



**Rules of Conduct for Public Meetings**

No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting. Microphones will be muted, and webcams will be turned off for remote participants unless called upon to speak or during public comment period.

Persons shall not comment or testify without first receiving recognition from the presiding officer and stating their full name and city of residence.

During public hearings no person shall present irrelevant, immaterial, or repetitious testimony or evidence.

There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting. If online participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off. If disruption continues, the participant(s) will be removed from the meeting.

*This meeting is being recorded for public review on the City of Millersburg website.*

**PLANNING COMMISSION WORKSHOP**

Millersburg City Hall  
4222 NE Old Salem Road, Millersburg, OR 97321  
December 3, 2024 @ 6:00 p.m.

Planning Commission meetings are in-person. Remote access continues to be available.

To **participate via Zoom**, contact City Recorder at 458-233-6300

or [cityclerk@millersburgoregon.gov](mailto:cityclerk@millersburgoregon.gov), **prior to 5:00 p.m. on Monday, December 2, 2024.**

**You can watch the Planning Commission Meeting here:**

**YouTube:** <https://www.youtube.com/@cityofmillersburg611/streams>

A. CALL TO ORDER

B. ROLL CALL

C. MEETING MINUTE APPROVAL

- 1) Approval of October 1, 2024, Planning Commission Public Hearing Minutes  
Action: \_\_\_\_\_

D. WORKSHOP- DEVELOPMENT CODE UPDATES

E. PLANNING UPDATE

F. ADJOURNMENT

Upcoming Meeting(s):

<https://www.millersburgoregon.gov/calendar>

*If you have a disability that requires accommodation to attend or participate, please notify Millersburg City Hall in advance by calling 458-233-6300.*



**PLANNING COMMISSION PUBLIC HEARING MINUTES**  
**4222 NE Old Salem Road**  
**Millersburg OR 97321**  
October 1, 2024  
6:00 p.m.

A. CALL TO ORDER: Chair Doug Iverson called the meeting to order at 6:00 p.m.

B. ROLL CALL:

Members Present: Chair Doug Iverson, Commissioners Brandon Abresch, Michael Mueller, Jerry Horn, and Ryan Penning.

Members Absent: Commissioners Caryl Thomas and Alex Patterson

Staff Present: Matt Straite, Community Development Director; Sheena Dickerman, City Recorder; Joanne Johnson, Office Assistant; Kevin Kreitman, City Manager; Janelle Booth, Assistant City Manager/City Engineer; Margaret Gander-Vo, City Attorney

C. MEETING MINUTE APPROVAL

**6:02 p.m.**

**ACTION: Motion to Approve September 3, 2024, minutes as presented by Commissioner Ryan Penning; seconded by Commissioner Michael Mueller.**

Commissioner Brandon Abresch: Aye  
Commissioner Michael Mueller: Aye  
Commissioner Jerry Horn: Aye  
Commissioner Doug Iverson: Aye  
Commissioner Ryan Penning: Aye

**Motion Passed: 5/0**

D. PUBLIC HEARING

**6:02 p.m.**

1) **File: CUP 24-01**

The applicant is proposing a Conditional Use Permit (CUP 24-01) for a revision to the intermodal transfer facility to add the ability to transfer renewable diesel from truck to rail and vice versa. No physical improvements to the site are anticipated except spill containment features.

Chair Doug Iverson opened the public hearing at 6:02 p.m.

Office Assistant Joanne Johnson read the disclosure statement\*.

No Commissioners declared a conflict of interest or site visits or ex parte contacts.

No one challenged the Commissioners on either of the issues listed above.

Community Development Director Matt Straite described the project as found in the staff report\*.

The project is located on Old Salem Road. It is zoned General Industrial (GI) on all sides. On the site is a permitted, constructed, but unused Intermodal Transfer Center. The Intermodal Transfer Center was designed to transfer products from trains to trucks and vice versa. The project previously had a vendor that planned to operate the facility, but no shipping contracts were secured and so they withdrew. OMNI Energy Trading proposes to use the site to transfer Renewable Diesel. A Conditional Use Permit (CUP) is needed because it was not in the original use. They will be building onto the approved Site Development Review, not replacing it. The only changes will be the addition of a spill containment feature. The spill containment includes drip pans to catch anything that might drop as they are connecting the apparatus to the train and the curbing is designed to catch the liquid from an entire train car.

The volume that is anticipated is 20 rail cars per day. Each rail car fills about four trucks, so they are anticipating 80 trucks per day. This CUP is only to permit Renewable Diesel, not any other types of fuel. This also allows them to still transfer other goods.

In order to approve the project criteria must be satisfied. The first is that it must be listed in the General Industrial Zone as a Conditional Use Permit, which it is, and must satisfy all the standards in that zone. The original project satisfied all the standards, so they do as well. There is no storage of fuels proposed, only the transfer of fuels. The second criteria asks if the characteristics of the site are suitable for its use. It is already constructed, so it is suitable for the use being proposed. The third criteria asks if the proposal is timely, meaning is the right kind of infrastructure there to satisfy the requirements of the project. It is already constructed, so the infrastructure is already in place. It is also timely because the facility hasn't been able to operate yet and now it will. The last criteria asks if the use will alter the character of the area. In this case it refers to traffic. Traffic is expected to be less than originally planned, but because the original approval is still valid the City wanted to be sure that truck trips weren't being added to the original approval. A condition of approval was added which put a truck trip cap from the original traffic study. If they want to grow in the future, they will just need to come back in and revise this case.

The applicant also needs to satisfy the standards. The Intermodal facility is already constructed, so standards are satisfied. There are additional Conditions of Approval that are specific to spill containment. That includes providing a federal and state approved spill containment and countermeasures plan that is required by the EPA and the State Department of Environmental Quality. Assistant City Manager/City Engineer Janelle Booth added some additional clarity in a memo.\* This resulted in some small revisions to the proposed Conditions of Approval, which were provided to the applicants in advance.

Iverson asked if there were any other replies to notices that were sent out. Straite responded only the replies supplied.

#### APPLICANT TESTIMONY:

Bill Swan, president of OMNI Energy or Green Energy Midstream shared that the company was formed out of the OMNI companies, which are OMNI Transloading and OMNI Bulk Services. They formed OMNI Energy as a standalone company and then rebranded it as Green Energy Midstream because they are primarily focused on being a transportation and logistics provider for renewable products. Some of the renewable products include

renewable diesel, SAF (sustainable aviation fuels), feed stocks such as soybean oil, used cooking oil, tallow, etc.

Swan said they received a lead from UP (Union Pacific) and found this to be an ideal location for transloading their renewable diesel. The UP will spot rail cars into the facility. They will have their own switching engines, so they will switch the cars off a couple of the tracks onto the tracks closest to the asphalt. From there the mobile transloading units will hook up to the rail cars and offload the rail cars to the trucks and the trucks will take them to major truck stops up and down I-5 from Eugene to Portland. They have developed 20-35 sites like this. Currently, Green energy is developing and operating several sites around the United States.

Renewable diesel goes through more of a refining process so it will act like diesel rather than biodiesel that needs to be blended with diesel to work in a vehicle. Because of a push towards renewable sources and tax credits going to producers instead of blenders it will become an increasingly domestic market.

Iverson asked where the fuel is coming from, if it was coming into the US and being shipped here or if it was produced in the US. Swan said it will be produced domestically in refineries like Sinclair in Wyoming. Everything would be coming in by rail, it will be loading/offloading and logistics, not purchasing or producing diesel itself.

Commissioner Michael Mueller asked if it will be competition for Biodiesel. Swan replied it is a different product and won't be a direct competitor. The economics of the two fuels are different and they go to different uses in the market. There is some uncertainty about what the new fuel standards will be.

Iverson clarified that no product will be stored just moved from rail to truck. Swan replied it would only be transferred, not stored.

Iverson also asked what the possibility of expanding might look like. Swan replied that currently, they are looking to permit up to 20 rail cars, which right now is a large amount. If they want to increase or change to different products they will come back. They are also planning on getting the warehouse back up, in partnership with the City and Linn County, to be used for its original purpose.

Commissioner Jerry Horn asked whether there would be any maintenance on the grounds. Swan replied that there would be minor trenching to the side of the rail to run electric and then build the containment area. Horn clarified that he meant if equipment breaks down, how would it get repaired. If the transload units break, minor repairs would be made onsite by calling a mechanic. What they meant was that they would not be doing maintenance on UP locomotives or rail cars on site.

#### TESTIMONY IN FAVOR OR AGAINST

No one from the audience wished to speak.

Straite asked if anyone online wanted to speak. He stated no one online wanted to speak.

Mueller asked if it would be run 24 hours a day. Swan replied they were not planning for 24 hours a day, but probably 12 hours.

Chair Iverson closed the meeting at 6:28 pm

Iverson said he would like a sign at the egress point of the semi's to not use jake breaks within town.

Commissioner Ryan Penning asked which direction traffic would be headed. Swan answered that everything would be going south both in and out rather than north. This would keep trucks from heading towards the residential areas.

Commissioner Brandon Abresch asked when the original plan was approved. Straite answered, 2018. Abresch asked if there are any concerns about an expiration for the traffic study. Booth answered that the traffic study is still consistent. There has not been a lot of residential growth since then. There have been several traffic studies done over the last few years and they use the traffic study from the Intermodal as a baseline as if that were existing today. Abresch asked what original plan was approved for. Straite said the original approved 370 trucks a day. The City is not limiting them to 160 truck trips a day, they could actually increase that as long as they stay under the cap for the original study.

Horn asked Straite if he knew how many trucks from the paper mill was operational. Straite said this was less than that. Booth said the Mill predated land use planning so there are no traffic studies from then, but it is believed it was somewhere around 1000 trucks a day.

Mueller asked how many employees were expected. Swan's answer was that he didn't know right away but thought probably seven and would grow in volume. The manpower would flex up as needed. There will probably be two overlapping shifts a day. Mueller responded that there means not much employee traffic.

**ACTION: Motion that the proposed project satisfies the applicable criteria and standards, and the Planning Commission approve CUP 24-01 with the conditions of approval as listed in the staff report made by Commissioner Brandon Abresch; seconded by Commissioner Jerry Horn.**

Commissioner Brandon Abresch	Aye
Commissioner Michael Mueller:	Aye
Commissioner Jerry Horn:	Aye
Commissioner Doug Iverson:	Aye
Commissioner Ryan Penning:	Aye

**Motion Passed: 5/0**

Swan said they look forward to being a part of this community and being good partners with the City and the County.

E. ADJOURNMENT TO WORKSHOP: Chair Iverson adjourned to a workshop for a new code update at 6:36 p.m.

F. OPEN WORKSHOP DC 24-02

Iverson asked if there was anyone online that wanted to speak. No comments from the audience or online.

Straite explained the code updates.

The first category to go through is the State mandated changes. The second one is general text changes that staff want to make. The third is changes to the municipal code. The jurisdiction for municipal code changes is just with the City Council.

### **State mandated changes:**

#### 1. Duplex state requirements

ORS 197.420(3) Must be allowed on any residential lot. Current code says corners only. Abresch asked if we don't comply, what happens, do we get sued? Attorney Margaret Gander-Vo added that the state could have enforcement mechanisms in the future to potentially come in and revise your entire code if it doesn't comply. Once they are in they are in, so it's better to adopt what you're required to and put your personality on it where you can verses having the state step in and do it for you. Iverson found the wording to be confusing because of the use of duplex and two units. He says it makes it sound like you are allowing two duplexes on a single lot. Mueller asked two questions, one was asking if there is no longer a population criteria for it to be enforced on a city, and the other was asking if HOA's are allowed to limit duplexes. Straite answered that HOA's can currently say no duplexes for now. Margaret Gander-Vo answered that in regards to the gradation for middle housing duplexes are different and allowed everywhere regardless of population. Mueller clarified that right now duplexes need to be attached, not two houses on one lot. He mentioned that from a financial and loan standpoint they see two buildings on one lot as a single unit.

#### 2. Garages.

OAR 660-012-0005(30) The DLCD contacted Straite after the last update to say that the City could not require garages. So, we no longer require garages. We are proposing a new requirement for a paved access area for each home that is not necessarily for parking. Abresch asked if width can be mandated. Straite said yes, and that he will look at adding that.

