

MILLCREEK, UTAH
ORDINANCE NO. 17-

**AN ORDINANCE AMENDING CHAPTER 19.32 OF THE
MILLCREEK CODE OF ORDINANCES ENTITLED
“COMMERCIAL ZONES”**

WHEREAS, the Millcreek Council (the “Council”) met in regular session on June 26, 2017, to consider, among other things, approving an ordinance to amend Chapter 19.32 of the Millcreek Code of Ordinances entitled “Commercial Zones”; and

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

WHEREAS, City consultants and other interested persons have recommended revisions to the Zoning Ordinance to amend the chapter entitled “Commercial Zones”; and

WHEREAS, the Planning Commission has studied the proposed revisions to Chapter 19.32 zone and recommended that the City make the revisions; and

WHEREAS, the Council has studied the proposed revisions; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to amend Chapter 19.32 of the Code by making the revisions attached hereto.

NOW, THEREFORE, BE IT ORDAINED by the Council that chapter 19.32 be amended as attached hereto with the redlining removed.

PASSED AND APPROVED this ____ day of June, 2017.

MILLCREEK

ATTEST:

By: _____
Jeff Silvestrini, Mayor

Leslie Van Frank, Acting City Recorder

CERTIFICATION OF CITY RECORDER

Leslie Van Frank, Millcreek's acting City Recorder, hereby certifies that Millcreek's Ordinance No. 17-____ was passed by the City Council on June _____, 2017 and was published in the Salt Lake Tribune on June _____, 2017.

Leslie Van Frank, Acting City Recorder

CHAPTER 19.32 COMMERCIAL ZONES

- 19.32.010 Purpose statements
- 19.32.020 Permitted and conditional uses
- 19.32.021 Prohibited uses, limitations
- 19.32.022 Accessory uses
- 19.32.030 Bulk and yard regulations
- 19.32.040 Special regulations for commercial zones
- 19.32.050 General standards of applicability

19.32.010 Purpose statements

A. Purpose of C-1 Commercial Zone.

The purpose of the C-1 Commercial Zone is to provide areas for lower intensity neighborhood commercial development that accommodates the everyday needs of nearby residents. Such zones do not usually generate traffic from regional markets.

B. Purpose of C-2 Commercial Zone.

The purpose of the C-2 Commercial Zone is to provide areas for larger-scale community commercial development. Such zones cater to regional markets and generate traffic from a much larger regional area.

C. Purpose of C-3 Commercial Zone.

The purpose of the C-3 Commercial Zone is to provide areas for other commercial uses **with the potential for greater impacts**, ~~warehousing and wholesale business~~ and to act as a transition to other zoning districts such as manufacturing or areas with major traffic congestion such as State Street.

19.32.020 Permitted and conditional uses

A. Due to the greater potential for detrimental effects, permitted uses in the C-1, C-2 and C-3 zones over one acre in size shall follow the conditional use procedure in Chapter 19.84.

B. Table 19.32-1: Commercial Zoning Districts Permitted and Conditional Uses lists permitted and conditional uses for the commercial zoning districts.

“P” indicates that a use is permitted within that zoning district.

“C” indicates that a use is a conditional use in that zoning district and a conditional use permit shall be obtained as required in chapter 19.84.

No letter (i.e., a blank space), or the absence of the use from the table, indicates that use is not a permitted use nor a conditional use within that zoning district, subject to additional restrictions and limitations found in 19.32.021 PROHIBITED USES, LIMITATIONS.

TABLE 19.32-1

| USES | C-1 | C-2 | C-3 | SPECIFIC USE STANDARDS |
|---|-----|-----|-----|---|
| Indoor or outdoor archery range | | C | C | |
| Multi-family and PUDs deleted | | | | |
| Residential facility for the elderly or persons with a disability, assisted care facility, nursing facility | P | P | P | |
| Hotel, Motel, Bed & Breakfast | C | C | C | No Hotel or Motels in the C-1 zone |
| Public, quasi-public use, and Civic uses | P | P | P | Not including private schools |
| Transit Station | | P | P | |
| Hospital and all other medical, dental facilities | | P | P | |
| | | | | |
| School, public, charter, private | P | P | P | |
| Neighborhood Retail | P | P | P | No commercial building over 20,000 square feet is allowed in the C-1 zone. In addition, no business in the C-1 zone shall occupy a space greater than 5000 square feet. |
| General Retail and Entertainment | | C | C | See table 19.32-2 for additional limitations |
| Light manufacturing/warehousing deleted | | | | |
| Retail Food Trucks, Farmers Market including vegetable stands | C | C | C | As an accessory use on private property and not within a front or side yard setback. On-street locations |

