

MILLVILLE CITY CODE
TITLE 17 - ZONING
CHAPTER 17.14 - SENSITIVE AREAS

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17.14.010: CONDITIONAL USE PERMIT REQUIRED

All requests for permits involving a lot, parcel or site located wholly or partially within an area subject to the Hazard Flood (HF), Hazard Slope (HS), Hazard Water Table (HW) or Hazard Earthquake Primary Fault (HE), Hazard Wildfire (WF) regulations, shall be dealt with as a request for a conditional use permit. All applications shall comply with the following regulations before any permit shall be issued. (Ord. 2022-5, 2022)

17.14.020: SENSITIVE AREAS

A. Sensitive areas are defined as follows:

- 1. Non-developable sensitive areas: The following areas are non-developable. None of the acreage encumbered by any of the following sensitive areas may be considered for development density, and none of the areas may be built upon or within except for required public utility and facilities.
 - a. Jurisdictional Wetlands: As defined by the US Army Corps of Engineers.
 - b. Natural Waterways or Open Water: Including but not limited to: rivers, creeks, or streams. Identified as those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetation litter or loosely rooted vegetation by action of moving water. The channel or bed need not contain water year round. This definition is not meant to include stormwater runoff devices or entirely artificial watercourse unless they are used to store or convey pass through stream flows naturally occurring prior to construction of such devices. Watercourses where the definition may apply are those that appear on the US geological survey quad maps excluding irrigation canals and ditches. For instance, an irrigation canal following a natural or jurisdictional watercourse would not be exempt but others would be exempt.
- 2. Potentially developable sensitive areas: The following areas are determined to be sensitive areas of Millville City and are subject to the requirements of this Chapter. These areas may be built upon based on the requirements of this section and other applicable city, state, and federal requirements.

All acreage encumbered by any of the following sensitive areas may be considered for development density at the discretion of the Millville City Planning Commission, based on recommendations from professional(s) with expertise in the field being discussed.

- a. Steep Slopes: Where the rise or fall of the land is equal to or exceeds thirty percent (30%) over a horizontal distance of thirty feet (30') or greater measured perpendicular to the contour lines. See Section 17.14.040.

- b. Steep Slopes Where the rise or fall of the land is between twenty percent (20%) and thirty percent (30%) over a horizontal distance of fifty feet (50') or greater measured perpendicular to the contour lines. Development in these slope areas require a hillside overlay permit as outlined in Chapter 17.32 of this code.
- c. Floodplains.
- d. Crucial wildlife habitat areas as identified by the State Division of Wildlife Resources (DWR).
- e. Geological hazard areas Earthquake fault lines or areas prone to debris flows, landslides, high or extreme liquefaction potential, and rock falls as identified by the US Geological Survey (USGS).
- f. Wildfire hazards areas: Areas of the City designated as having moderate to extreme potential for wildfire hazards as identified by the City.

3. Development of Sensitive Areas:

- a. No land designated as a Non Developable Sensitive Area may be considered for development density or disturbed in any manner during the development of adjacent lands except as reasonably necessary for the installation of required public utilities.
- b. The lands within a Potentially Developable Sensitive Area may be developed and built upon, subject to the requirements of this section and other applicable city, state, and federal requirements.
- c. Land within a Potentially Developable Sensitive Area may be considered for development density at the discretion of the Millville City Planning Commission, based on recommendations from professional(s) with expertise in the field being discussed.
- d. The designation of land as within a Non-developable Sensitive Area or within a Potentially Developable Sensitive Area, and the application of other requirements imposed under the authority of this chapter may be appealed to the Millville City Appeal Authority. (Ord. 2022-5, 2022)

17.14.030: HAZARD FLOOD AREA (HF)

- A. An Area which may be subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commercial and City services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which could adversely affect the public health, safety and general welfare of the citizens of the City. The Hazard Flood Area (HF) is based upon the flood hazard data provided to the City by FEMA. Flood hazard data will be provided in the form of a Flood Insurance Rate Map (FIRM) (hereafter referred to as the “flood map”) and a Flood Insurance Study (FIS) (hereafter referred to as the “flood study”).