Horn asked if we could limit houses building directly behind another house to make sure front house can't block access via a fence or gate. Straite responded that if it's anything other than an ADU there are already regulations for that.

Abresch said again that mandating the width of paved access would be good. He suggested 20 feet and said that may help avoid a lot of building a house in your backyard.

Penning mentioned that maybe could add that it is for emergency access. Straite agreed and that was what was in mind to make sure there was room for emergency vehicles.

#### 3. Limited Land Use Decisions.

ORS 197.014(12) The State has always tried to help applicants by reducing the review burden that cities put on them and that's where the idea of a limited land use review came from. A limited land use review is done at the staff level only. The State has now said that cities can't use rules other than the State rules. Site Development Review will now be at the staff level. Notices will still be mailed to neighbors, and they can still provide comments, but staff will render the

decision. The Planning Commission will only see things like CUP (Conditional Use Permits) and code development. City Council Call-up, if Council want to take jurisdiction of a Site Design Review will need to change as well. Iverson asked if staff review will take public out of it. Straite said the public will still get notices, but the State has said only 100 ft notification. We can still accept comment from public if they know to ask. Iverson asked if a notice could be put in with a water bill. Straite didn't know if that would be possible. He said it was interesting that it seems to be limiting public input, but the State also requires public input. Penning asked if we could do a quarterly newsletter. Booth said that because of the 120 day rule, it would be hard because of the time and money involved. Mueller asked if Facebook would be possible. Booth mentioned this is already all posted on the website. Straite added that people can sign up to get notices of every land use item. Booth said pushing info to Facebook might be ok, but we don't want to encourage interaction over Facebook. It also takes time and staff in order to post and monitor social media and we need to think those things through. Attorney Margaret Gander-Vo said the notice process is designed to be a two way engagement. She suggested that if anyone is hearing concerns they can be directed to the mailing list and the website. Abresch asked about things like the trees across the street where our code didn't specify if it might trigger something. Straite clarified that when we need to apply discretion to things that are not black and white, the Planning Commission is here to apply discretion, but the State doesn't care anymore and it will not just automatically send it to the Planning Commission or the City Council. When the code is not necessarily clear, staff will need to apply discretion and make a decision. City Manager Kevin Kreitman brought up that the city is not in favor of these state changes. He said we are seeing loss of local control. He tells people, if you don't like it pay more attention to what your legislators are doing. Booth said code updates are still a very important part of Planning Commission.

Iverson found a typo in Chapter 5.01 Table 22. Has some extra capitals.

Straite said we can take a look at our uses and clarify what needs to have a CUP and what doesn't. This doesn't mean we can just make everything need a CUP so that it still comes to the Planning Commission, but if there are more uses that the Planning Commission thinks would require a CUP review we could do that.

Penning said the bottom line is we're writing the code, but the State is saying no you're not.

#### 4. Mass Timber/Prefabricated

The State now requires cities to allow Mass Timber homes, which are more affordable. Mass Timber homes are a lot like a manufactured home because they are assembled in pieces off site and then brought to the site and assembled on site. They sit on a regular foundation. They weren't prohibited in our code before, but the State wanted it to be clarified to be allowed. Manufactured homes must have the same design rules as Single Family homes and the same as Mass Timber homes. There were not many differences to begin with, so there are minor changes.

#### 5. Subdivision Regulations

This is the last State mandated change. It says that any time a subdivision is approved, any of the local regulations that we have as a city stay frozen for three years. That means that we can't approve a map and then change a bunch of our rules to make that map more expensive to build. This does not extend the lifespan of a project to three years. If we put a two year shelf life on a subdivision and they don't start building it, the subdivision will still expire.

**General text changes:**

6. Commercial Office Zone Standards  
This is fixing a typo to make sure it is clear that the standards of the zone apply in the zone.
7. Private Access Easement Length.  
This usually applies to flag lots. Our code currently says private access easements can't be longer than 200 feet. It has caused a lot of problems in people wanting to develop. Our code already has a lot of other safeguards on how private easements function. Staff proposes deleting the 200 foot max length. Booth mentioned that for safety concerns for fire apparatus access, fire code will add its own set of requirements that may include requiring turnouts or hydrants or different things, so we felt like that aspect is already covered in another place. Penning asked what the width of that needs to be. The answer was looked up and is a 25-foot easement.
8. Off Street Loading.  
Our code was very specific about how many loading bays and loading spaces were required based on the square footage of a proposed use. It may end up forcing people to build docks that they don't ever plan on using and that might end up being misleading to fire because now they think it's an access point when it isn't. The change deletes specific dock sizes per sq ft. The other proposed change is to require screening for Commercial only (not industrial).
9. Temp Signs.  
Remove all from Development Code and move them to the Municipal Code. Temporary signs don't have a lot to do with the development of a community. There will be some revisions to the section that will be talked about at the end of the presentation when we go over the Municipal Code.
10. Trash Enclosures.  
We thought it would be better to make one section instead of being scattered around the code. Some of the standards are new. Trash enclosures must be adequate for the size needed for the business, they need to be out of view when possible, they have to have walls around them, and they have to be easy for collection vehicles to pick them up. These are standards in Commercial and Office, not Industrial.
11. Patio Covers.  
The code did not address attached patio covers, only detached ones. This is an easy fix and so we are basically just adding the words "& attached" so that it will have the same regulations as the detached.
12. Tree Criteria.



This one needs to be retooled completely. Council has some ideas on how we can make this work better. The Municipal Code says if you are removing a tree as part of a site development review to see the Development Code, but there weren't any regulations in the development code for tree removals. We will bring all the tree requirements into the municipal code. It needs to be reworked because there are better ways to address it.

13. Planter Bays.

The Development Code requires Planter Bays every 12 spaces in parking lots, but there is no minimum number to trigger needing a planter bay. The update is to add that any less than 5 parking spaces doesn't need a planter bay.

14. Shade Coverage Parking.

The State recently required that at least 40% of all parking lots are covered with shade trees. We simply wanted to clarify that the requirements are for passenger parking areas only, not car sales lots or truck lots.

15. Triplexes.

Our code does not allow triplexes, but they were referenced. We are removing the reference to triplexes.

16. Trim.

Our code currently requires 4 inch trim on single family homes, but doesn't specify where. We want to clarify that 4 inch trim is on the façade, the front of the structure, only. If the Planning Commission wants to, we can add that it is required on all sides of the structure. Mueller suggested adding street side on corner lots. Horn said, why would we want to look at unfinished sides of your neighbors. Mueller suggested we leave it up to the HOA's if they want to require the trim on all sides.

17. RV Covers.

This section is just to clarify walls on RV covers. They can have one wall only, to prevent it from becoming a pole barn. The goal is to make sure RV covers stay as just covers, and that they don't turn into a shop. Mueller asked if there was a staggered height from property line. Straite answered that there is a setback of 5 feet from the eave and a maximum height. The setback is measured from the eave to make sure it doesn't drop a bunch of water down on the neighbor's property. Abresch mentioned that last time a younger gentleman had come in to try and reduce the setback amount. Booth mentioned that the setbacks are also for fire.

18. Accessory Structures.

There have been many complaints about Mega-Accessory structures. We are not proposing to change the maximum height. The first proposed change is how height is measured. The new measurement will be at the peak rather than mean roof height. The other proposed change is to the setback. Up to 17' will remain the same 5' setback, higher heights will be a 10' setback. The last item is proposing that it can't be taller than primary home. Mueller suggested a single story house would be too limited. He suggested maybe 1 ½ times the height of the house. Specifically it wouldn't allow for an RV shop. Abresch agrees. Penning asked about roof pitch, and if that would be enough to allow an RV

shop, but keep it closer to the height of a single story house. Straite said he would look into the best way to word it. Kreitman mentioned a typo that needs to match and that they will deal with it after the meeting.

19. Shipping Containers.

Specifics are being added to the Municipal Code. In the Development Code it currently says they are not permitted as an accessory structure and to look in the Municipal Code for details. We want to add clarification that it can be used for moving. There is more detail in the Municipal code. We wanted to make it clear that it is prohibited for a dwelling. Penning asked about remodeling for a certain time limit. Matt Straite said that is addressed in the Municipal Code section of the presentation coming up.

20. Nonconforming details.

This section adds clarity on nonconformity. The title in the Code is specific to nonconforming uses, not standards. It is really just a change in the title to make it clearer.

21. Commercial Design Guidelines

This section will clarify the use of metal walls. The proposed changes are that at least two finishes are required on street facing walls. Straite said he cast a wider net last time and it made it too hard. Mueller asked if it could be expanded to include a percentage that needs to be satisfied, so that they don't try to put just a sliver of something different. Straite said he would look into that and have a number to look at next time.

22. Serial Partitions.

The code currently says if a lot can be redivided, you need to use Subdivision standards. This was never meant to apply to commercial/industrial partitions. The proposed change clarifies that it is for residential only. It was intended originally to stop people from piecing off little bits in order to keep from building the infrastructure.

23. RU (Rural) Map Improvements.

Proposes to waive any physical improvements for any partitions in the RU Zone. Partitions in the RU Zone need to make sure the lots are larger than 2.5 acres to stay RU. May require improvements for SD in the RU Zone. Both still require ROW dedications. Straite is working on rewording this with the attorneys.

24. SDR (Site Design Review) Criteria.

It is currently not worded like criteria. We are proposing making it sound more active in how it is worded. This will result in essentially same outcome but with a different approach. The City can still impose conditions of approval.

25. Subdivision Criteria.

Simply broke up the criteria instead of being all clumped together. There are no content changes, it will just make it easier to go through and it will make staff reports easier to draft and read.

26. Appeal Standing.

Appeal standing means you have the right to file an appeal. LUBA requirements are currently in the Code. Non-LUBA appeals aren't the same. We propose making them the same and adding standing requirements. This means that if a member of the public wants to appeal they need to have said something during the type 2 public review level. Attorney Alan Sorem suggested it so that it doesn't come back in an appeal if they didn't state it up front.

27. Recycling Centers.

Straite accidentally omitted the text but added as a memo\*. We are trying to add some standards. We want to address drainage and seepage as well as screening, to be a good neighbor. Straite said he did an analysis of other cities and pulled best practices to use. Mueller asked if it was retroactive to the one down the street. Straite said if they wanted to expand or change they would have to comply, but that changes to the code are not retroactive.

28. Temporary Signs.

These are the ones we took out of the Development Code and put into the Municipal Code. Clarification for the three permitted offsite signs for special events. It was not intended to include signs in people's front yards. We also want to clarify that traffic control signs are allowed for events. Signs are still not allowed in the ROW (right of way) without the City's permission.

29. Shipping Containers.

This is in the Municipal code. There are several proposed regulations added. It allows for moving containers, but specifically not for renovations. Some additional regulations are that they are not allowed in landscaped areas, they can't block sidewalks. There is no permit required. We also added a 60-day maximum. With no permits we rely on neighbor complaints to enforce the time. A ROW permit would be needed if placed in the street. Abresch asked how we would know the use. Straite said it would be neighbors that would let us know. Booth said our code enforcement is complaint driven and it is a process and can be a challenge to enforce. Mueller said with the 60-day max, renovations would be ok. Straite clarified that with the 60-day maximum that the planning commission would be ok with renovations as well and will work on how to word it.

30. Next steps.

Next steps could include a second workshop if needed. After that we would need to a DLCD Notice with the State and give them 35 days to go over our proposed changes and issue a statement. After that we would need a Planning Commission Hearing where you would make recommendation to City Council. There would be a City Council Hearing and adoption, and then it would take 30 days to take effect.

Mueller thought he remembered 5000 square foot lots being referenced, but thought we only allowed 10,000 square foot lots. Straite said there is an area of town where smaller lots are allowed, but he thought that was 7000 square foot lots. Straite wondered if it was possible it was in reference to only allowing half of the lot to be covered by impermeable surfaces.