| USES | C-1 | C-2 | C-3 | SPECIFIC USE STANDARDS |
|--|-----|-----|-----|--|
| | | | | may be allowed on a non-UDOT street in a C-2 and C-3 zone. |
| Drive up uses with outside order windows or structures, such as restaurants, banks, etc. | | C | C | No order window or structure is allowed within 150' of a residential use. Speakers to be oriented away from adjacent uses. |
| Neighborhood Service | P | P | P | |
| General Service | P | P | P | |
| Vehicle Service and repair | | C | P | |
| Office | P | P | P | |
| Mixed Use (commercial, or office and/or residential use within the same building or located adjacent within a unified site plan) | | C | C | A minimum of 25% of the total square footage of the entire project shall be dedicated to commercial and/or office use. (alternate - Commercial uses are required for at least 50% of the ground floor facing a public street. This commercial space shall have a minimum depth of 30'.) 24 hour on-site management required for projects with 50 or more residential units. |
| Commercial parking lot and/or garage | | C | C | Parking garages shall include non-residential uses for at |

| USES | C-1 | C-2 | C-3 | SPECIFIC USE STANDARDS |
|---|-----|-----|-----|---|
| | | | | least 75% of the ground floor facing a public street. |
| Fireworks | | C | C | Temporary stands to be located on private property and subject to the Uniform Fire Code |
| Vertical indoor temperature controlled storage (mixed use) Self-Storage facilities of all types | | C | C | See additional limitations in Table 19.32-2 |

19.32.021 Prohibited uses, limitations – notwithstanding the permitted and conditional uses in TABLE 19.32-1 and other ordinances found in this Title, the following specific prohibitions and/or limitations apply:

Table 19.32-2

| USES | SPECIFIC USE LIMITATIONS |
|---|---|
| Detention facility/jail as a principal use | Not allowed |
| Indoor and/or outdoor gun ranges | Not allowed |
| Outside storage within view of the street or in any front or side yard facing a street. Such storage requires a minimum 6' opaque fence. | Storage that is not considered "display". Includes storage containers. Such storage requires a minimum 6' opaque fence. |
| Displays over five feet in horizontal distance from the main building. | Not allowed |
| Massage or Reiki as the principal service (Deleted – see below). | Not allowed in the C-1 zone. |
| Equipment, car or truck rental | Not allowed in the C-1 zone |
| Commercial wireless communication facilities | Only stealth type towers and accessory structures are allowed in the C zones |
| Outdoor kennel | Not allowed in a C-1 zone or within 150' of a residential use |

| USES | SPECIFIC USE LIMITATIONS |
|--|--|
| Sexually oriented businesses | Not allowed Subject to Chapter 19.91.11 and not allowed in the C zones |
| Pawnshop, tattoo, retail tobacco and/or smoke shops and related products, massage or Reiki as the principal use, and associated services* | Not allowed in a C-1 zone or within 300' of an arterial/major intersection in the C-2, C-3 zones. and not within 2640' of an established substantially similar business. |
| Retail tobacco deleted and added to above | Not allowed in a C-1 zone |
| New or used, sale or lease Sale of lease of new or used of vehicles of all types, moving trucks, watercraft, mobile homes, travel trailers, campers, motorcycles and other recreational vehicles | Not allowed in C-1, C-2 zones. 20,000 square foot minimum lot size including an on-site office is required. |
| Secondhand stores including general merchandise, precious metal dealer/processor and/or precious gem dealer, military surplus | Not allowed in a C-1 zone Limited to a maximum of 2500 square feet in a C-1 zone and 10,000 square feet in a C-2 or C-3 zone |
| Self-storage facility of all types, including mini-storage units, neighborhood storage and temperature controlled storage facilities* | Not allowed in a C-1 zone and not within 300' of an arterial intersection in C-2, C-3 zones or within 1,320' of an established substantially similar business, no additional facilities allowed on 3300 South, and no additional facilities allowed east of 2300 East on 4500 South and 3900 South (not clear yet) |
| Tattoo establishment deleted and added above | Not allowed in a C-1 zone |
| Taxicab and/or Limousine business | Not allowed in a C-1 zone |
| Tavern, as defined by State Code | Not allowed in a C-1 zone |
| Sororities and fraternities | Not allowed |
| Manufactured Home park or manufactured home subdivision | Not allowed |
| Short term ("payday", "car" title, check cashing and similar) loan service* | Not allowed in the C-1 zone and not within 300' of an arterial intersection |

