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3.1 Intent

- A. Intent.** The intent of this Zoning Code is to create a vital, cohesive, well-designed community in order to enhance the Town of Nunn's small-town character and further the citizens' goals as identified in the *Nunn Comprehensive Plan*. These zoning regulations are designed:
1. To promote the health, safety, aesthetics, morals and general welfare of the community;
 2. To lessen congestion in the streets and enhance pedestrian and vehicular movement with the least detriment to environmental quality;
 3. To secure the safety of the people against fire, panic, flood waters and other dangers;
 4. To provide adequate light and air, to prevent the overcrowding of land and to avoid the undue concentration of population;
 5. To regulate the location of activities and developments which could produce significant changes in population density;
 6. To classify land use and distribute land development and utilize in a way which will benefit the community; to regulate development and activities in hazardous areas; and to regulate the use of land on the basis of the impact thereof on the community and other surrounding areas;
 7. To provide, in conjunction with other laws and regulations, for transportation, water, schools, sewage treatment and other public requirements;
 8. To preserve mineral lands for needed development;
 9. To provide for phased development of government services and facilities and to aid in realizing the policies, objectives and goals of the Comprehensive Plan;
 10. To encourage innovations in land uses in order to take advantage of improvements in the technology of land use and development;
 11. To encourage and facilitate the orderly growth and expansion of the Town, while at the same time protecting the environment in a manner consistent with constitutional rights;
 12. To construct new domestic water and sewer systems in areas which result in minimal environmental damage;
 13. To permit extension of domestic water and sewage systems in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the environmental and financial capacity of the area;
 14. To encourage traditional neighborhood residential mixed and multiple-use developments, so the growing demand for housing may be met;
 15. To protect the environmental and cultural heritage of the community; and

16. To ensure quality development that will present and enhance the quality of life for residents of the Town.

3.2 General Provisions

A. Application.

1. **Intent.** In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.
2. **Uniformity of Regulations.** The regulations established by this Article within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Article, the following interpretations shall apply:
 - a. No buildings, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, changed, constructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located.
 - b. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Article, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building unless specific exception therefore is stated in this Article. Exceptions may be granted by the Board of Adjustment for infill development.
 - c. No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein; nor shall the lot area per family be reduced except in conformity with the regulations hereby established for the District in which such building or land is located. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.
 - d. Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees is hereby specifically prohibited from that zone.
 - e. The Town may withhold building permits, occupancy certificates, final inspection certificates and any other certificates or permits provided for by any building code or other law, if a violation of this Article exists with respect to the land to which the permit or certificate pertains, or such a violation would exist upon the exercise of the privilege granted by the permit or certificate.
 - f. No building shall hereafter be changed to a residential, business, commercial or industrial use, nor shall any new structure, building or land be occupied for a residential, business, commercial or industrial use unless the owner has first obtained a certificate of occupancy from the Building Inspector. Provided that the use is in conformance with the provisions of this Article, a certificate of occupancy shall be

issued within a reasonable time after written notification that the building is ready for occupancy.

- g. The fact that land is zoned pursuant to this Article does not excuse compliance with Town Subdivision Regulations and Community Design and Development Standards.
3. **Conflict with Other Provisions of Law.** Whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.
 4. **Conflict with Private Covenants or Deeds.** In case of a conflict between this Code and any private restrictions imposed by covenant or deed, the responsibility of the Town of Nunn shall be limited to the enforcement of this Code. When provisions within this Code are more restrictive than those imposed by covenant or deed, or when any such private instruments are silent on matters contained within this Code, the provisions of this Code shall rule.
 5. **Zoning of Annexed Territory.**
 - a. Zoning of land during annexation may be done in accordance with the procedure and notice requirements set forth in Sections 4.8 and 4.9 of this Code. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.
 - b. Any area annexed shall be brought under the provisions of this Section and the map there under within ninety (90) days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such ninety-day period, or such portion thereof as is required to zone the territory, the Town shall refuse to issue any building permit for any portion or all of the newly annexed area.
 6. **Administrative Official.** The Town Clerk shall administer this Article, with the assistance from other Town employees. The Town Clerk is referred to as the "administrative official" in this Article. The function of administering this Article shall include, but not necessarily be limited to, reviewing proposed construction projects and other proposed land use activities to determine compliance with this Article; interpreting words, phrases and concepts contained herein; obtaining factual material needed for making decisions which this Article requires to be made; and performing other duties specifically or impliedly delegated to the administration official by other sections of this Article.

B. General Application of Uses.

1. **Uses designated as permitted uses are allowed in a zone district as a matter of right.** Uses by special review are permitted upon the Board of Trustees' approval of a use by special review permit, pursuant to the procedures and standards set forth in Section 4.9 of this Land Use Code.
2. **The administrative official shall make the initial determination as to the land use descriptions contained in this Article that best identify an actual land use or proposed land use.**

3. **Unspecified Uses.** Notwithstanding the foregoing, land uses not otherwise identified in this Code may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Board of Trustees to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. The Board will determine if such unspecified use shall be considered a use by right, accessory use or use by special review within any particular zone district. Unless such determination is made, the use is not permitted. An applicant shall make a request for such determination in writing and submit it to the Town Clerk.