Horn asked if there was limitations on landscaping on front of house. Straite replied that there are few regulations as far as what people are allowed to put in their yards. The only one is requiring a street tree in the landscape strip and a second tree somewhere else. Horn said that his neighbor has a jungle and that her plants encroach into his yard. Straite said anything that crosses the property line can be dealt with. Booth mentioned that we have requirements or suggestions about what type of trees should be planted in the landscape strip, including making sure there are clearance heights for the sidewalk and road. Mueller and Abresch asked about the planting in the strip. Booth clarified that it is required now, but not retroactive. There was a time only a few years ago when the code said that a tree needed to be planted either in the front yard or in the planter strip and many builders chose the front yard.

Mueller asked about who enforces if a sidewalk gets damaged by heavy equipment. Straite said to let the City know and we would write a code enforcement letter. The homeowner is responsible for the sidewalk in front of their house.

Horn asked who approves the sidewalk after it is poured. Straite said that the City inspects new buildings to ensure it meets our code requirements, but the county issues a certificate of occupancy. Booth said some sections of sidewalk go in with the developer, but more often they are put in by the builders. That is why they are inspected at the end of construction. She also said there are some bad batches of concrete and it doesn't show up right away, only after several years. If it's not a safety hazard there isn't much we can do.

Penning asked if there was a requirement on solar panels. Straite said there are no real requirements. People could even put them in their front yard. He said we can prevent them from placing them on the ground, but not on roofs. He said there are currently no limits on solar panels. Abresch said he's not liking the idea of ground mounted. Straite said he could add some regulations. Abresch said he doesn't want it in front yards, but would be ok for it to be hidden. Penning agrees he doesn't want to see it. Straite will come up with some wording. Penning asked if there was anything about mounting solar panels above parking lots. Straite responded that there was nothing yet.

G. ADJOURNMENT: Chair Iverson adjourned the meeting at 8:10 p.m.

Respectfully submitted:

Reviewed by:

Joanne Johnson  
Office Assistant

Matt Straite  
Community Development Director

\*Presentation materials or documents discussed at the meeting that are not in the agenda packet are archived in the record. Documents from staff are posted to the website after the meeting. Documents submitted by the public are available by emailing [info@millersburgoregon.gov](mailto:info@millersburgoregon.gov).



# Memo

## **RE: December 3 Code Workshop coversheet**

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All proposed code edits for DC 24-02 are attached. Most of these have not changed since the October 1<sup>st</sup> workshop. Small edits were made throughout the document, however, the following sections saw the most significant changes and should be reviewed. The specific changes between the two workshop versions are not called out in the attached document because the edits were already in redline strikeout. Showing any new re-edits in redline would be confusing to the reader. We will discuss each proposed change at the workshop.

- Number 2- Garages. Details on paved area were clarified.
- Number 3- LLU. The ability for the City Manager to 'appeal' a Type II decision, skipping the PC and going right to the City Council was re-added. Because the CM can now do this, the deciding authority for a Type II case was changed to the Planning Director. See 5.18.010(4). Several details were clarified regarding appeals.
- Number 8- Loading Areas. Added clarification explaining patrons can load items outside loading areas without needing screening.
- Number 10- Trash Enclosures. Added standards for mixed use areas.
- Old Number 12- Trees- deleted. Deleted trees revisions. Made all changes in the Muni code section instead.
- Number 15- Trim. Added that trim is required on street facing sides as well.
- Number 17- Accessory Structures. Consolidated the last two lines of the table requirements because they were identical now.
- Number 23- Site Dev Review Criteria. Made revisions to clarify intent.
- New Number 27- Ground Mounted Solar. At the request of the Commission uses and standards have been added for ground mounted solar systems.

**DC 24-02 CODE UPDATE PROPOSED CHANGES  
(as of November 18, 2024)**

<b>Code Update Summary Table</b>			
	<b>Section</b>	<b>Topic</b>	<b>Proposed Update</b>
<b>State Mandated Updates</b>			
<b>1</b>	2.03.020(4), & 050(1)(2)(3), 2.04.020(2) + 050, 060 & 070, 2.05.050 & 060	Duplexes	ORS 197A.420(3) requires that the City allow a duplex on any residential lot. Remove 'corner only' from RL, clarify in table 2 that 2 housing units can be on 1 10K lot- must be duplex, clarify in RM Table 4 that 2 per lot is allowed but they must be <u>attached</u> duplexes, add to RU, revise in Density section.
<b>2</b>	3.12.020, 3.12.030	Garages	OAR 660-012-0005(30) explains that the City cannot require garages. Delete requirement for garages on any residential unit. Require paved access on each lot. Clarify driveways are required if there is a garage.
<b>3</b>	1.02.020, 5.01.030, 5.18.010, 5.22.010	Limited Land Use Decision	ORS 197.015(12) and ORS 197.195 further limits what City's can do regarding Limited Land Use permits. Add Limited Land Use Decision to the Code. LLDs can only be decided by staff unless appealed. Type II.
<b>4</b>	1.02.020, 3.11.010, 3.12.010, 3.12.020 & 030,	Mass Timber/ prefabricated	HB 4064/ORs 197.478 requires that City's allow mas timber structures. Updates definitions, permitted uses, and development standards.
<b>5</b>	4.02.080	Subdivision Regulations	From ORS 92.040(2)(3)- Local Land Use regulations stay frozen in approved subdivisions for 3 years from approval. Clarify this does not extend land use approval lifespans.
<b>Development Code Changes</b>			
<b>6</b>	2.07.020	Clarification on CO standards	Address typo saying standards are in the CO zone, not the GC or LI
<b>7</b>	3.02.100	Access Easement Length	Delete 200 max easement length.

8	3.03.070	Off Street Loading	Delete the size requirements altogether, just say they have to be screened.
9	<del>3.06.130</del>	Temp Signs	Remove from the Dev Code and move the section to the Muni Code Section 5.10.
10	3.07.090, 2.03.070, 2.04.070, 2.05.070	Trash Enclosures	Add simple standards for trash enclosures in Commercial and Office (not industrial), delete from all other sections- centralized.
11	3.08.070	Patio Covers	Clarify requirements for Patio Covers by adding an 'attached' set of standards, right now there are only detached.
12	3.09.030	Limits on Planter Bays	Clarify that parking areas with less than 12 parking spaces do not require planter bays.
13	3.09.030	Shade Coverage Parking	Clarify that shade coverage only pertains to passenger vehicle parking areas (not trucks). All trees required for shade coverage shall be at least 10 feet tall at time of planting.
14	3.09.040	Triplexes	Delete reference to triplexes. They are not permitted.
15	3.12.020	Trim	Clarify that 4" trim is only needed on the front and street facing side of a single family home.
16	3.15.010	RV Covers	Add that RV covers cannot have more than 1 wall (otherwise, it becomes a pole barn, which is still not permitted).
17	3.15.010	Accessory Structures	Limit height, prevent mega structures. Measured to the peak now. Can't be taller than primary.
18	3.15.010	Shipping Containers	To address more fully in new sections for the Muni-code, clarify in Dev Code- create full details there, including moving standards. Add a time limit.
19	3.21.100	Nonconforming	Change title and clarify that the section is not just for nonconforming uses, but features as well.

20	3.26.030	Commercial Design guidelines.	On (4) revise this to just say no corrugated metal walls. The 'steel panel' text will be removed. Remove requirement for windows on (2)
21	4.02.020	Serial Partitions	Clarify that 4.02.020 only applies to residential zones & that contiguous partitions are not permitted.
22	4.02.050 & 4.02.060	RU Map Improvements	Clarify that partitions and subdivisions in the RU zone do not have to do improvements if all parcels/lots stay over 2.5 acres. Still must show access will work to all new lots, in easements or dedications. Also, clarify that water and sewer are not needed on RU part/div.
23	5.05.060	Site Development Review Criteria	Revise criteria to be active-voice, not passive
24	5.08.060	Subdivision Criteria	Break up this criteria into two- access and utilities
25	5.16.055, 5.18.010, 5.19.010	Appeal Standing	Add requirement that one cannot appeal to CC unless they have exhausted all administrative remedies, you need standing to appeal.
26	3.29	Recycling centers	Add specific standards for recycling centers, specifically screening.
27	2.03.020, 2.04.020, 2.05.020, 3.30	Ground Mounted Solar	A new section to regulate ground mounted solar is proposed.
<b>Municipal Code Changes</b> (not Land Use, provided to the Commission for context)			
28	Chapter 5.10	Temporary Signs	Re-located from the Development Code, with revisions.
29	Chapter 7.10	Shipping Containers	Regulations added for the use of shipping containers in residential areas.
30	Chapter 7.30	Tree Permit loophole fix	Addressing a requirement that that exempted the need to get a tree removal permit if it was part of a land use action, but gave no direction on the land use action.





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## Proposed Text Changes

1	Duplexes
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### CHAPTER 2.03. RESIDENTIAL LOW-DENSITY ZONE (RL)

#### 2.03.020 Permitted Uses.

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

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

#### 2.03.050 Density Regulations.

- (1) Single-family and Manufactured Homes - No more than one dwelling per lot or parcel, other than an approved accessory dwelling unit ~~or two units are permitted if they are attached (a duplex)~~.
- (2) Duplex - No more than one duplex ~~structure (two units)~~ per ~~corner~~ lot or parcel. ~~Both duplex units can be on the same lot/parcel or on different lots/parcels with a zero-lot line design.~~
- (3) ~~An accessory dwelling unit is permitted on any lot or parcel, even those with a duplex structure.~~

### CHAPTER 2.04. RURAL ZONE (RU)

#### 2.04.020 Permitted Uses.

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

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

**2.04.050 Density Regulations.**

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

- (1) Single-family and Manufactured Homes - No more than one single family home (or manufactured home) is permitted per lot or parcel.
- (2) Duplex - No more than one duplex per lot or parcel. Both duplex units can be on the same lot/parcel or on different lots/parcels with a zero-lot line design.
- (3) An accessory dwelling unit is permitted on any lot or parcel, even those with a duplex structure.

**2.04.060 Dimensional Standards.**

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

Table 3 RU Zone Dimensional Standards	
RU Zone Dimensional Standards	
Minimum Lot Area	2.5 acres
Lot Dimension Requirements	
Minimum Lot Width	300 feet
Maximum Lot Depth-to-Width Ratio	3:1
Minimum Setbacks- Single Family & Duplex	
Front Yard	20 feet

Garage	25 feet to entrance
Front Yard to Arterial and Collector Streets	50 feet to Centerline of Right-of-Way
Side Yard (Interior)	15 feet
Side Yard (Street)	20 feet
Rear Yard	20 feet
Maximum Structure Height	
Principal Building	35 feet
Accessory Building Height & Setbacks	Per Section 3.15
Maximum Lot Coverage	50%

### 2.04.070 Development Standards.

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

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

## CHAPTER 2.05. RESIDENTIAL MEDIUM (RM)

### 2.05.050 Density Regulations.

The maximum allowable density shall be six dwelling units per gross acre for single-family detached and attached homes, and 16 dwelling units per gross acre for multi-family development. **No more than one duplex structure (two units) per lot or parcel. Both duplex units can be on the same lot/parcel or on different lots/parcels with a zero-lot line design. An accessory dwelling unit is permitted on any lot/parcel including those with a duplex.**

### 2.05.060 Dimensional Standards.

The following shall apply:

Table 4 RM Zone Dimensional Standards	
RM Zone Dimensional Standards	
Minimum Lot Area	
Single-family & Duplex	5,000 square feet
<del>Duplex</del>	<del>7,000 square feet</del>
<del>Attached Dwellings other than Duplexes</del>	<del>3,500 square feet per unit</del>
Multiple Family (3 or more)	2,500 square feet per unit
Other Uses	Sufficient to meet setbacks and development requirements
Minimum Lot Dimension Requirements	
Lot Width	50 feet
Lot Depth	80 feet
Minimum Setbacks	
Front Yard	10 feet
Garage	25 feet to the entrance
Side Yard - one story (Interior)	5 feet
Side Yard - Any second story (or more) shall be at least 8 feet from the property line (Interior)	8 feet
Side Yard (Interior)	5 feet (per story)
Side Yard (Street)	10 feet
Rear Yard	15 feet
Maximum Structure Height	35 feet
Accessory Building Height & Setbacks	Per Section 3.15
Maximum Lot Coverage	60%

**2 Garages**

**CHAPTER 3.12. DESIGN STANDARDS FOR HOMES ON INDIVIDUAL LOTS**

**3.12.020 General Standards - All Single-family, prefabricated, manufactured and Duplex Homes.**

All new ~~site-built~~ single-family, ~~and~~ duplex homes, and modular homes constructed or located within the City shall include:

- (1) ~~At least a two-car garage for each dwelling unit. An access area that shall be paved or concrete, connected to, but outside of the right-of-way, and shall be at least 25 feet deep and 24 feet wide.~~

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- (2) Eaves that project at least 12".
  - (3) No garage shall be more than 65% of the façade width.
  - (4) ~~Window and door trim is required on the front and all street facing portions of the structure.~~ All trim shall be at least four inches.
  - (5) All homes shall have a minimum nominal pitch of three feet in height for each 12 feet in width.
  - (6) Any home, except accessory dwelling units, shall have at least 1,000 square feet of gross floor area.
  - (7) The home shall be placed on an excavated and back filled foundation with no more than 12 inches of enclosing material exposed above grade. Where the building site has a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 12-inch limitation shall not apply. Furthermore, the 12-inch limitation shall not apply if the requirements of the Flood Hazard District mandate that the home be elevated more than 12 inches above grade. The foundation shall meet building code and Flood Hazard Area (if applicable) standards. The base of the home shall be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or a combination thereof.
  - (5 8) A dwelling with a garage up to 50% of the length of the facade shall meet at least four of the following design standards. A dwelling with a garage more than 50% of the facade must meet at least five of the following design standards to provide visual relief along the front of the dwelling:

### 3.12.030 ~~General Standards~~ – ~~Additional Manufactured Homes~~ Standards.

Manufactured homes are permitted in all residential zones, in accordance with the following general standards, and the design standards set forth in Section 3.12.020. The minimum lot area, setback, and height standards of the subject zone shall also apply to manufactured homes sited on individual lots.

