

1. City Council Meeting  
Millcreek City Council Meeting Agenda

Public Notice is hereby given that the City Council of Millcreek will assemble in a public work meeting and regular meeting on Monday, 26 July 2021 at City Hall, 3330 S. 1300 E., Millcreek, Utah 84106, commencing at 6:30 p.m. for the work meeting and 7:00 p.m. for the regular meeting.

6:30 p.m. – WORK MEETING:

1. Discussion Regarding Use of American Recovery Act Funds; Mayor Jeff Silvestrini
2. Staff Reports
3. Discussion of Agenda Items, Correspondence, and/or Future Agenda Items

7:00 p.m. - REGULAR MEETING:

1. Welcome, Introduction and Preliminary Matters

1.1 Pledge of Allegiance

1.2 Public Comment

Audience members may bring any item to the Council's attention. Comments are subject to the Public Comment and Policy set forth below. State Law prohibits the Council from acting on items that do not appear on the agenda.

1.3 Millcreek Precinct Officer of the Month for June 2021

2. Planning Matters

2.1 Discussion and Consideration of Ordinance 21-31, Amending Title 19 of the Millcreek Ordinance to Enact Chapter 19.73A, Entitled "City Center Overlay – Development Agreement Zone

2.2 Discussion and Consideration of Resolution 21-32, Approving Amended Rules of Order and Procedure for the Millcreek Planning Commission

3. Business Matters

3.1 Discussion and Consideration of Resolution 21-33, Approving an Agreement with Salt

## Lake Legal Defenders to Provide Court Indigent Defense Services

### 4. Reports

#### 4.1 Mayor's Report

#### 4.2 City Council Member Reports

#### 4.3 Staff Reports

#### 4.4 Unified Fire Authority Report

#### 4.5 Unified Police Department Report

### 5. New Items for Subsequent Consideration

### 6. Calendar of Upcoming Events

- Mt. Olympus Community Council Mtg., 8/3/21, 6:00 p.m. TBD
- Millcreek Community Council Mtg., 8/3/21, 6:30 p.m. TBD
- Canyon Rim Citizens Association Mtg., 8/4/21, 7:00 p.m. TBD
- East Mill Creek Community Council Mtg., 8/5/21, 6:30 p.m. TBD
- City Council Mtg., 8/9/21, 5:00 p.m. at City Hall

### 7. Closed Session (If Needed)

The Council may convene in a closed session to discuss items as provided by Utah Code Ann. §52-4-205.

### 8. Adjournment

In accordance with the Americans with Disabilities Act, Millcreek will make reasonable accommodation for participation in the meeting. Individuals may request assistance by contacting the ADA Coordinator, 801-214-2751 or khansen@millcreek.us, at least 48 hours in advance of the meeting.

Public Comment Policy and Procedure: The purpose of public comment is to allow

citizens to address items on the agenda. Citizens requesting to address the Council may be asked to complete a written comment form and present it to the City Recorder. In general, the Chair will allow an individual two minutes to address the Council. A spokesperson, recognized as representing a group in attendance, may be allowed up to five minutes. At the conclusion of the citizen comment time, the Chair may direct staff to assist the citizen on the issue presented; direct the citizen to the proper administrative department(s); or take no action. This policy also applies to all public hearings. Citizens may also submit written requests (outlining their issue) for an item to be considered at a future council meeting. The Chair may place the item on the agenda under citizen comments; direct staff to assist the citizen; direct the citizen to the proper administrative departments; or take no action. Public comment can be submitted via the City's website at: <https://millcreek.us/FormCenter/Contact-Us-5/Public-Comments-61>.

The meeting will be live streamed via the City's website at: <https://millcreek.us/373/Meeting-Live-Stream>. The Council may convene in an electronic meeting. Council members may participate from remote locations and may be connected to the electronic meeting by GoToMeeting, Zoom, or telephonic communications. The anchor location will be City Hall.

THE UNDERSIGNED DULY APPOINTED CITY RECORDER FOR THE MUNICIPALITY OF MILLCREEK HEREBY CERTIFIES THAT A COPY OF THE FOREGOING NOTICE WAS EMAILED OR POSTED TO:

City Offices    City Website    Utah Public Notice Website

Those Listed on the Agenda    <http://millcreek.us>

<http://pmn.utah.gov>

DATE: July 21, 2021

CITY RECORDER: Elyse Sullivan

\*Agenda items may be moved in order, sequence, and time to meet the needs of the Council.

Documents:

[ITEM 2.1 \\_ ORDINANCE 21-31 CCOZ-DA.PDF](#)

[ITEM 2.2 \\_ RESOLUTION 21-32 PC RULES OF ORDER AND PROCEDURE.PDF](#)

[ITEM 3.1 \\_ RESOLUTION 21-33 INDIGENT DEFENSE AGREEMENT.PDF](#)

**MILLCREEK, UTAH**  
**ORDINANCE NO. 21-31**

**AN ORDINANCE AMENDING TITLE 19 OF THE MILLCREEK ORDINANCE TO  
ENACT CHAPTER 19.73A, ENTITLED “CITY CENTER OVERLAY –  
DEVELOPMENT AGREEMENT ZONE”**

**WHEREAS**, the Millcreek Council (“Council”) met in regular session on July 26, 2021 to consider among other things, approving an ordinance amending Title 19 of the Millcreek Ordinance to enact Chapter 19.73A, entitled “City Center Overlay – Development Agreement Zone”; and

**WHEREAS**, Utah Code Ann. § 10-9a-503 provides in part that the Council may amend any regulations of a zoning district; and

**WHEREAS**, Millcreek (“City”) has adopted a comprehensive zoning ordinance (“Zoning Ordinance”); and

**WHEREAS**, the City has adopted a City Center Master Plan (“Plan”); and

**WHEREAS**, City staff, City consultants, and other persons have recommended that the Council revise the Zoning Ordinance to adopt a City Center Overlay-Development Agreement Zone in a manner that fulfills the intent of the Plan; and

**WHEREAS**, Utah Code Ann. § 10-9a-502 provides planning commission shall provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4) and hold a public hearing on the proposed land use ordinances; and

**WHEREAS**, on May 7, 2021, the required notice was published; and

**WHEREAS**, on May 19, 2021, the proposed amendment was submitted to the planning commission for its recommendation; and

**WHEREAS**, on May 19, 2021, the planning commission held the required public hearing with respect to amending Title 19 of the Millcreek Ordinance to enact Chapter 19.73A, entitled “City Center Overlay – Development Agreement Zone”; and

**WHEREAS**, at the May 19, 2021 planning commission meeting, the planning commission voted to continue this matter to a subsequent meeting for further consideration; and

**WHEREAS**, On June 3, 2021, the planning commission held a special meeting to reconsider this matter and voted to continue this matter to a subsequent meeting for further consideration; and

**WHEREAS**, at the June 29, 2021 planning commission special meeting the Millcreek Planning Commission reconsidered the City Center Overlay – