funds shall be placed into the City's specified Improvement Fund to pay for the improvements at a later date.

- (1) **Streets:** Public or private streets, adjacent to, or within the development or land division shall be improved. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be re-established and protected.
- (2) **Railroad Crossings:** Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (3) **Street name signs:** Street name signs shall be installed at all street intersections to City standards.
- (4) **Street lights:** Street lights shall be installed and shall be served from an underground utility.
- (5) **Traffic Signals:** Where a proposed intersection will result in the need for street signals to serve the increased traffic generated by the proposed development, they shall be provided by the developer or land divider and the costs shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (6) **Mail Boxes:** Joint mail boxes may be provided in residential developments. Joint mail box structures shall be placed adjacent to roadway curbs as recommended by the Post Office having jurisdiction and shall be noted on the Site Plan. The cost shall be born by the developer or land divider.
- (7) **Surface Drainage and Storm Sewer System:** Drainage facilities shall be provided within the development or land division and connected to drainage ways or storm sewers outside the land division. Design of drainage within a development area shall accommodate the capacity and grade necessary to maintain unrestricted flow from areas draining through the property and shall accommodate extension of the drainage system beyond the property.
  - (a) It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site drainage is required and downstream improvements may be required to accommodate flows. The Owner shall provide proper drainage and shall not direct drainage across another property except within a continuous drainageway. Maintaining proper drainage is a continuing obligation of the property owner.
  - (b) Upstream flows shall be accommodated and downstream flows must limit impacts on downstream properties. There shall be no increased storm water impacts from the proposed development on the City's drainage system.

- (c) Site drainage design shall limit off-site impacts to those that would occur from vacant land. Roof drains, paving and catch basin out-flows shall require detention facilities and/or other discharge controls. All storm drains shall be connected to the detention pond inlet piping. This system must be engineered by the Applicant utilizing the standards specified by the City.
  - (d) All drainage plans, calculations and work sheets shall be reviewed and approved by the City Engineer prior to issuance of a Building Permit.
  - (e) A Wetlands Delineation and Mitigation Plan shall be required for identified wetlands and shall be provided by the Applicant prior to building permit approval.
    - 1. No development shall be permitted within designated wetlands unless a permit has been acquired from DSL and any other regulatory agency having jurisdiction.
- (8) **Sanitary Sewers:** Sanitary sewers shall be installed to serve the development or land division and to connect the properties to existing mains. Connection to City mains may entail installation of pump stations and larger mains to serve the proposed development at the developer's or land divider's expense. System design shall provide increased size and grades to accommodate extension of the system beyond the property or land division. If required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the following arrangements will be made to equitably distribute the cost:
- (a) If the area outside the property to be directly served by the sewer line has reached a state of development to justify sewer installation at the same time as the proposed development or land division, the Planning Commission may recommend to the City Council that all of the construction occur as a single assessment project. A specific agreement shall be made with the developer or land divider to assure financing of their share of construction costs.
  - (b) If the installation is not made as an assessment project, the City will reimburse the developer or land divider an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the development or land division for a period of ten years from the time of installation of the sewers. The actual amount shall be as determined by the City at the time of approval of the development or Plat, considering current construction costs.
- (9) **Water System:** Water lines and fire hydrants serving each building site and connecting the property to existing mains shall be installed to the standards of the City taking into account provisions for system extension beyond the development property.
- (10) **Sidewalks:** Sidewalks are required on both sides of a public street and in any special pedestrianway extending through a development or land division, except that in the case of some industrial districts, the Planning Commission may approve a development or land division with sidewalks on one side only or with no sidewalks if alternative pedestrian routes are available.



Streets serving residential areas having single-family dwellings located on lots of one acre or more, or streets serving rural farm areas, may have sidewalks deferred, provided there is no evidence of special pedestrian activity along the streets involved.

- (11) **Bikeways:** If appropriate to the extension of a system of bicycle routes, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within development streets or on adjacent public streets serving the development, or separate bikeways may be utilized that extend through the development and interconnect with public bicycle lanes.
- (12) **Utilities:** The developer shall make necessary arrangements with serving utility companies for the installation of underground lines and facilities.

