**MILLCREEK, UTAH**
**ORDINANCE NO. 17--**

# AN ORDINANCE REPEALING ORDIANCE 16-9 IN ITS ENTIRETY, DECLARING IT NULL AND VOID, AND NOTIFYING THE PUBLIC OF A PENDING ORDINANCE THAT, WITH THE EXCEPTION OF MAINTENANCE AND/OR REPAIR TO EXISTING BUILDINGS, STRUCTURES, OR IMPROVEMENTS, WOULD PROHIBIT OR REGULATE THE ERECTION, CONSTRUCTION, RECONSTRUCTION, EXTENSION, EXPANSION, OR ALTERATION OF ANY BUILDING, STRUCTURE, OR IMPROVEMENT OR ANY SUBDIVISION APPROVAL WITH RESPECT TO DEVELOPMENTS IN THE M-1, M-2, MD-1, MD-3 AND THE FOOTHILLS AND CANYONS OVERLAY ZONES

**WHEREAS**, the Millcreek Council (the "*Council*") met in regular session on February 6, 2017, to consider, among other things, approving an ordinance repealing Ordinance 16-9 in its entirety, declaring it null and void, and notifying the public of a pending ordinance that, with the exception of maintenance and/or repair to existing buildings, structures, or improvements, would prohibit or regulate the erection, construction, reconstruction, extension, expansion, or alteration of any building, structure, or improvement or any subdivision approval with respect to developments in the M-1, M-2, MD-1, MD-3 and the Foothills and Canyons Overlay Zones; and

**WHEREAS,** on December 27, 2016, the Council elect enacted Ordinance16-9 that prohibited or regulated the erection, construction, reconstruction, or alteration of any building, structure, or improvement, or any subdivision approval with respect to developments in the M-1, M-2, MD-1, MD-3, and the Foothills and Canyons Overlay Zones; and

**WHEREAS,** the Council has determined that the prohibition set forth in Ordinance 16-9 is too broad and should be modified to allow for maintenance and/or repairs to existing buildings, structures, or improvements; and

**WHEREAS**, pursuant to Utah Code Ann. § 10-2a-218 Millcreek ("City") has adopted a comprehensive zoning ordinance ("*Zoning Ordinance*"); and

**WHEREAS**, the City Attorney and other interested persons have recommended revisions to the Zoning Ordinance with respect to the M-1, M-2, MD-1, MD-3, and the Foothills and Canyons Overlay Zones; and

**WHEREAS**, the Council is authorized by Utah Code Ann. §10-9a-509 (1)(a)(ii)(B) to initiate proceedings to amend its ordinances in a manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted; and

**WHEREAS**, Utah Code Ann. §10-9a-509 (1)(e) provides that the City shall process an application without regard to proceedings initiated to amend the municipality's ordinances as provided in Utah Code Ann. §10-9a-509 (1)(a)(ii)(B) if 180 days have passed since the proceedings were initiated and the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; and

**WHEREAS,** the Council has determined that, except for the maintenance and/or repair to existing buildings, structures, or improvements, the ordinance should prohibit or regulate the erection, construction, reconstruction, extension, expansion, or alteration of any building, structure, or improvement or any subdivision approval with respect to developments in the M-1, M-2, MD-1, MD-3 and the Foothills and Canyons Overlay Zones, and therefore should prohibit approval of any such application that is submitted during such proceedings, provided the proceedings do not exceed one hundred eighty (180) days; and

**WHEREAS**, the period needed to review and implement an ordinance pertaining to the M-1, M-2, MD-1, MD-3, and Foothill and Canyon Overlay Zones is within a period of one hundred eighty (180) days; and

**WHEREAS**, after careful consideration, the Council has determined to initiate proceedings to amend the Zoning Ordinance with respect to the M-1, M-2, MD-1, MD-3, and Foothill and Canyon Overlay Zones; and

**WHEREAS** the Council finds that this Ordinance constitutes formally initiated proceedings that satisfies the requirements Utah Code Ann. §10-9a-509 (1)(a)(ii)(B), and further finds that this Ordinance is in the best interest of the health, safety, and welfare of the City's residents.

**NOW, THEREFORE, BE IT ORDAINED** by the Council that Ordinance 16-9 is repealed in its entirety and is null and void.

**BE IT FUTHER ORDAINED** that the staff and Planning Commission initiate proceedings to amend the Zoning Ordinances with respect to M-1, M-2, MD-1, MD-3, and Foothills and Canyons Overlay Zones.

**BE IT FUTHER ORDAINED** that in order to protect the public health, safety, and welfare and to implement the planning and zoning objectives of the City, the Council hereby invokes the pending ordinance doctrine and/or Utah Code Ann. §10-9a-509 (1)(a)(ii)(B) and expressly formalizes its intentions to consider enactment of such ordinances and comprehensive amendments to the Zoning Ordinances with respect to the M-1, M-2, MD-1, MD-3, and the Foothills and Canyons Overlay Zones.

**BE IT FUTHER ORDAINED** that except as provided below this ordinance prohibits or regulates the erection, construction, reconstruction, extension, expansion, or alteration of any building, structure, or improvement or any subdivision approval with respect to developments in the M-1, M-2, MD-1, MD-3, and the Foothills and Canyons Overlay Zones.

**BE IT FUTHER ORDAINED** that maintenance and/or repair to existing building, structures, or improvements located in the M-1, M-2, MD-1, MD-3, and the Foothills and Canyons Overlay Zones is exempt from the prohibition and regulation provided herein.

**PASSED AND APPROVED** this _____ day of February, 2017.

**MILLCREEK**

By: _____
**Jeff Silvestrini**, Mayor

**ATTEST**:

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**Leslie Van Frank**, Acting City Recorder