| USES | SPECIFIC USE LIMITATIONS |
|--|--|
| | or within 2640' of an established substantially similar. See Chapter 5.13.030 Business Licensing for additional restrictions. |
| Flea markets, swap meets | Not allowed in the C-1 zone |
| Outdoor commercial recreation, outdoor commercial amusement, or outdoor commercial entertainment | Not allowed in the C-1, C-2 zones and not allowed within 150' of a residential use or zone |
| Recreational vehicle campgrounds | Not allowed in the C-1, C-2 zones |
| Impound, Vehicle Recycling, and/or junk yards | Not allowed in the C zones |

* Arterial intersections are defined as those major intersections where Murray-Holladay Rd., 4500 S, 3900 S, and 3300 S intersect with 300 W, West Temple, Main Street, State Street, 500 East, 700 East, 900 East, 1100 East, 1300 East, Highland Drive, 2000 East, 2300 East, 2700 East, and Wasatch Boulevard. Distance is measured as a radius from the applicant's nearest property line to the arterial intersection ROW line and/or to the property line of the nearest substantially similar business. Any overlap of the radius onto the applicant's property excludes the entire property.

19.32.022 Accessory uses

Accessory uses and structures shall be subordinate/incidental to the main use and structure. Other than food trucks such uses shall not be allowed in the front or side yards facing a street.

19.32.030 Bulk and yard regulations

Table 19.32-3: Commercial Zones: Bulk and Yard Regulations establishes bulk and yard regulations for the commercial zoning districts.

Table 19.32-3

| BULK & YARD REGULATIONS | | | | |
|-------------------------|---------------|-------------------|------------------|--|
| MINIMUM LOT AREA | None required | None Required # 1 | None Required #1 | |
| MINIMUM LOT WIDTH | None Required | None Required #2 | None Required #2 | |
| MAXIMUM BUILDING HEIGHT | 30 Feet | 40* Feet | 40* Feet | |
| MAXIMUM LOT COVERAGE | 80 Percent | 80 Percent | 80 Percent | |
| MINIMUM BUILDING HEIGHT | 1 story | 1 story | 1 story | |

| YARD REQUIREMENTS | C-1 | C-2 | C-3 | |
|---|---|---|---|--|
| MINIMUM FRONT YARD | 20 Feet | Residential Uses Mixed Use : 25 Feet, See Footnote 3 Other Uses; 20 Feet | Residential Uses Mixed Use : 25 Feet, See Footnote 3 Other Uses; 20 feet | |
| MINIMUM REAR YARD | If located adjacent to residential zoning, 25 feet, otherwise none required | Residential use Mixed use : 25' If located adjacent to residential zoning, 25 feet, otherwise none required | Residential use Mixed Use : 25' If located adjacent to residential zoning, 25 feet, otherwise none required | |
| MINIMUM INTERIOR SIDE YARD | If located adjacent to residential zoning, 10 feet, otherwise none required | If located adjacent to residential zoning, 10 feet, otherwise none required | If located adjacent to residential zoning, 10 feet, otherwise none required | |
| MINIMUM CORNER SIDE YARD | 20 Feet | 20 Feet | 20 Feet | |
| ACCESSORY STRUCTURES: REAR AND INTERIOR SIDE YARD | 1 Foot | 1 Foot | 1 Foot | |
| ACCESSORY STRUCTURES: REAR AND INTERIOR SIDE YARD WHEN ABUTTING RESIDENTIAL USE | 10 Feet | 10 Feet | 10 Feet | |
| | | | | |
| Densities deleted | | | | |