#### **SECTION 8.300 PUBLIC USE DEDICATIONS**

- (1) The owner of property or a developer shall identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing and shall identify required improvements that are proposed to not be provided and the reason why they are not considered necessary.
- (2) All streets, pedestrian ways, bike ways, parks or open space areas, drainage channels, easements and other rights-of-ways and all lots or parcels of land intended for public use shall be offered for dedication to the City of Millersburg for public use.
- (3) Those lots or parcels, or common linear open spaces that are intended for the exclusive use of the owners, their licensees, visitors, tenants and servants are exempted from public use dedications, as are those parcels of land reserved for public acquisition under the provisions of **Section 8.300 (5)** of this Code.
- (4) Within or adjacent to a residential subdivision, a parcel of land of not less than 6 percent of the gross area of the subdivision shall be set aside and dedicated to the public by the subdivider for park use. The parcel shall be approved by the Planning Commission as being suitable and adaptable for park and recreation uses. In the event no such area is suitable for park and recreation purposes, the subdivider shall, in lieu of setting aside land, pay into a public land acquisition fund a sum of money equal to \$ 300 per residence at the time of application for a Building Permit. The sums so contributed shall be used to aid in securing suitable areas for park and recreation purposes to serve the area containing the subdivision. If the nature of the subdivision is such that over 34 per cent of the tract to be subdivided is being dedicated to the public for streets, the requirements of this section shall be reduced so that the total obligation of the subdivider does not exceed 40 per cent.
- (5) If the City or other public agency has identified an interest in acquiring a portion of a proposed land division for a public purpose not already dedicated as a condition of approval, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that those portions of a land division be reserved for public acquisition, for a period not to exceed two years, at a cost not to exceed the value of the land prior to subdivision.

**SECTION 8.410 IMPROVEMENTS AGREEMENT**

Before Planning Commission approval of a development Site Plan or a subdivision or partition Plat, the developer or land divider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City an agreement between developer or land divider and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the developer or land divider. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with **Section 8.100 (5)**.

**SECTION 8.420 SECURITY**

- (1) The developer or land divider shall file with the agreement, to assure full and faithful performance thereof, one of the following:
  - (a) A surety or performance bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.
  - (b) A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.
  - (c) A cash or negotiable security deposit.
  - (d) An irrevocable letter of credit issued by a commercial bank as defined in **ORS 706.005**.
  - (e) A mutual improvement agreement or other guarantees approved by the City.
- (2) Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspections and other costs.

**SECTION 8.430 NONCOMPLIANCE PROVISIONS**

- (1) If the developer or land divider fails to carry out provisions of the agreement, the City shall provide written notice to the developer or land divider and the surety specifying the details of noncompliance. Unless the City allows more time for compliance because of circumstances beyond the developer or land divider's control, within 30 days after receiving the notice, the developer or land divider or the surety shall commence compliance and proceed diligently to comply with the agreement.
- (2) If the developer or land divider or the surety does not begin compliance within the 30 days or the additional time allowed by the City, or compliance is not completed within the time specified in granting the land division approval, the City may take the following action:
  - (a) Notify the developer or land divider and the surety of the developer or land divider's failure to perform as required by this Code and the agreement.



- (b) Demand payment from the developer or land divider or the developer or land divider's surety for the unfulfilled obligation.
  - (c) Enter upon the site and carry out the obligation in accordance with the provisions of the approval and agreement.
  - (d) If the security for the obligation is a bond, notify the surety that reimbursement for City expenses for fulfillment of the obligation is due and payable to the City. If the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup City expenses.
  - (e) Void all approvals granted in reliance on the agreement.
- (3) If the bond or other required security is not sufficient to compensate the City for expenses incurred to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City upon the entire contiguous real property of the owner of the land subject to the obligation.
- (4) The lien attaches upon the filing with the City Administrator of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer or land divider's failure to fulfill the required obligation.
- (5) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
- (6) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the City to pursue any civil remedy permitted by law.

## **SECTION 8.500 CITY INITIATED PUBLIC IMPROVEMENTS**

### **SECTION 8.510 CITY CHARTER PROVISIONS**

The City Charter provides for public improvements. **Section 33, Improvements** specifies, "The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state. In this section "owner" shall mean the record holder of legal title or, where land is being purchased under a land sale contract recorded or verified to the Administrator in writing, or of record in Linn County, by the record holder of legal title to the land, the purchaser shall be deemed the "owner". Before commencement of any public improvement district the city shall obtain the consent in writing of at least 51% of the land owners affected, and/or the owners of at least 51% of the land affected."

**Section 34, Special Assessments** specifies, "The procedure for levying, collection and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance."