~~(9) Garage. A garage of like material and color of the manufactured home is required. The garage shall be placed on the property prior to occupancy of the manufactured home.~~

- ~~(11 8)~~ Only one manufactured home and one Accessory Dwelling Unit is allowed per lot.

<b>3</b>	<b>Limited Land Use Decision</b>
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**CHAPTER 1.02.020. Definitions**

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

**CHAPTER 5.01. APPLICATION TYPES**

**5.01.030 Table of Land Use Application Procedures.**

Table 22 Land Use Application Procedures				
Land Use Application Procedures				
Land Use Action	Type	Staff Planning Director	Planning Commission	City Council
Floodplain Development Permit	Type - I	Final Decision	No Role	No Role
Property Boundary Adjustment	Type - I	Final Decision	No <del>role</del> Role	No <del>role</del> Role
Sign Permit	Type - I	Final Decision	No <del>role</del> Role	No <del>role</del> Role
Temporary Use Adjustment	Type - I	Final Decision	No <del>role</del> Role	No <del>role</del> Role
Adjustment	Type - II	Final Decision unless appealed	Appeal - Staff Decision	No Role* <del>Appeal- Commission- Decision-</del>
Interpretations	Type - II	Final Decision unless appealed	Appeal - Staff Decision	No Role* <del>Appeal- Commission- Decision-</del>
Partition	Type - II	Final Decision unless appealed	Appeal - Staff Decision	No Role* <del>Appeal- Commission- Decision-</del>

Subdivision	Type - II	Final Decision unless appealed	Appeal - Staff Decision	No Role* <del>Appeal - Commission Decision</del>
Site Development Review	Type - II	Final Decision unless appealed	Appeal - Staff Decision	No Role*
Nonconforming Uses (Alteration or Expansion)	Type - II	Final Decision unless appealed	Appeal - Staff Decision	No Role*
Conditional Use Permits	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Home Occupation CUP (employees or vehicles)	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
<del>Nonconforming Uses (Alteration or Expansion)</del>	<del>Type - III</del>	<del>Recommendation to Commission</del>	<del>Final Decision unless appealed</del>	<del>Appeal - Commission Decision</del>
<del>Site Development Review</del>	<del>Type - III</del>	<del>Recommendation to Commission</del>	<del>Final Decision unless appealed</del>	<del>Appeal - Commission Decision</del>
Variance	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Annexation	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Comp. Plan Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Text Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Zone Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Historic Zone Designation	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed



Historic Demolition and Moving	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Historic Exterior Alteration and New Construction	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Street Vacations	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed

\* Unless the City Manager elects to enact the provisions of Section 5.01.030(4)

## CHAPTER 5.05. PROCESSING SITE DEVELOPMENT REVIEWS

### 5.05.020 Process.

Site development review applications shall be reviewed in accordance with the Type III review procedures in Chapter 5.198.

### 5.05.030 Application.

An application for site development reviews shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.198.

## CHAPTER 5.14. PROCESSING NONCONFORMING USE ALTERATIONS

### 5.14.020 Process.

Proposed alterations of nonconforming uses shall be reviewed in accordance with the Type III review procedures in Chapter 5.198.

### 5.14.030 Application.

An application for an alteration or expansion of a nonconforming use shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.198.

## CHAPTER 5.18. TYPE II APPLICATIONS AND REVIEW PROCEDURES

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### 5.18.010 Procedure for Type II Action.

- (1) Decision Authority. Applications subject to a Type II procedure shall be reviewed and decided by the ~~City Manager Planning Director~~ or his/her designee, or by the Planning Commission upon ~~referral or appeal, or the Council upon appeal.~~
- (2) Application. Upon receipt of an application for Type II land use action, the City staff shall review the application for completeness.
  - a. If determined to be complete, the 120-day time period shall begin.
  - b. If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (3) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
  - a. Upon receipt of the requested acceptable additional information; or, refusal by the applicant to submit the requested information; or
  - b. On the 31st day after the original application submittal.
- (4) ~~Hearing Option Special Appeal.~~ The City Manager ~~or designee~~ may direct staff to schedule ~~a any appeal with the City Council instead of the Planning Commission. The City Manager can elect to appeal any Type II case in order to have it heard by the City Council. public hearing and decision by the Planning Commission processed as a Type III application. A Type III process with a hearing may also be requested by the applicant. The procedures for conducting the public hearing shall comply with the standards in Chapter 5.21.~~
- (5) Before making a Type II decision, the City shall mail notice of the application to:
  - a. All owners of record of real property within 100-feet of the subject site;
  - b. Any person who submits a written request to receive a notice;
  - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City or required by State statute;
  - d. The road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application; and
  - e. The City may notify other affected agencies, as appropriate, for review of the application.
- (6) The notice of a pending Type II decision in Subsection (5) above shall include the following:
  - a. Provide a 14-day period for submitting written comments before a decision is made on the land use application.

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- b. Identify the specific land use decisions or decisions requested.
  - c. Describe the street address or other easily understandable reference to the location of the site.
  - d. List the relevant decision criteria by name and number of Code sections.
  - e. State the place, date, and time the comments are due, and the person to whom the comments should be addressed.
  - f. Include the name and telephone number of a contact person regarding the administrative decision.
  - g. State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
  - h. State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City.
  - i. State that after the comment period closes, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
- (7) Decision. The **City Manager Planning Director** or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.
- (8) Notice of Decision. Within five working days after a decision is made, a Notice of Decision shall be sent by mail to:
- a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
  - b. Any person who submits a written request to receive notice or provides comments during the application review period.
  - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
- (9) Appeals and Reconsideration. All Type II land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.21.
- (10) Commission Hearing and Notice of Appeal. If a Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission **(unless the City Manager has elected to direct the case to the City Council using 5.18.010(4)) and the application becomes a Type III quasi-judicial application as permitted by ORS**
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197.195(5). The 120 days to process the application shall not reset and all provisions 5.16.040 shall apply. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.21. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.21.

(11) Commission Action. The Commission action on a Type II appeal shall be in the form of a **Type III quasi-judicial** decision. Within seven days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.

~~(12) Appeals. All appeals of Type II land use decisions of the Planning Commission may be appealed to the City Council by any party with standing. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.21.~~

(13) **Council Planning Commission** Hearing and Notice of Appeal. If the **Planning Director's Commission** decision ~~on a Type II decision is~~ appealed, City staff shall schedule a hearing before the **Planning Commission City Council**. The **Commission Council** shall conduct the hearing consistent with procedures set forth in Chapter 5.22 and 5.16.040. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the **Planning Director's Commission** decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.22.

(14) Notice of **Council Planning Commission** Decision. Within seven days of the final **Council Planning Commission** decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the **Council Planning Commission** decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.

(15) Appeal of **Council Planning Commission** Decision. All appeals heard by the **Council Planning Commission** may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

## **~~CHAPTER 5.22. -- REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL~~**

### **~~5.22.010 -- General Provisions.~~**

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~~(1) Council Review. The City Council may call up a Type II or Type III decision for review within the appeal period without an appeal being filed. A majority of the Council, as determined by the City Attorney by polling the Council, must concur in considering calling up the application. If there is concurrence, the agenda item will be set at a regular meeting or at a special meeting set by the Mayor. The Council must take the action to call up a decision in a public meeting and cite the reasons. The Council must find the original decision likely violated City regulations, policy, or best interest as determined by the Council. Matters called up by the Council shall be processed in the same manner as an appeal.~~

<b>4</b>	<b>Mass Timber/ Prefabricated</b>
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**CHAPTER 1.02.020. Definitions**

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

*Dwelling, Prefabricated.* A prefabricated structure means a building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site. This does not mean a manufactured dwelling or a small home as defined in section 2, chapter 401, Oregon Laws 2019, or any structure not intended for living such as a shed. A prefabricated structure may be an accessory dwelling unit.

**CHAPTER 3.11. - MANUFACTURED DWELLING PARKS**

**3.11.010 - Development Standards.**

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

(1) Permitted Housing. Only Class "A" manufactured dwellings are permitted in Manufactured Dwelling Parks adjacent to areas that are predominantly developed with single-family residential dwellings. Class "A" or "B" manufactured dwellings are permitted in all other Manufactured Dwelling Parks. No manufactured dwelling shall be more than 10 years in age at time of placement. Prefabricated structures are permitted as well, consistent with ORS 446.003.

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## CHAPTER 3.12. - DESIGN STANDARDS FOR HOMES ON INDIVIDUAL LOTS

### 3.12.010 Scope.

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

### 3.12.020 General Standards - All Single-family, ~~Prefabricated, Manufactured~~ and Duplex Homes.

All new ~~site-built~~ single-family, ~~and~~ duplex ~~homes~~, ~~prefabricated~~, and modular homes constructed or located within the City shall include:

- (2) ~~At least a two-car garage for each dwelling unit. An access area that shall be paved or concrete, connected to, but outside of the right-of-way, and shall be at least 24 feet square.~~
- (2) Eaves that project at least 12".
- (3) No garage shall be more than 65% of the façade width.
- (4) All trim ~~on the front of a unit~~ shall be at least four inches.
- (5) ~~All homes shall have a minimum nominal pitch of three feet in height for each 12 feet in width.~~
- (6) Any home shall have at least 1,000 square feet of gross floor area.
- (7) The home shall be placed on an excavated and back filled foundation with no more than 12 inches of enclosing material exposed above grade. Where the building site has a sloped grade, no more than 12 inches of the inclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 12-inch limitation shall not apply. Furthermore, the 12-inch limitation shall not apply if the requirements of the Flood Hazard District mandate that the home be elevated more than 12 inches above grade. The foundation shall meet building code and Flood Hazard Area (if applicable) standards. The base of the home shall be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or a combination thereof.
- (5 8) A home with no garage door on the front of the façade or a home with a front facing garage door ~~A garage~~ up to 50% of the length of the facade shall meet at least four of the following design standards. ~~A home with a garage door more than 50% of the facade must meet at least five of the following design standards to provide visual relief along the front of the dwelling:~~

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### 3.12.030 ~~General Standards~~ – **Additional Manufactured Homes Standards.**

Manufactured homes are permitted in all residential zones, in accordance with the following general standards and the design standards set forth in Section 3.12.020. The minimum lot area, setback, and height standards of the subject zone shall also apply to manufactured homes sited on individual lots.