* Greater height may be granted up to a maximum of 75 feet by the Planning Commission through an evaluation of terrain differences, views, and the heights of buildings that are immediately adjacent to the proposed building in comparison to the proposed building. Higher building requests shall only be considered if they are mixed use or exclusively office uses, exceed the building design standards of this ordinance, include a 10' usable setback between the second and third floors, provide an additional 10' front yard setback as a public space adjacent to the ROW, and not exceed the lot coverage requirement. Based on the above evidence provided by the applicant, the Planning Commission will determine if the

proposed height is acceptable and that such height will not create reasonably anticipated detrimental effects on adjacent properties. This flexibility is only allowed in the Meadowbrook area including State Street, and the Highland Drive and 13th East areas along 3300 S and within a 500' radius of those intersections.

TABLE 19.32-3: NOTES:

1. For mixed use buildings containing residential dwellings, no minimum lot area is required.
2. For mixed use buildings containing residential dwellings, no minimum lot width is required.
3. Where fifty percent or more of the lot frontage is developed, the front yard shall not be less than the average of the existing buildings, but in no case less than fifteen feet.
4. For buildings adjacent to residential uses, the side and rear yards abutting single family residential uses shall be increased by one foot for every two feet that the structure exceeds 30 feet in height.
5. For "automobile service station" uses, gasoline pumps shall be set back not less than twenty-four feet from any street property line, and not less than thirty feet from any residential zone boundary line. If the pump island is set at an angle on the property, it shall be so located that automobiles stopped for service will not extend over the property line. In addition, canopies constructed to provide a weather shield over gasoline pump islands shall be set back not less than 4' feet from any required setback.
6. Notwithstanding contrary definitions found in Title 19 Zoning, building height is measured from the natural grade to the highest point of the roof.

19.32.040 Special regulations for commercial zones

- A. General Conditions in the C-1 Zone. Stores, shops or businesses in C-1 zones shall be retail or neighborhood service establishments only, and shall be permitted only under all of the following conditions:
 1. Business shall be conducted wholly within an enclosed building, except for the parking and servicing of automobiles, and service to people in automobiles, except that any type of restaurant may have outdoor dining but no outdoor music or concerts, including any recorded, live, amplified or acoustic music.
 2. All products, whether primary or incidental, shall be sold at retail on the premises.
 3. All uses shall be free from objectionable and unreasonable odor, dust, smoke, noise, vibration, or similar problems
- B. Business Uses and Conditions in the C-2 and C-3 Zone. Uses in the C-2 and C-3 zones shall be permitted only under all of the following conditions:
 1. All manufacturing/assembly shall be done wholly within completely enclosed buildings.
 2. All uses shall be free from objectionable and unreasonable odor, dust, smoke, noise, vibration, or similar problems.
- C. Design Standards for C-1, C-2, C-3 zones
 1. Entrances to the first floor of commercial and mixed use buildings shall front on the street. Windows shall make up at least 50% of first floor street-facing facades. Top floors shall have architectural differentiation from the other floors in the building.
 2. No more than one row of parking is allowed between the building(s) and the street within 300' of any major intersection. No parking is allowed between the street and the building in any town center area.