- B. Building Regulations: No dwelling unit, accessory building, church, school, public building, health care facility, residence or nursing home for the elderly or handicapped, nor any commercial, retail or industrial structure shall be constructed within a minimum distance as determined by the City from the top inside edge of the bank of any natural or man made waterway that is located in a Hazard Flood Area (HF). Under no circumstance shall any structure be permitted or constructed within thirty feet (30') of the top inside edge of the bank of any natural or man-made waterway that is located in a Hazard Flood Area (HF). (Ord. 2022-5, 2022)

17.14.040: HAZARD SLOPE AREA (HS)

- A. Conditional Use Permit Required: An area where the natural slope of the land exceeds an average gradient through the building areas of thirty percent (30%) or greater and lands within thirty feet (30') of any slope falling away at a grade of thirty percent (30%) or greater is designated as a Hazard Slope Area. Within the Hazard Slope Area, no construction or earth moving activity shall occur until a conditional use permit has been obtained in compliance with the provisions of Millville City code. A conditional use permit shall not be considered until adequate plans and engineering data are delivered to the City showing that:
 - 1. No building or structure is to be located on any existing slope with an average gradient through the building area of thirty percent (30%) or greater, nor within thirty feet (30') of any slope falling away at a grade of thirty percent (30%) or greater; and

 - 2. A detailed erosion control, revegetation and bank stabilization plan has been approved by the City Engineer for any disturbances planned to existing slopes within a Hazard Slope Area; and

3. Site Development Plans must meet all other requirements from section 17.32.070.A.

B. New Subdivisions: In the case of new subdivisions, these conditional use permit requirements for all public facilities (roads, sewer and water lines, etc.) within a Hazard Slope Area (HS) shall be included in the final plat and construction drawing phases of the approval process and approval of the final plat shall serve as the conditional use permit for roads, sewer, and water line and similar utility and infrastructure uses within the Hazard Slope Area. An additional conditional use permit shall be required for the construction of buildings or structures, including homes, garages, and other such improvements within the Hazard Slope Area (HS). (Ord. 2022-5, 2022)

17.14.050: HAZARD WATER TABLE AREA (HW)

An area where potential groundwater levels may occur within 12 feet (12') of the natural grade is designated as a Hazard Water Table Area. Within a Hazard Water Table Area, no permit shall be issued for any construction or use until a conditional use permit has been obtained in compliance with Millville City code. A conditional use permit shall not be approved until adequate plans and engineering data are delivered to the Land Use Authority showing that no basement or cellar is to be built, that the percentage of the lot, parcel or site to be covered by buildings, parking spaces and paved surfaces does not exceed forty percent (40%) of the area of the lot, parcel or site and that the proposed use is not of a character to increase quantities of chemicals, fertilizers, pesticides or minerals or in any other way likely to contaminate the groundwater. (Ord. 2022-5, 2022)

17.14.060: HAZARD EARTHQUAKE PRIMARY FAULT AREA (HE)

No construction shall be permitted in any identified Hazard Earthquake Primary Fault Area (HE) and/or landslide area until a conditional use permit has been obtained in compliance with the provisions of Millville City code. Said conditional use permit shall not be given until adequate plans and engineering data are provided showing:

A. Location of Structures: Where public facilities, occupancy facilities, large structures and sewer and water systems are to be constructed. Detailed geotechnical investigations may be required so as to accurately and very specifically locate faults and/or landslide areas;

B. Lines and Systems: Any sewer lines or disposal systems located beneath culinary water facilities; and

- C. Ground Response Map: Ground response maps identifying the area's most susceptible to ground motion. (Ord. 2022-5, 2022)

17.14.070: HAZARD WILDFIRE AREA (WF)

All Areas having moderate to extreme potential for wildfire hazards are designated as the Hazard Wildfire Areas. Within the Hazard Wildfire Area:

- A. Development shall provide for ready access to fire and other emergency equipment to critical areas defined by the City engineer or Land Use Authority.
- B. Measures to mitigate wildfire hazards and risks may be required by the appropriate Land Use Authority based on the recommendation and review of the fire department. (Ord. 2022-5, 2022)

17.14.080: ENGINEERING GEOTECHNICAL REPORT

For those areas identified as an active or potential mapped earthquake fault and landslide area, or areas determined by review to contain geologically unstable conditions and for all areas which include class 2 slope areas through class 5 slope areas or Hazard Earthquake Primary Fault Area (HE), an engineering geotechnical report that complies with the provisions of this section is required. If a conditional use permit is required, the engineering geotechnical report shall be considered in the review of the conditional use permit application.