- (1) Size. The manufactured home shall be multi-sectional ~~and have at least 1,000 square feet of gross floor area.~~
- (2) Performance standards. The exterior thermal envelope must meet the standards specified by State law for single-family dwellings, as defined in ORS 455.010.
- (3) Removal of towing equipment. All towing hitches, wheels, running lights, and other towing related equipment shall be removed within 30 days after installation of the manufactured home.
- ~~(4) Foundations. The manufactured home shall be placed on an excavated and back filled foundation with no more than 12 inches of enclosing material exposed above grade. Where the building site has a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 12 inch limitation shall not apply. Furthermore, the 12-inch limitation shall not apply if the requirements of the Flood Hazard District mandate that the home be elevated more than 12 inches above grade. The foundation shall meet building code and Flood Hazard Area (if applicable) standards. The base of the manufactured home shall be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or a combination thereof.~~
- (4 5) Utilities. The manufactured home shall be provided with storm drainage, sanitary sewer, electric, telephone, and potable water utility services with easements dedicated where necessary to provide such services. All such utilities shall be located underground unless waived by the City Building Official where underground service would require an exception to local prevalent conditions. Manufactured homes shall not be occupied purposes unless connected to local water, sewer, and electrical systems.
- (5 6) Historical sites. No manufactured home shall be located on property containing a historic significant resource or Historic Zoning Overlay, or on a lot or parcel immediately adjacent to property containing a historic landmark.
- ~~(6) Roofing. The manufactured home must have a composition asphalt, fiberglass, shake, or tile roof with a nominal pitch of three feet in height for each 12 feet in width.~~

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- ~~(8) Exterior siding and finish. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings.~~
  - ~~(9) Garage. A garage of like material and color of the manufactured home is required. The garage shall be placed on the property prior to occupancy of the manufactured home.~~
  - ~~(10) Off-street parking. Parking and improvements shall be as specified in Chapter 3.03.~~
  - (11 6) Only one manufactured home and one Accessory Dwelling Unit is allowed per lot.

<b>5</b>	<b>Subdivision Regulations</b>
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**CHAPTER 4.01. - LAND DIVISION REQUIREMENTS**

**4.02.080 Regulations on Implementing Construction**

Once a Land Use decision is made on a subdivision, only those local laws in effect at the time of the application submittal shall govern subsequent construction on the property unless the applicant elects otherwise. This period shall last 3 years. This regulation does not automatically extend the life of the Tentative Map Land Use approval to 3 years.

<b>6</b>	<b>Clarification on CO standards</b>
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**CHAPTER 2.07. - COMMERCIAL OFFICE ZONE (CO)**

**2.07.020 - Permitted Uses.**

Unless listed in subsections [2.07.040](#) or [2.07.045](#), the following uses are permitted in the CO zone subject to the applicable development standards:

- (1) Any permitted uses listed in the General Commercial (GC) zone or Light Industrial (LI) zone, assuming all development standards of these zones are met, **as modified by the standards listed below for the CO Zone.**

<b>7</b>	<b>Access Easement Length</b>
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**CHAPTER 3.02. - STREET STANDARDS**

**3.02.100 Private Access Easement**



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

(1) Width. Private access easement shall only be allowed where the applicable criteria of [Chapter 3.08](#) are satisfied. The access easement shall comply with the following standards or as required by the Oregon Fire Code whichever is more restrictive:

- a. Minimum easement width: 25 feet
- b. Minimum paved width: For private access of 150' or less and serving one dwelling - 12 feet; serving two dwellings - 16 feet. For private access of more than 150' - 20 feet.
- ~~c. Maximum length: 200 feet~~
- d. No more than three dwelling units shall have their sole access to the easement. Easements serving more than three homes shall comply with provisions for a private street.

<b>8</b>	<b>Off Street Loading</b>
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### CHAPTER 3.03. - OFF-STREET PARKING AND LOADING

#### 3.03.070 Off-Street Loading Requirements

~~Commercial or industrial buildings between 10,000 to 25,000 square feet in area shall require a loading space. One additional space shall be required for each additional 25,000 square feet of gross floor area, or any portion thereof. The minimum loading space dimensions shall be 12 feet wide, 30 feet long, and 14 feet high. All Commercial loading areas shall be screened from view of any street right-of-way and shall be designed to not interfere with any passenger vehicle parking areas. This does not apply to patron loading areas.~~

<b>9</b>	<b>Temporary Signs</b>
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#### ~~3.06.130 Temporary Signs:~~

~~Temporary signs are prohibited except as permitted by this section. The following signs shall comply with all provisions and regulations of this chapter; however, no fee, permit, or application is required. Registration for all temporary signs is required. Registration must occur at the Millersburg City Hall and be completed and filed prior to erecting the temporary signs. These include portable signs such as A frame or sandwich board signs.~~

~~(1) Generally.~~

- ~~a. Illumination: No temporary sign shall be internally or externally illuminated.~~

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~~b. Location:~~

- ~~i. No temporary sign shall be placed within, extend into, or over the public right-of-way of any street except allowed temporary traffic control signs or signs placed by any government agency.~~
- ~~ii. Signs allowed in the right of way by any government agency shall provide a minimum of five feet of clear passage for pedestrians on the sidewalk where a sidewalk exists and shall come no closer than two feet from areas subject to vehicular travel.~~
- ~~iii. No temporary sign shall extend into the vision clearance area.~~
- ~~c. Maintenance: Temporary signs shall be kept neat, clean and in good repair. Signs which are faded, torn, damaged, or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed.~~
- ~~d. Placement: Temporary signs shall not be attached to trees, shrubbery, utility poles, or traffic control signs or devices. They shall not obstruct or obscure primary signs on adjacent premises.~~
- ~~e. All temporary signs in non-residential zones must be registered with the Community Development Department prior to placement in order to track the duration of the placement. Residential properties are not required to register temporary signage.~~
- ~~f. Each non-residential property shall be limited to no more 90 days for any combination of temporary signage per calendar year. This can be used in smaller intervals or all at once, at the applicant's discretion. This does not apply to election signs, pennants/streamers, or real estate signs.~~

~~(2) Allowed Temporary Signage.~~

- ~~a. In a residential zone, limited temporary signage is permitted pursuant to the following standards. This signage shall not be restricted by content, but is typically used to advertise real estate sales, political or ideological positions, garage sales, home construction or remodeling, farm stands, etc. Standards for residential temporary signs include:~~
  - ~~i. Reserved.~~
  - ~~ii. Reserved.~~
  - ~~iii. Reserved.~~
  - ~~iv. Signs not exceeding six square feet in area or four feet in height during the period from 120 days before a public election or the time the election is called, whichever earlier, to seven days after the public election.~~
  - ~~v. A sign not exceeding six square feet in area and five feet in height during the time of sale, lease, or rental of the lot or dwelling provided that the sign is removed within seven days of the sale, lease or rental of the lot or dwelling.~~
  - ~~vi. A sign not exceeding six square feet in area during the time of construction or remodeling of the property, provided the sign is removed within seven days of the completion of the remodeling or construction. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously. On lots of more than two acres, the sign area~~

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may be increased to 32 square feet. In no case shall the sign or signs remain erected if building or construction permits are no longer active.

vii. On property which has received a subdivision or development approval, from the time of the approval until issuance of a building permit for the last lot to be sold or completion of the development of the project, one temporary sign not exceeding 32 square feet in area and eight feet in height on properties less than four acres in size or two temporary signs not exceeding 64 square feet in area (32 square feet each) and eight feet in height on properties greater than four acres in size.

b. In any commercial, public, or industrial zone, limited temporary signage is permitted pursuant to the following standards. This signage shall not be restricted by content, but is typically used to advertise real estate, political or ideological positions, construction or remodeling, help wanted, or temporary activities. Standards include:

i. There shall be no more than one temporary sign per property even if more than one business is located on the property.

ii. Signs shall not exceed six square feet per side.

iii. Signs not exceeding six square feet in area or four feet in height during the period from 120 days before a public election or the time the election is called, whichever earlier, to seven days after the public election.

iv. A sign not exceeding 32 square feet in area and eight feet in height during the time of sale, lease, or rental of the property provided that the sign is removed within seven days of the sale, lease or rental of the property, or a sign not exceeding 32 square feet in area during the time of construction or remodeling of the property, provided the sign is removed within seven days of the completion of the remodeling or construction. In no case shall the sign or signs remain erected if building or construction permits are no longer active.

v. A sign not exceeding 32 square feet in an area during the period of charitable fundraising event being conducted on the property where the sign is erected. This sign shall not be placed more than seven days prior to the event and must be removed within seven days following the event.

vi. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously.

vii. Temporary uses such as Christmas tree sales, pumpkin sales, etc. are permitted two signs not to exceed 32 square feet per side each. The signage shall be allowed for the same duration as the temporary use; however, these signs do count toward the 90-day maximum permitted by Section 3.06.130.1.f.

viii. Pennants and streamers may be used as part of an opening or promotional event only and are not counted as a temporary sign for purposes of the 90-day duration maximum permitted by Section 3.06.130.1.f.

ix. Blade banner signs are considered temporary signs and shall meet all regulations herein. In no case shall blade banner signs be taller than seven feet.

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- ~~c. *Fair/Market Vendor Signs.* In addition to any other temporary sign requirement, the following additional requirements apply: (For purposes of this subsection, "vendor" includes persons selling or displaying information or products)~~
- ~~i. The fair or market is a temporary activity which does not require permanent site improvements.~~
  - ~~ii. The fair or market shall have no more than three offsite signs advertising the event, individual vendors are not permitted to use any additional offsite signage (including yard signs on private property).~~
  - ~~iii. There are no regulations for signs within the event area, except that no sign shall be higher than 10 feet from the ground surface. At no time shall event signs be erected more than 60 days before the event.~~
  - ~~iv. All temporary signage (except those within the event space) are limited by the 90 days permitted by Section 3.06.130.1.f. These are considered cumulative and not separate regarding the accumulation of the 90 days permitted by Section 3.06.130.1.f.~~
- ~~d. *Temporary Signs Requiring Permit.* The City Manager may allow temporary signs larger than those allowed by this section (but not additional signs or to allow a sign to be posted for a longer duration than the times listed in this section) with a sign permit. This signage shall not be restricted by content, but is usually and customarily used to advertise special events and store openings on banners. The City Manager shall allow the placement of such signs only if the City Manager finds that the proposed sign will not materially impair the purposes of the sign code.~~
- ~~e. *Additional Duration.* Additional duration of temporary sign placement cannot be added through a sign variance process.~~
- ~~(3) *Sign Collection and Retrieval.* Signs determined to be in violation will be removed and disposed of.~~

<b>10</b>	<b>Trash Enclosures</b>
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## **CHAPTER 3.07. - FENCING AND SCREENING**

### **3.07.090 Commercial and Multi-Family Trash Enclosures.**

All commercial and multi-family uses, including mixed use (not including industrial), shall provide solid waste and recycling storage receptacles which are adequately sized to accommodate all solid waste generated on site. All solid waste and recycling storage areas and receptacles shall be located out of public view when possible. Solid waste and recycling receptacles for multi-family, or commercial, uses shall be screened by six (6) foot high sight-obscuring masonry wall (or similar, chain link is prohibited), lockable, and shall be easily accessible to collection vehicles.