3. Corner lots are deemed to have two front yards.
4. The front yard setback is the build-to-line within 300' of any arterial/major intersection (see 19.32.021 Prohibited uses, limitations for definition). At least 50 percent of the front elevation of the building(s) must be built within 10 feet of the build-to-line or as approved by the Planning Commission. A build-to-line is defined as the line at which construction of a building façade is to occur on a lot, running parallel to the front property line, and ensuring a uniform (or more or less even) building façade line on the street.
5. Landscaping along the street shall comply with this chapter and chapter 19.77.
6. Signage for commercial or office uses is defined in Chapter 19.82.
7. Garbage and Recycling. The development shall be designed to accommodate and efficiently manage the collection, storage, and removal of garbage in harmony with the neighborhood so as to minimize detrimental effects of the collection, storage, and removal on any residence within the development or abutting neighborhoods. If dumpster enclosures are provided for the development, no refuse dumpster or dumpster enclosure structure shall be located closer than 10 feet to any perimeter property line. Enclosure structures must have a minimum of four sides that reflect or emulate the materials, design, and quality of the overall development. All developments shall provide recycling services.
8. Parking (Chapter 19.80) for Multi-family uses may be reduced based on a traffic study by a qualified transportation engineer.
9. Building Materials. Exterior materials of a durable or resilient nature such as brick, stone, stucco, prefinished panel, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics shall be used. No single material is allowed to exceed 50 percent on street-facing facades. Windows are not allowed to be less than 50% of the gross street-facing façade square footage. Other materials may be considered for soffits, or as an accent or architectural feature. Twenty-five year guarantee, architectural shingles and/or other longer lasting roof materials are required.
10. Landscaping on Public Right-of-Way. Where a development is adjacent to a public right-of-way, a permanent open space shall be required along any front, side, or rear yard adjacent to said right-of-way. This area shall be kept free of buildings and structures (except fences, as per chapter 19.77.050, and approved by the Planning Commission), and permanently maintained with street trees and other landscaping, screened or protected by natural features, as per chapter 19.77. If such areas are

the result of double frontage lot designs with inadequate access to the street, such areas shall be landscaped as per chapter 19.77 with a minimum of a five foot landscaped area next to the public ROW. Fences shall not be located within this five foot landscaped area. Aesthetic entrance features are encouraged. Additional landscape treatments or buffers may also be required with width and landscaping specifications as per chapter 19.77. Double frontage lots with parking lots adjacent to the street may substitute a screen wall a minimum of 3' in height for this fencing requirement.

11. Perimeter Fencing. Fencing is required for non-residential uses located adjacent to residential uses. Acceptable fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete. Fencing with materials using composite products, wrought iron, wood, or vinyl may be allowed with a minimum two foot wide, six foot tall brick or stone pillars spaced every ten feet on center. Unless otherwise allowed by the Planning Commission, exterior fencing along a public right of way shall be limited to brick, stone, or block, or pre-cast concrete and be setback a minimum of 5 feet from the property line to allow for a landscaping buffer designed in accordance with chapter 19.77 to soften long expanses of walls. Interior fencing shall comply with section 19.78.030(11) (f).
12. Interior Street Lights. Street and pedestrian lighting for streets on the interior of the development is required. All lighting fixtures shall be directed downward with mechanisms to prevent dark sky illumination. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian safety. Minimum Average Foot-Candles for interior streets shall be shall be 0.3 and the fixture height shall not exceed 25 feet. No on-site light poles may be located closer than 10 feet from the public right of way.
13. Access between uses. Vehicular and pedestrian access between uses that does not force vehicles out to the adjacent street is required.
14. Maximum heights may be exceeded with Planning Commission approval for the Meadowbrook Small Area Plan area, and future town centers. All locations requesting greater height are subject to a height compatibility evaluation that includes site line perspectives with adjacent properties and may require transitions to assure greater integration within the neighborhood.

19.32.050 General standards of applicability

- A. The use and development of property within the Commercial and MD Zones are also subject to other applicable chapters in the zoning ordinance, such as, the Parking Chapter, 19.80, Water Efficient Landscaping, 19.77, Signs, 19.82, etc.

- B. Standards in other chapters may apply. In the event there is language elsewhere in Chapter 19 that conflicts with language in this chapter, the more restrictive standard prevails.
- C. In any rezoning process, a development agreement shall be required at the sole discretion of the City. "Development Agreement" means an agreement negotiated and entered into by the City with a property owner and/or developer, pursuant to a proposed development within the City. The Agreement must (1) specify and describe the proposed development through text, site plans and elevations (2) detail the amenities and other benefits being provided to the City and its residents (3) utilize a development agreement form approved by the City.

The Development Agreement shall run with the land and be binding on all successors and assigns of the property owner or developer; however, each Development Agreement shall include a clause that allows the City to re-zone the property and withdraw from the Development Agreement if the Development Agreement is not recorded within two (2) years of execution of the Agreement.