- A. The site-specific soil/geologic report by a qualified geotechnical engineer shall identify all geologic hazards, whether on or off-site, if such hazard or hazards affects the particular property including the following hazard(s), unless determined prior to the preparation of the report by the City Engineer that the specific potential hazard or hazard does not need to be considered in the report:
 - 1. Flood history and potential; proximity to known canals, lakes, streams and alluvial fan flooding;
 - 2. Definition of any areas of deformation with respect to active faults and recommended setbacks therefrom;
 - 3. Evidence for other mass movement of soil and rock (landslides, debris flows, rock falls);

4. Identification of anomalies of the terrain or characteristics of the geological materials which would have any potential impact upon the use of site;
 5. Determination of groundwater characteristics, including, but not limited to the location and yield of springs; and
 6. Uncontrolled fill material within the building envelope of a lot or other uncompacted soils.
- B. The report shall contain written recommendations for construction of structures and avoidance or mitigation of the hazards. Land drains alone through private property are not allowed and are discouraged through public property because long-term maintenance of drains cannot be guaranteed;
- C. The report shall consider and contain data regarding the nature, distribution, and strength of soils within the project area. The soil report shall include a unified classification of all soils with an estimate of susceptibility to erosion, plasticity index, liquid limit, shrink-swell potential, general suitability for development, shear strength, bearing capacity and estimates of infiltration rates.
- D. The report shall contain an estimate of the likely highest level of the water table considering the long-term effects of development and irrigation.
- E. The report shall include a statement by the qualified geotechnical engineer preparing the report that the safety and integrity of the proposed building or structure is not compromised by potential geologic hazards and that the proposed building or structure, as designed and proposed, can be built in a manner that complies with the soils, footings and foundation requirements of the applicable building code.
- F. After the application is received by the City, the geologic and soil report will be reviewed by the City Engineer and, if the report finds that geologic hazards exist, the report will be reviewed by other geotechnical advisors which may include the Utah Geologic Survey (UGS). If after review, the geotechnical advisors concur with the geologic and soil report and the proposed remedial measures submitted by the applicant, the item will be forwarded to the land use authority designated to review the application for a conditional use permit.
- G. The required reports and the plans to address the concerns set forth in those reports shall be stamped and approved by a licensed professional engineer and must be approved by the City Engineer.
- H. A conditional use permit may be denied and use of the property therefore prohibited, if geologic hazards associated with the property cannot be substantially mitigated by the

imposition of reasonable conditions and/or the requirements of the geologic and soil report and the provisions of the applicable building code related to soils, footings, and foundations are not met. (Ord. 2022-5, 2022)

17.14.090: DISCLOSURE OF NATURAL HAZARD BY ENGINEERING GEOTECHNICAL REPORT

Wherever a potential natural hazard is identified by a required geotechnical report under this chapter, the owner of such parcel shall record a restrictive covenant running with the land in a form satisfactory to the City prior to the approval of any development or subdivision of such parcel, which shall include the following:

- A. Notice of the existence and availability of the engineering geotechnical report that identifies the natural hazards for public inspection in the City Office; and
- B. An agreement by the owner of the parcel and any successor in interest to comply with any conditions set by the City to minimize potential adverse effects of the natural hazard(s). (Ord. 2022-5, 2022)

17.14.100: DISCLOSURE OF OTHER NATURAL HAZARDS

At any time after the designation of a particular parcel of land, or any portion thereof, as within a Sensitive Land Area, the City may cause to be recorded at the Office of the Cache County Recorder a notice related to that land stating that the land lies within a Sensitive Land Area. The notice may state that the construction of buildings and improvements on that land is subject to the provisions of the Millville City Ordinances related to Sensitive Lands, including a potential requirement to obtain a conditional use permit prior to the construction of a home or other buildings, structures or improvements on the land. Use of the land may not be allowed until a professional review is conducted, as provided in City ordinance, and reports are submitted that establish that any proposed home, building, or other structures or improvements to be erected upon the land can be built in compliance with relevant building codes and appropriate soil, flooding, and earthquake requirements. If qualified professionals cannot establish that a proposed use of the land can be conducted in a manner that complies with the health and safety provisions of the building code and other relevant standards, the proposed use of the land may be prohibited. (Ord. 2022-5, 2022)

17.14.110: VERIFICATION OF COMPLIANCE

The developer shall request certification by the city engineer that the development has been completed in compliance with code Sensitive Area requirements. Restoration securities shall not be released and certificates of occupancy shall not be issued until such certification is obtained and a copy received by the Planning Commission. (Ord. 2022-5, 2022)

17.14.120: PENALTY FOR VIOLATION

The City Engineer shall have the right to order a halt to construction of any improvements within a Sensitive Area where, in his or her discretion, there exists a condition which violates or threatens to violate any of the provisions of this chapter. Such suspension shall continue until the City Engineer is satisfied that measures have been implemented with this chapter. The developer or the owner may appeal to the city council. (Ord. 2022-5, 2022)