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

### 2.03.070 - Development Standards.

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

- (5) *Non Residential Development.* Parking lots abutting an RU, RL, or RM zone shall provide sight obscuring screening with vegetation and/or fencing to a height of at least forty-two inches above the ground to screen headlight glare into the adjacent residential property. ~~Trash collection areas shall also be enclosed with fencing at least six feet in height.~~

## CHAPTER 2.04. - RURAL ZONE (RU)

### 2.04.070 - Development Standards.

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

- (5) *Non-Residential Development.* Parking lots abutting an RL, RU, or RM zone shall provide sight obscuring screening with vegetation and/or fencing to a height of at least forty-two inches above the ground to screen headlight glare into the adjacent residential property. ~~Trash collection areas shall also be enclosed with fencing at least six feet in height.~~

## CHAPTER 2.05. - RESIDENTIAL MEDIUM (RM)

### 2.05.070 - Development Standards.

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

- (4) *Residential Design Standards.*
  - a. All single-family homes and manufactured dwellings on individual lots shall conform to the design standards in [Chapter 3.12.040](#).
  - b. Multiple Family and Non-Residential Development.
    - i. Property abutting an RL, RM, or RU zone shall provide sight obscuring screening with light and vision obscuring fencing or vegetation to a height of at least 42 inches above the ground, but not exceeding six feet unless otherwise allowed.
    - ii. Parking lots abutting an RL, RM, or RU zone shall provide sight obscuring screening with vegetation and/or fencing to a height of at least 42 inches above the ground to screen headlight glare into the adjacent residential property. ~~Trash collection areas shall also be enclosed with a sight-obscuring fence or wall at least six feet in height.~~

## CHAPTER 2.06. - MIXED-USE ZONE (MU)

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**2.06.070 - Development Standards.**

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

- (6) *Multiple Family and Non-Residential Development.* Parking lots abutting an RL, RU, or RM zone shall provide sight obscuring screening with vegetation and/or fencing to a height of forty-two (42) inches above the ground to screen headlight glare into the adjacent residential property. ~~Trash collection areas shall also be enclosed with fencing at least six feet in height.~~

<b>11</b>	<b>Patio Covers</b>
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**CHAPTER 3.08. - YARD AND LOT STANDARDS**

**3.08.070 Decks, Porches, Patios, and Similar Features.**

- (4) *Detached & Attached Patio Cover or Pergola.*
  - a. The County may require a building permit for patio covers or pergolas over 200 square feet.
  - b. A patio cover or pergola may encroach into side, rear, or front yard setbacks. A patio cover or pergola may not be less than five feet from a rear or side property line, and/or 10 feet from a front property line, though it should be noted that if the structure is over 200 square feet it is considered an accessory structure, and accessory structures are not permitted in front of dwelling units.
  - c. Any patio, or pergola that has a solid roof, must comply with maximum lot coverage requirements of the zone.

<b>12</b>	<b>Limits on Planter Bays</b>
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**CHAPTER 3.09. - LANDSCAPING STANDARDS**

**3.09.030 Standards.**

- (2) *Parking Lot Landscaping.* The purpose of landscaping in parking lots is to provide shade, reduce stormwater runoff, and direct traffic. Incorporation of approved vegetated post-construction stormwater quality facilities in landscaped areas is encouraged. Parking lots must be landscaped in accordance with the following minimum standards:
  - a. *Planter Bays.* Parking areas shall be divided into bays of not more than 12 parking spaces. At both ends of each parking bay, there shall be curbed planters at least five feet wide, excluding the curb. Gaps in the curb may be allowed for

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connections to approved post-construction stormwater quality facilities. Each planter shall contain at least one canopy tree at least 10 feet high at time of planting and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Neither planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces. **Every 12 spaces requires two bays (one at each end). Any development with five or fewer parking spaces proposed need not provide any planter bays, more than 6-10 spaces requires at least one planter bay, more than 11 spaces requires one at each end.**

<b>13</b>	<b>Shade coverage parking</b>
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## **CHAPTER 3.09. - LANDSCAPING STANDARDS**

### **3.09.030 Standards.**

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

c. Shade Coverage.

- i. All new **passenger vehicle** parking areas (**excluding auto sales lots**) over 1/2 acre, including all driveways and drive aisles, shall provide tree canopy covering at least 40 percent of the parking lot at maturity but no more than 15 years after planting.
- ii. Trees must be **at least 10 feet tall at the time of planting** ~~planted~~ and maintained to maximize their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation according to the needs of the species.
- iii. Landscape plans shall show the canopy coverage at 15 years maturity as part of any land use submittal.
- iv. A specific Tree Canopy Plan shall be included as part of the Landscape Plans which shall show the canopy coverage at 15 years maturity as part of any land use submittal.
- v. Development of a Tree Canopy Plan, to comply with the requirements of this section, shall be done in coordination with the local electric utility, including pre-design, design, building and maintenance phases.
- vi. As an alternative, the development may provide 30 percent tree canopy coverage over all new parking areas and installation of solar panels with a

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generation capacity of at least 0.5 kilowatt per new parking space. Panels may be located anywhere on the property, including the roof of a structure.

<b>14</b>	<b>Triplexes</b>
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### **CHAPTER 3.09. - LANDSCAPING STANDARDS**

#### **3.09.040 - Landscape Plans.**

With the exceptions noted below, all development applications involving buildings and parking areas must include landscape plans. The following uses are required to meet the landscaping requirements of this Code but are not required to submit landscape plans:

- a. Single-family dwellings, ~~and duplexes, and triplexes.~~
- b. Accessory buildings.
- c. Changes internal to an existing structure.
- d. Building additions involving less than 500 square feet.

<b>15</b>	<b>Trim</b>
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### **CHAPTER 3.12. - DESIGN STANDARDS FOR HOMES ON INDIVIDUAL LOTS**

#### **3.12.020 - General Standards - All Single-family and Duplex Homes.**

All new site-built single-family and duplex homes and modular homes constructed or located within the City shall include:

- (1) At least a two-car garage for each dwelling unit.
- (2) Eaves that project at least 12".
- (3) No garage shall be more than 65% of the façade width.
- (4) ~~All trim~~ Window and door trim is required on the front and all street facing walls of the structure. All trim shall be at least four inches.

<b>16</b>	<b>RV Covers</b>
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### **CHAPTER 3.15. RESIDENTIAL ACCESSORY STRUCTURES**

#### **3.15.010 Single-family Residences.**

Residential accessory structures for attached or detached single-family homes and duplexes, excluding Accessory Dwelling Units as defined in Chapter 3.16, shall comply with all requirements for a principal structure, except where specifically modified by this section.



Accessory structures shall not be used for human habitation except as specified in this section. Accessory structures shall comply with the following standards:

- (6) Standards for RV covers and carports.
  - a. Materials. Covers may be made from any building material including metal.
  - b. Setbacks. All accessory structure setbacks apply. Setbacks will be taken from the eaves of the roofline, not the structure uprights.
  - c. The RV cover or carport has no setback requirement from the primary structure (house) and may even be connected to the primary structure.
  - d. Colors. The primary color of any metal roofing material must be neutral (earth tones) or be similar to the color, or accent color, of the primary structure.
  - e. Height. The maximum height of an RV cover is 20 feet, unless the cover is setback at least 20 feet from any property line, then the height limit from the zone applies.
  - f. Walls. RV covers cannot include more than 1 wall. A wall is considered any coverings on the sides, front, or back of the structure that are not part of the roof.

**17 Accessory Structures**

**CHAPTER 3.15. RESIDENTIAL ACCESSORY STRUCTURES**

**3.15.010 Single-family Residences.**

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

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

Table 17 Residential Accessory Structures Standards				
Residential Accessory Structures Standards				
Structure Size (1)	Exterior Finish	Location on Property	Setbacks (side and rear)*	Maximum Height*
Up to 200 sf	No Requirements	Side or Rear Yard	1 story - 5 feet 2 stories 8 feet	10 feet (5)
Over 200 <del>to</del> <del>1,200</del> -sf	(2)	Side or Rear Yard	<del>1-story</del> Up to 17 feet tall - 5 feet <del>2-stories</del> Taller than 17 feet tall- <del>8-10</del> feet	25 feet (5)

Over 1,200-sf	<del>(2)</del>	Side or Rear Yard	1-story 8-5 feet 2 stories 8 feet	25 feet
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\* Measured from the **midpoint-peak** of the roof

Notes:

1. Up to 11,000 square feet of lot size, maximum accessory structure size is 1,200 square feet; over 11,000 square feet of lot size, the structure may be increased an additional 100 square feet for each 1,000 square feet of lot size.
2. For any accessory structure located on a lot of 2.5 acres or less, the exterior siding and roofing shall have the same general materials and color as the primary dwelling. Otherwise, there are no restrictions.
3. Total lot coverage standards as required per zone also apply to all accessory structures, including those not requiring a building permit.
4. RV covers or carports are considered accessory structures if they are over 200 square feet.
5. **No accessory structure can be taller than the primary structure on the property.**

<b>18</b>	<b>Shipping Containers</b>
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**CHAPTER 3.15. RESIDENTIAL ACCESSORY STRUCTURES**

**3.15.010 Single-family Residences.**

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

- (4) Prohibited Structures. The use of metal shipping containers or semi-truck trailers as an accessory structure shall be prohibited, **except as regulated by the Municipal Code section 13.36.25.**

<b>19</b>	<b>Nonconforming</b>
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**CHAPTER 3.21. - GENERAL STANDARDS**

**3.21.100 - Nonconforming Uses and Standards.**

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

- (1) Continuation. A nonconforming use **or standard** may be continued although not in conformity with the regulations for the zone in which the use is located.
- (2) Discontinuation. If a nonconforming use is discontinued for a period of more than one year, the use shall not be resumed unless the resumed use conforms with the requirements of the Code.
- (3) Restoration. If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, and the repair or replacement of the damaged or destroyed structure or structures is less than 80% of the appraised value, such use may be restored or replaced provided physical restoration or replacement is lawfully commenced within one year of the damage or destruction. The City may administratively grant a one time, one-year extension to this requirement.
- (4) Alteration and Change of Use. Alterations or changes in a nonconforming use may be permitted to reasonably continue the use. Such alterations or changes are subject to the Nonconforming Use provisions in Chapter 5.14. **An alteration of a structure with a nonconforming zoning or development standard is permitted as long as it does not exacerbate the nonconformity.**
- (5) Exemptions. Nonconforming single-family homes may be modified or expanded in compliance with development requirements of the Residential **Low-density** zone without the need to comply with the requirements and procedures in Chapter 5.14.

<b>20</b>	<b>Steel Walls</b>
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## **CHAPTER 3.26. - COMMERCIAL DESIGN STANDARDS**

### **3.26.030 Commercial Design Standards.**

- (4) The predominant building materials shall be either brick, wood, stone, decorative steel paneling ~~(not standard metal wall panels)~~, **and/or** tinted/textured concrete masonry units, **or** glass products, or a combination thereof. ~~Other materials such as S~~smooth-faced concrete block, or undecorated tilt-up concrete panels, shall not exceed 25% of the material used for walls adjacent to the street or 75% of any other wall. **Every street facing wall, or entry wall if not facing a street, shall include at least two different wall finishes such as stone wainscoting. No single wall material shall be less than 25% of the**

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**façade surface.** All roof types are allowed including metal roofs; however, flat roofs shall be surrounded by a vertical extension of the adjacent wall **sufficient to screen any rooftop equipment from a reasonable distance, including any adjacent street right-of-way.**

<b>21</b>	<b>Serial Partitions</b>
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**CHAPTER 4.02. - STANDARDS**

**4.02.020 Scope.**

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

- (1) Partition. A land division creating two or three parcels within a calendar year shall be processed as a Partition and subject to the design and improvement standards for a Partition.
- (2) Subdivision. A land division creating four or more lots within a calendar year shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision.
- (3) Serial Partition. If a Partition **in a residential zone** results in the creation of a large parcel that can be subsequently divided so that there is the potential to create more than three parcels from the original, the request shall be subject to the criteria, standards, design, and improvement standards for a Subdivision.
- (4) Some standards listed below pertain specifically to residential or non-residential (typically commercial and industrial). If the standard does not state that it is specific to one or the other, then it is applicable to all land divisions. Maps for mixed use projects shall be treated like a non-residential map.