### **SECTION 8.520 METHODS & PROCEDURES**

**City Ordinance 22** prescribes the methods and procedures for making public improvements in the City of Millersburg, for levying and collecting special assessments therefor, and for the creation and enforcement of assessment liens.



**SECTION 8.530 STORM DRAINAGE IMPROVEMENTS**

**City Ordinance Number 25** specifies the City of Millersburg shall have the right to maintain ditches, waterways and watercourses on private property.

**SECTION 8.540 FEES**

- (1) **City Ordinance Number 54** specifies; The Council shall have the authority to set, by resolution, a fee to be charged to property owners, within the city limits of the City of Millersburg, for any public works projects including, but not limited to sanitary sewers, storm drains, street improvements and widening and sidewalks.
- (2) Fees for said projects shall be set by resolution in amounts deemed appropriate after consulting with project engineers so the charge to any individual property owner will properly reflect that amount attributable to the benefit their property receives.
- (3) In the event it is necessary for the City to acquire easements, right-of-ways, or access across, and in the further event the property owners entitled to compensation for those easements, accesses, or right-of-ways are willing to donate those to the City, then and in that event, the Council may, by resolution, waive the fees otherwise chargeable to property owners.

**SECTION 8.600 CONSTRUCTION SPECIFICATIONS**

In addition to other requirements, public improvements and connections to public facilities installed by a developer or land divider, either as a requirement of these regulations, or at the option of the developer, shall conform to the requirements of this Code and all design standards and construction specifications of the City

**SECTION 8.610 URBAN CONSTRUCTION SPECIFICATIONS**

The latest **Albany Standard Construction Specifications (ACS)** for urban streets, sanitary sewers, storm drains, water facilities, together with the general and technical requirements and details are hereby adopted by the City of Millersburg.

**SECTION 8.620 SUBURBAN CONSTRUCTION SPECIFICATIONS**

The City of Millersburg has adopted the **Linn County Suburban Road Standards and Specifications** as the minimum standards for construction of rural roads within the City of Millersburg as set forth in **Ordinance Number 19**.

**SECTION 8.630 APPLICABILITY OF LINN COUNTY STANDARDS**

Suburban roads approved by the City of Millersburg and public improvements that are constructed within the public rights-of-way owned and controlled by Linn County shall comply with the requirements and standards of the Linn County Road Department. Linn County Roads require a Linn County permit. In the event of a conflict between the City of Millersburg's adopted design and construction standards with those of Linn County, Linn County standards will take precedence on county roads unless jointly agreed upon otherwise by Linn County Road Department and the City of Millersburg.

**SECTION 8.641 MODIFICATIONS PERMITTED**

City design and construction standards may not adequately address each situation. The developer or land divider shall prepare and submit to the City for approval, plans and specifications in compliance with this Code and other applicable City ordinances. Where specific City standards are lacking or where the adopted standards do not apply to a given situation, the plans and specifications proposed by the developer may be approved by the City but they shall comply with the intent of this Code based upon engineering standards appropriate for the improvements proposed. Specifications shall be prepared for the design and construction of all required public improvements and such other public facilities as a developer may elect to install. All plans and



specifications shall be approved by the City of Millersburg prior to commencing the work.

#### **SECTION 8.642            MODIFICATION APPROVAL**

The Millersburg City Administrator & City Engineer are authorized to review and approve modifications to the adopted design and construction standards for use within the incorporated boundaries of the City of Millersburg. Such modifications may be made upon written request from a developer or contractor designing and/or constructing public improvements within the City of Millersburg. Modifications may be approved on a one-time basis or may be approved as a permanent modification to City Standards. Permanent modifications require the further approval of the City Council.

- (1) **One-time Modifications:** The City Administrator may approve one-time modifications for a particular public improvement upon written request if, in the opinion of the City Engineer, the requested modification would work better in the existing situation and would not adversely impact safety, life span, maintenance and repair requirements of the improvement.
- (2) **Permanent Modifications:** If, in the opinion of the City Engineer, a requested construction standard modification is superior to that specified in the **Millersburg Standards**, the standard may be approved as a One-time Modification for a particular project as an addendum to the project specifications and may be permanently adopted into the Millersburg Public Works Construction Standards with the concurrence of the City Administrator and the City Council. Once a permanent modification has been approved, it shall be adopted into the Millersburg Public Works Construction Standards.