3.3 Establishment of Zoning Districts

- A. **Establishment of Districts.** In order to carry out the provisions of this title, the Town is hereby divided into the following zoning Districts:

1. R-1, Single-Family Residential District;
2. R-2, Multiple-Family Residential District;
3. MH, Mobile Home Park District;
4. C, Commercial District;
5. I, Industrial District; and
6. A, Agricultural District.

In order to facilitate the implementation of the 2008 *Nunn Comprehensive Plan*, the following new zoning districts will be established:

1. MU, Mixed-Use District; and
2. LI, Industrial District.

3.4 Zoning District Standards

- A. **Mixed-Use District (MU).**

1. **Intent.** The Mixed-Use District is intended to reflect the character of the original downtown and to provide for a mixture of uses that will strengthen and expand the core community and provide a transitional zoning area within the downtown as its land uses evolve and change over time. Mixed-Use Districts may include Neighborhood Centers which represent the focal point and primary gathering place of a neighborhood within the community. Typically,

Neighborhood Centers include a mix of uses that compliment and strengthen civic identity such as schools, parks, monuments, neighborhood restaurant, etc.

2. Uses by Right. Uses by right in the MU District shall be as follows:

a. Residential Uses:

- i. Single-family dwellings.
- ii. Two-family dwellings.
- iii. Home occupations.

b. Institutional/Civic/Public Uses:

- i. Police and fire stations or facilities.
- ii. Public and private schools for primary education (K-12).
- iii. Utility service facilities.
- iv. Community facilities.

c. Commercial/Retail Uses:

- i. Artisan and photography studios and galleries.
- ii. Bed and breakfasts.
- iii. Boarding and rooming houses.
- iv. Child care centers.
- v. Commercial recreational facilities.
- vi. Convenience retail stores.
- vii. Financial services.
- viii. Gasoline service stations, with repair and servicing facilities or capabilities.
- ix. Small grocery stores.
- x. Medical and dental offices and clinics.
- xi. Mixed use dwelling units.
- xii. Open air farmers' market.
- xiii. Personal and business service shops.
- xiv. Professional offices.
- xv. Private recreational facilities.
- xvi. Restaurants, not including drive-ins.
- xvii. Retail sales.
- xviii. Tourist facilities.

3. Uses by Special Review. Uses by special review in the Mixed-Use District shall be as follows:

- a. Bars and taverns.
- b. Clubs and lodges.
- c. Churches.
- d. Entertainment facilities and theaters, seating capacity not over one thousand (1,000).
- e. Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).

	Agriculture (A)	Residential (R-1 and R-2)	Mixed-Use and Commercial (MU, C)	Light Industrial (LI)	Industrial (I)
					
Characteristics	<p>Typically includes large parcels of land that are used to cultivate crops and nursery stock, to raise animals and to provide farm-related products. Residential developments should be clustered and have an adequate buffer from agricultural operations.</p> 	<p>Represents the traditional development pattern in Nunn. Housing types may include single-family homes, duplexes, townhomes, additional density units/mother-in-law units, etc.</p> 	<p>This is primarily a commercial district with complementary residential and civic uses that are primarily oriented to Lincoln and Logan Streets.</p> 	<p>Typical uses may include business parks and light industrial uses.</p> 	<p>Includes intense industrial uses in addition to uses permitted in industrial zones.</p> 
Locational Criteria	<p>Typically located on the outskirts of the community. It is important to buffer agricultural uses from other uses because agricultural production may include a variety of hazards including heavy farm equipment, irrigation ditches, herbicides, pesticides, livestock and open burning.</p>	<p>Typically located near local streets. Neighborhoods may be bounded by major streets with direct connections to parks, trails, schools, and neighborhood centers. Neighborhoods should be internally served by a system of collector and local streets, as well as sidewalks and pedestrian/bike paths.</p>	<p>Typically located along higher traffic routes. The corridor's commercial viability relies on careful planning for automobiles, but it should be designed and improved to accommodate pedestrians and bicycles as well.</p>	<p>Light industrial uses must be adequately buffered from less intense uses. Traffic generated should not pass through residential areas. Sites should have access to one or more major arterials and highways capable of handling heavy truck traffic. Railroad access may also be used.</p>	<p>Located along major arterials, highways and railroads that are capable of handling heavy traffic. industrial uses should either not be located near any residential, mixed-use or recreation areas unless no alternative can be found in which case the area must be sufficiently buffered from its surroundings.</p>

- f. Hospitals and long-term care facilities.
- g. Hotels and motels.
- h. Parking lots and parking garages.
- i. Public and private schools for secondary education.
- j. Workshops and custom small industry uses.