<b>22</b>	<b>RU Map Improvements</b>
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**CHAPTER 4.02. - STANDARDS**

**4.02.050 Improvement Requirements - Partition.**

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

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- (1) Private Access. Where included, private driveways serving flag lots or private streets shall be surfaced per the requirements of this Code.
  - (2) Street Frontage Improvements. The following improvements shall be required:
    - a. Consistent with the adopted transportation plans, sufficient land shall be dedicated establishing the appropriate right-of-way width.
    - b. If the street frontage of the subject property is less than or equal to 250 feet and does not connect to existing improvements, the applicant shall pay connection fees in accordance with the City's adopted Connection Charges ordinance in lieu of construction of the required frontage improvements. At City's option, a non-remonstrance agreement acceptable to the City of Millersburg may be allowed. This agreement shall stipulate that the applicant, or future property owner, will agree to participate in right-of-way improvements. The agreement may include provisions for the following: street paving, curbing, sidewalks, water lines, storm sewer facilities, and sanitary sewer facilities. The agreement shall be recorded at the County Clerk's Office at the time of the recording of the final plat.
    - c. If the street frontage of the subject property exceeds 250 feet, or connects to an existing street improvement, the applicant shall improve the following:
      - i. Public streets upon which the property fronts to public standards including surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines, and other necessary public utilities per approved master plans. In some cases, surfacing additional road width may be required. Where a master plan has not been adopted, or the City deems it to be in the City's best interest, the developer shall pay connection charges consistent with item (2) b, above.
      - ii. Sidewalks, meeting City standards, along public street frontage: Sidewalk construction may be deferred until such time a building permit is issued.
      - iii. The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve parcels accessing off the new street.
    - d. Partitions in the RU Zone are not required to construct improvements. All other requirements apply.
  - (3) Public Facilities. Sewer, water, and storm drainage facilities may be required on and adjacent to the project. Improvements in the RU Zone are not required. The developer shall submit engineering plans or facility improvement plans to the City for review. The plans shall address the required improvements contained in this Article, and any conditions of approval, and shall conform with City Engineering Design Standards. Improvement work shall not commence until plans are approved by the City.
  - (4) Connection Charge. In the circumstance where existing improved streets, sanitary sewer, water, and/or storm lines are adjacent to or within the project, a connection charge is required in accordance with the City's adopted Connection Charges ordinance.
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- (5) Completion Requirements. All required improvements shall be completed prior to recording the final partition plat and the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to the City prior to the approval of the final plat of the Partition.

23	Site Development Review Criteria
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## CHAPTER 5.05. PROCESSING SITE DEVELOPMENT REVIEWS

### 5.05.060 Decision Criteria.

The review of a site plan shall be based upon the following criteria **that are applicable to the proposed development**:

- (1) The proposed use is allowed in the zone and complies with the underlying zone development standards.
- (2) The proposed use will not create negative impacts on the surrounding area resulting from traffic flow, noise, dust, glare, odor, potential incompatible adjacent uses such as parking lots, or other impacts identified in the public hearing process.
- (3) **Provisions shall be made to address impacts and conform to all development standards in this Code.** The City may impose conditions of approval intended to mitigate potential impacts. **Potential impacts include including**, but **are** not limited to:
  - a. ~~Provisions for public utilities, including drainage and erosion control needs;~~ Connection to, or ability to provide, adequate utilities including water, sewer, surface water drainage, power and communications, including easements, to properly serve development on the subject property in accordance with city standards.
  - b. ~~Provisions have been made to provide adequate parking design,~~ traffic safety, and connectivity of internal circulation to existing and proposed streets, ~~neighboring projects when appropriate, connecting~~ bikeways, and pedestrian facilities;
  - c. Provision of necessary improvements to local streets, including the dedication of additional rights-of-way to the city and/or the improvement of traffic facilities to accommodate access for emergency

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vehicles and the additional traffic load generated by the proposed development of the site.

- ed. Provision for ~~adequate noise landscaping~~ and/or visual buffering from non-compatible uses ~~including using site and landscaping design to provide needed buffering; and~~ .
- ee. Provisions for ~~P~~protections from any potential hazards.
- f. Provisions for lighting sufficient to satisfy the intended use of the property but designed in such a manner as to not present an adverse impact (as measured by excessive brightness or glare) upon adjacent land uses or traffic movements.
- g. The application complies with all applicable Design Standards.

<b>24</b>	<b>Subdivision Criteria</b>
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**CHAPTER 5.08. PROCESSING SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS (PUD)**

**5.08.060 Decision Criteria.**

Approval of a Subdivision or PUD shall be subject to the following decision criteria:

- (1) Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
- (2) The parcels shall meet the Development Standards for Land Division of Chapter 4.02.
- (3) Existing buildings shall comply with the setback requirements of the applicable zone, unless a variance from the requirements is approved.
- (4) Adequate ~~public facilities, including~~ access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, extending appropriate access to those properties will be required in accordance with adopted City policy. Adequate means the development will not cause streets (including sidewalks, intersections, and traffic control devices), ~~sewer facilities, water facilities, and storm drainage facilities~~ to exceed the relevant capacity ~~for each type of facility~~ established in the most recently adopted, ~~Sewer Master Plan, Water Master Plan, Storm Water Master Plan, and the~~ Transportation System Plan ~~development~~ in accordance with the State Transportation Planning Rule for which

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the determination will be made in accordance with Section 3.02.120. Adequacy can be established in three ways:

- a. Professional Engineering analysis determining the subdivision will not exceed the capacity of existing and future public facilities as projected in the most recently adopted ~~water, sewer, and stormwater master plans and~~ transportation system plan;
- b. Professional Engineering analysis determining what improvements will be required to increase the capacity of ~~public facilities streets~~ to adequately accommodate the subdivision and how those will be financed; or
- c. A combination of both a. and b.

(5) Adequate public facilities shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, extending public facilities to those properties will be required in accordance with adopted City policy. Adequate means the development will not cause sewer facilities, water facilities, and storm drainage facilities to exceed the relevant capacity for each type of facility established in the most recently adopted, Sewer Master Plan, Water Master Plan, and Storm Water Master Plan. Adequacy can be established in three ways:

- a. Professional Engineering analysis determining the subdivision will not exceed the capacity of existing and future public facilities as projected in the most recently adopted water, sewer, and stormwater master plans;
- b. Professional Engineering analysis determining what improvements will be required to increase the capacity of public facilities to adequately accommodate the subdivision and how those will be financed; or
- c. A combination of both a. and b.

(~~5~~ 6) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.

(~~6~~ 7) PUD. Approval of a planned unit development shall require compliance with the following in addition to the criteria listed above:

- a. Conformance with provisions of 4.02.010 (Purpose Statement).
- b. The proposal shall comply with the applicable development and layout provisions contained in Section 4.02.030 of this Code.
- c. Infrastructure shall be available and appropriate to serve the proposed development.

<b>25</b>	<b>Appeal Standing</b>
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## CHAPTER 5.16. - GENERAL ADMINISTRATIVE PROVISIONS

### 5.16.055 Appeal Standing- General

- a. Type I cases are not appealable.
- b. For Type II cases, failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Planning Commission or the Land Use Board of Appeals.
- c. For Type III cases, failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the City Council or the Land Use Board of Appeals.
- d. For Type IV cases, failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.

## CHAPTER 5.18. - TYPE II APPLICATIONS AND REVIEW PROCEDURES

### 5.18.010 Procedure for Type II Action. *{shown previously in this document}*

- (1) Decision Authority. Applications subject to a Type II procedure shall be reviewed and decided by the ~~City Manager~~ **Planning Director** or his/her designee, or by the Planning Commission upon ~~referral or appeal, or the Council upon appeal.~~
- (2) Application. Upon receipt of an application for Type II land use action, the City staff shall review the application for completeness.
  - a. If determined to be complete, the 120-day time period shall begin.
  - b. If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (3) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
  - a. Upon receipt of the requested acceptable additional information; or, refusal by the applicant to submit the requested information; or
  - b. On the 31st day after the original application submittal.
- (4) ~~Hearing Option~~ **Special Appeal**. The City Manager ~~or designee~~ may direct staff to schedule ~~a any appeal with the City Council instead of the Planning Commission. The City Manager can elect to appeal any Type II case in order to have it heard by the City Council. public hearing and decision by the Planning Commission processed as a Type III application. A Type III process with a hearing may also be requested by the applicant. The procedures for conducting the public hearing shall comply with the standards in Chapter 5.21.~~

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- (5) Before making a Type II decision, the City shall mail notice of the application to:
- a. All owners of record of real property within 100-feet of the subject site;
  - b. Any person who submits a written request to receive a notice;
  - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City or required by State statute;
  - d. The road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application; and
  - e. The City may notify other affected agencies, as appropriate, for review of the application.
- (6) The notice of a pending Type II decision in Subsection (5) above shall include the following:
- a. Provide a 14-day period for submitting written comments before a decision is made on the land use application.
  - b. Identify the specific land use decisions or decisions requested.
  - c. Describe the street address or other easily understandable reference to the location of the site.
  - d. List the relevant decision criteria by name and number of Code sections.
  - e. State the place, date, and time the comments are due, and the person to whom the comments should be addressed.
  - f. Include the name and telephone number of a contact person regarding the administrative decision.
  - g. State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
  - h. State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City.
  - i. State that after the comment period closes, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
- (7) Decision. The ~~City Manager~~ **Planning Director** or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.
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- (8) Notice of Decision. Within five working days after a decision is made, a Notice of Decision shall be sent by mail to:
- a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
  - b. Any person who submits a written request to receive notice or provides comments during the application review period.
  - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
- (9) Appeals and Reconsideration. All Type II land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.21.
- (10) Commission Hearing and Notice of Appeal. If a Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission ~~(unless the City Manager has elected to direct the case to the City Council using 5.18.010(4)) and the application becomes a Type III quasi-judicial application as permitted by ORS 197.195(5). The 120 days to process the application shall not reset and all provisions 5.16.040 shall apply.~~ The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.21. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.21.
- (11) Commission Action. The Commission action on a Type II appeal shall be in the form of a ~~Type III quasi-judicial~~ decision. Within seven days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- ~~(12) Appeals. All appeals of Type II land use decisions of the Planning Commission may be appealed to the City Council by any party with standing. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.21.~~
- (13) ~~Council~~ ~~Planning Commission~~ Hearing and Notice of Appeal. If the ~~Planning Director's Commission~~ decision ~~on a Type II decision is~~ appealed, City staff shall schedule a hearing before the ~~Planning Commission City Council~~. The ~~Commission Council~~ shall conduct the hearing consistent with procedures set forth in Chapter 5.22 ~~and 5.16.040~~. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the ~~Planning Director's Commission~~
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decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.22.

- (14) Notice of ~~Council Planning Commission~~ Decision. Within seven days of the final ~~Council Planning Commission~~ decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the ~~Council Planning Commission~~ decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- (15) Appeal of ~~Council Planning Commission~~ Decision. All appeals heard by the ~~Council Planning Commission~~ may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

## CHAPTER 5.19. - TYPE III APPLICATIONS AND REVIEW PROCEDURES

### 5.19.010 - Procedures for Type III Actions.

(5) Commission Hearing and Notification Area. City staff shall schedule a hearing before the Planning Commission. Written notice of the public hearing shall be mailed at least 15 days prior to the hearing date to the applicant, owners of property within 200 feet of the boundaries of the subject property and to affected County and State agencies responsible for roads and highways. The Commission shall conduct the hearing consistent with procedures set forth in [Chapter 5.21](#). The notice of a pending Type III hearing shall include the following:

- f. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the ~~City Council or the~~ Land Use Board of Appeals.

(6) Commission Action. The Commission action on a Type III request shall be in the form of a decision. ~~Decisions are to be signed by the Planning Commission Chair or acting Planning Commission Chair.~~ Within seven days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.

26	Recycling Centers
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## CHAPTER 3.29. – RECYCLING CENTER STANDARDS

### 3.29.010 Introduction and Purpose

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The purpose of this Chapter is to assure that all recycling centers in the City do not detract from the safety or aesthetics of the City.

### **3.29.020 General Standards**

The following standards are required for all recycling centers:

- (1) Walls or fencing are required to screen all trash or material containers, collection areas, sorting areas, and delivery areas. Office areas and public parking areas are not required to be screened by fencing or walls.
  - a. Walls or fences may be slatted chain link fencing (must be sight obscuring), masonry walls, or similar. Wood or corrugated metal fencing is not permitted.
  - b. Walls or fences should prevent unwanted animal or human trespassing.
- (2) All recycling and trash containers, sorting areas, and delivery areas, collection areas, shall be screened from public view. Office areas and public parking areas are not required to be screened.
  - a. Screening is required surrounding the entire facility, though landscaping should be more dense along public streets or anywhere where the view from the general public is apparent.
  - b. Screening shall be achieved with a variety of methods. These must include either walls or fences, and landscaping.
  - c. Landscaping shall include groundcover, hedges and trees.
  - d. Screening shall be compatible with the architecture of the surrounding area.
  - e. All fencing/walls and landscaping shall also be consistent with section 3.07.040 through 070.
- (3) Provisions must be made to assure that hazardous substances are not permitted to leach into the soil. These must be approved by the City Engineer and be consistent industry best practices and Chapter 3.04, Storm Drainage.