4. Density and Dimensional Standards.

- a. **Block Size.** Block size shall encompass a maximum perimeter of two thousand (2,000) feet. A maximum block face of seven hundred (700) feet is permitted. Optimal block length for mixed-use development is between 350 and 500 feet.
- b. **Building Placement.** Building placement shall meet the setback standards outlined below. A shallow setback or no setback is permitted in certain cases. Buildings shall be oriented toward the street, defining a street wall.
- c. **Setbacks.**
 - i. No front setback is required if all building frontage on the side of the street between two (2) intersecting streets is commercial. If the frontage on the side of the street between two (2) intersecting streets includes residential, the R-2 setback shall apply to the entire frontage.
 - ii. No side setback is required if the building is constructed of masonry or fireproof materials, provided that the wall or walls are located on the property line. In all other cases, a side setback of three (3) feet is required. If rear access to the property is not available, a twelve (12) foot setback shall be required on one (1) side.
 - iii. The rear setback shall be fifteen (15) feet (which may include half of the alley, if applicable).
- d. **Minimum Lot Width.** The minimum lot width in the Mixed-Use District shall be fifty (50) feet.
- e. **Minimum Lot Area.** The minimum lot area in the Mixed-Use District shall be six thousand (6,000) square feet.
- f. **Minimum Open Space Requirement.** Fifteen percent (15%) of the site shall be landscaped area (see Section 2.16 C of this Code for specific requirements).
- g. **Building Height.** The maximum building height in the Mixed-Use District shall be forty (40) feet.

B. Light Industrial District (LI).

1. **Intent.** The Light Industrial District is intended to provide locations for a variety of light industrial uses, research and development offices and institutions.
2. **Uses by Right.** Uses by right in the LI District shall be as follows:
 - a. Accessory uses and accessory buildings.
 - b. Auto, recreation vehicle, boat and truck sales.
 - c. Churches.
 - d. Commercial recreational facilities.
 - e. Commercial storage facilities.
 - f. Community facilities.
 - g. Electric Substation.
 - h. Utility service facilities.
 - i. Entertainment facilities and theaters, seating capacity not over one thousand (1,000).
 - j. Gasoline service stations, repair garages and car washes.
 - k. Lumberyards, not including those with outside storage areas.
 - l. Manufacturing, assembly packaging or processing from previously prepared materials.
 - m. Mini-storage facilities.
 - n. Warehouse.
 - o. Newspaper plants.
 - p. Parking lots and parking garages.
 - q. Police and fire stations and facilities.
 - r. Print shops.
 - s. Private recreational facilities.
 - t. Professional offices.
 - u. Research, experimental or testing laboratories.
 - v. Small equipment repair facilities.
 - w. Transportation headquarters, without repair and servicing facilities or capability.
 - x. Wholesale merchandise establishments.
 - y. Water treatment and wastewater treatment plants.
 - z. Wireless telecommunication facilities (as permitted in Article 4).
 - aa. Workshops and custom small industry uses.
3. **Uses by Special Review.** Uses by special review in the Light Industrial District shall be as follows:
 - a. One (1) or more uses by right in commercial districts that are not specifically permitted as uses by right in industrial districts.
 - b. Establishments for food and beverage processing.
 - c. Establishments for the sale and repair of farm machinery and diesel trucks and buses.
 - d. Public recreation facilities.
 - e. Utility service facilities with buildings and/or storage structures.

4. Density and Dimensional Standards.

- a. Block Size. Block size shall encompass a maximum perimeter of 5,000 feet and must have pedestrian connections through the center.
- b. Building Placement. Building placement shall meet the setback standards outlined below. Buildings shall be oriented toward the street and parking should ideally be placed behind the building.
- c. Setbacks.
 - i. The front setback shall be fifteen (15) feet and include landscaping.
 - ii. The side setback shall be fifteen (15) feet and twenty-five (25) feet if adjacent to a public street.
 - iii. The rear setback shall be fifty (50) feet.
- d. Minimum Lot Width. The minimum lot width in the Light Industrial District shall be seventy-five (75) feet.
- e. Minimum Lot Area. The minimum lot area in the Mixed-Use District shall be seven thousand (7,000) square feet.
- f. Minimum Open Space Requirement. Fifteen percent (15%) of the site shall be landscaped area (see Section 2.16 C of this Code for specific requirements).
- g. Building Height. The maximum building height in the Mixed-Use District shall be forty (40) feet.

3.5 Planned Unit Developments

A. Intent.

- 1. **Intent.** The intent of the Planned Unit Development (PUD) Overlay District is to permit and encourage innovative design and to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The PUD Overlay District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

B. Permitted Uses. Refer to Section 4.9D of this Code.

- C. **Land Previously Zoned PUD.** Any land previously zoned PUD, and partially developed prior to the date of adoption of this Code, may continue and complete such development under the terms and conditions of approval for that PUD; subject, however, to the provision that any major modifications, as determined by the Town, to that PUD shall require review and approval under the new requirements of this Code.