<b>27</b>	<b>Ground Mounted Solar</b>
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## **CHAPTER 2.03. RESIDENTIAL LOW-DENSITY ZONE (RL)**

### **2.03.020 Permitted Uses.**

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

- (1) Single-family dwelling.

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- (2) Residential care homes (for five or fewer individuals), licensed by the State of Oregon.
  - (3) Day care facility for 12 or fewer children.
  - (4) Duplex on a corner lot.
  - (5) Public parks and other public or semi-public uses, excluding public or private schools, excluding water and sewage treatment facilities.
  - (6) Utility substations or pumping stations, excluding outdoor storage of equipment or material.
  - (7) Single Room Occupancy (SRO) rental units, to the extent permitted under State law.
  - (8) Ground Mounted Solar Systems

## **CHAPTER 2.04. RURAL ZONE (RU)**

### **2.04.020 Permitted Uses.**

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

- (1) Single-family dwelling
- (2) Crop cultivation and the raising of fowl, bees, and domestic farm animals.
- (3) Residential care homes (for five or fewer individuals), licensed by the State of Oregon.
- (4) Day care facility for 12 or fewer children.
- (5) Public parks and other public or semi-public uses, excluding public or private schools, and water and sewage treatment facilities.
- (6) Utility substations or pumping stations, excluding outdoor storage of equipment or material.
- (7) Single Room Occupancy (SRO) rental units, to the extent permitted under State law.
- (8) Ground Mounted Solar Systems

## **CHAPTER 2.05. RESIDENTIAL MEDIUM (RM)**

### **2.05.020 Permitted Uses.**

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

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

## **CHAPTER 3.30. – GROUND MOUNTED SOLAR STANDARDS**

### **3.30.010 Introduction and Purpose**

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

### **3.30.020 General Standards**

- (1) The size and scale of all ground mounted solar panels shall not be of a commercial nature.
- (2) Ground mounted solar systems shall be placed in a rear or side yard on lots/parcels under 20,000 square feet. Systems in front yards on lots/parcels of this size are not permitted. Front yard restrictions do not apply to flag lots.

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- (3) All ground mounted solar systems shall be less than 8 feet in height, measured to the peak of the tallest panel from the ground.
  - (4) All land under the system panels shall be pervious unless all other areas of the lot, including the solar system, do not exceed the development standards of the Zone.
  - (5) Ground mounted solar systems shall not count against lot coverage requirements when area under the panels are pervious.
  - (6) Ground mounted solar systems shall be installed so that the panels do not create glare on neighboring properties.
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28	Temporary Signs
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## **Chapter 5.10 RULES, REGULATIONS, AND PENALTIES FOR ILLEGAL SIGNS, SIGNS PROHIBITED IN RIGHTS-OF-WAY, DISPLAY OF POLITICAL SIGNS**

### **5.10.010 Permission required.**

No person or organization may erect or maintain any outdoor sign in violation of this Code or sign provisions identified in the Millersburg Development Code, except after receiving express written permission or permit by the City.

### **5.10.020 Purpose.**

This chapter provides the source for rules, regulations and violations of City sign requirements either under this Code or the Millersburg Development Code, and the rules and regulations regarding the display and removal of signs.

### **5.10.030 Removal.**

- (1) The posting of any sign within any right-of-way within the corporate boundaries of the City of Millersburg is prohibited, unless said sign or signage is placed by the jurisdiction having control over the right-of-way (City, Linn County, State).
- (2) The only exception to this rule is when the party has received a right-of-way permit from the jurisdiction having control of the right-of-way. When the permit is not issued by the City, the person obtaining the permit is responsible to provide the City a copy of the permit granting approval prior to placement of the signage. Failure to provide a copy of a right-of-way permit from another jurisdiction with right-of-way within the corporate boundary of the City of Millersburg may result in removal of signage as stated below.



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- (3) The City may collect signs which were placed in the public right-of-way without a permit, and may dispose of said signs immediately.

#### **5.10.040 Display of Political Signage.**

~~One temporary sign per ballot issue and per candidate may be placed on property based upon the ballot of an election within the district where the property is located. In residential zones, signs are limited to an area of four square feet per face and a maximum height of three feet. In commercial or industrial zones, signs are limited to an area of eight square feet per face and a maximum height of five feet. Signs may be placed 45 days prior to an election and must be removed no later than seven days after the election.~~

~~It is illegal to place any political sign within the right-of-way. Any political sign placed illegally within the right-of-way will be subject to removal and immediate disposal.~~

#### **5.10.040 Temporary Signs**

Temporary signs are prohibited except as permitted by this section. The following signs shall comply with all provisions and regulations of this chapter; however, no fee, permit, or application is required. Registration for all temporary signs is required. Registration must occur at the Millersburg City Hall and be completed and filed prior to erecting the temporary signs. These include portable signs such as A-frame or sandwich board signs.

(1) *Generally.*

- a. *Illumination:* No temporary sign shall be internally or externally illuminated.
- b. *Location:*
  - i. No temporary sign shall be placed within, extend into, or over the public right-of-way of any street except allowed temporary traffic control signs or signs placed by any government agency.
  - ii. Signs allowed in the right-of-way by any government agency shall provide a minimum of five feet of clear passage for pedestrians on the sidewalk where a sidewalk exists and shall come no closer than two feet from areas subject to vehicular travel.
  - iii. No temporary sign shall extend into the vision clearance area.
- c. *Maintenance:* Temporary signs shall be kept neat, clean and in good repair. Signs which are faded, torn, damaged, or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed.
- d. *Placement:* Temporary signs shall not be attached to trees, shrubbery, utility poles, or traffic control signs or devices. They shall not obstruct or obscure primary signs on adjacent premises.

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- e. All temporary signs in non-residential zones must be registered with the Community Development Department prior to placement in order to track the duration of the placement. Residential properties are not required to register temporary signage.
  - f. Each non-residential property shall be limited to no more 90 days for any combination of temporary signage per calendar year. This can be used in smaller intervals or all at once, at the applicant's discretion. This does not apply to election signs, pennants/streamers, or real estate signs.

(2) *Allowed Temporary Signage.*

- a. In a residential zone, limited temporary signage is permitted pursuant to the following standards. This signage shall not be restricted by content, but is typically used to advertise real estate sales, political or ideological positions, garage sales, home construction or remodeling, farm stands, etc. Standards for residential temporary signs include:
  - i. Signs not exceeding six square feet in area or four feet in height during the period from 120 days before a public election or the time the election is called, whichever earlier, to seven days after the public election.
  - ii. A sign not exceeding six square feet in area and five feet in height during the time of sale, lease, or rental of the lot or dwelling provided that the sign is removed within seven days of the sale, lease or rental of the lot or dwelling.
  - iii. A sign not exceeding six square feet in area during the time of construction or remodeling of the property, provided the sign is removed within seven days of the completion of the remodeling or construction. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously. On lots of more than two acres, the sign area may be increased to 32 square feet. In no case shall the sign or signs remain erected if building or construction permits are no longer active.
  - iv. On property which has received a subdivision or development approval, from the time of the approval until issuance of a building permit for the last lot to be sold or completion of the development of the project, one temporary sign not exceeding 32 square feet in area and eight feet in height on properties less than four acres in size or two temporary signs not exceeding 64 square feet in area (32 square feet each) and eight feet in height on properties greater than four acres in size.
- b. In any commercial, public, or industrial zone, limited temporary signage is permitted pursuant to the following standards. This signage shall not be restricted by content, but is typically used to advertise real estate, political or ideological positions, construction or remodeling, help wanted, or temporary activities. Standards include:

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- i. the completion of the remodeling or construction. In no case shall the sign or signs remain erected if building or construction permits are no longer active.
  - v. A sign not exceeding 32 square feet in an area during the period of charitable fundraising event being conducted on the property where the sign is erected. This sign shall not be placed more than seven days prior to the event and must be removed within seven days following the event.
  - vi. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously.
  - vii. Temporary uses such as Christmas tree sales, pumpkin sales, etc. are permitted two signs not to exceed 32 square feet per side each. The signage shall be allowed for the same duration as the temporary use; however, these signs do count toward the 90-day maximum permitted by Section 3.06.130.1.f.
  - viii. Pennants and streamers may be used as part of an opening or promotional event only and are not counted as a temporary sign for purposes of the 90-day duration maximum permitted by Section 3.06.130.1.f.
  - ix. Blade banner signs are considered temporary signs and shall meet all regulations herein. In no case shall blade banner signs be taller than seven feet.
- c. *Fair/Market Vendor Signs.* In addition to any other temporary sign requirement, the following additional requirements apply: (For purposes of this subsection, "vendor" includes persons selling or displaying information or products)
- i. The fair or market is a temporary activity which does not require permanent site improvements.
  - ii. The fair or market shall have no more than three offsite signs advertising the event, individual vendors are not permitted to use any additional offsite signage (including yard signs on private property). This does not include any signs on private property.
  - iii. Off site directional signs are permitted in the right-of-way with City/County approval. Approval is required prior to the day of the event. Directional signs do not advertise the event and should only include the name/logo of the event and arrows to direct participants to the event location. Any directional signs can only be posted the day of the event.
  - iv. There are no regulations for signs within the event area, except that no sign shall be higher than 10 feet from the ground surface. At no time shall event signs be erected more than 60 days before the event.
  - v. All temporary signage (except those within the event space) are limited by the 90 days permitted by Section 3.06.130.1.f. These are considered

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cumulative and not separate regarding the accumulation of the 90 days permitted by Section 3.06.130.1.f.

- d. *Temporary Signs Requiring Permit.* The City Manager may allow temporary signs larger than those allowed by this section (but not additional signs or to allow a sign to be posted for a longer duration than the times listed in this section) with a sign permit. This signage shall not be restricted by content, but is usually and customarily used to advertise special events and store openings on banners. The City Manager shall allow the placement of such signs only if the City Manager finds that the proposed sign will not materially impair the purposes of the sign code.
- e. *Additional Duration.* Additional duration of temporary sign placement cannot be added through a sign variance process.

## 29 Shipping Containers

### Chapter 13.36 - GENERAL REGULATIONS

#### 13.36.25 - Shipping Containers for Moving

Shipping containers, also called cargo containers, are not a permitted use in a residential zone pursuant to the Millersburg Development Code section 3.15.010; however, they can be used on a temporary basis, with no permit required, subject to the following standards:

(1) Placement.

- a. Containers shall not be placed in any right of way without proper permits.
- b. Containers shall be placed on driveways or side yards.
- c. Containers are not permitted to be placed on front yards.
- d. The placement shall not block any sidewalks.

(2) Use. Containers are only allowed to be used for moving or renovation purposes. Temporary storage in a shipping container for any other purpose is not permitted.

(3) Duration. A container shall not be placed anywhere in a residential zone for more than 60 days annually.

## 30 Tree permit Land Use loophole fix

### 7.30.030 Prohibited activities.

- (1) It shall be unlawful for any person to remove, destroy, break, or injure any street tree or public tree without a permit.
- (2) It shall be unlawful for any person to attach or keep attached to any street or public tree or to the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device whatsoever, except as a support for such tree.

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- (3) During the construction, repair, alteration, or removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or public tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.
  - (4) Excavations shall not occur within 10 feet of any street tree or public tree without approval of the City Planner. Utility pole installations are exempted from the requirements set forth in this subsection. During such excavation or construction, any such person shall guard any street tree or public tree within 10 feet thereof.
  - (5) All building material or other debris shall be kept at least four feet from any street tree or public tree.
  - (6) Unless removal is expressly authorized by a land use action or approval issued by the City of Millersburg, it shall be unlawful to remove any tree larger than or equal to six and one-half feet in circumference (approximately 25 inches in diameter), public or private, within the City of Millersburg City limits without first making application to the City of Millersburg and obtaining a permit or as otherwise authorized by this Code. **Any Land Use action permitting the removal of a tree under this 7.30.030(6) shall comply with the criteria listed in 7.30.180.**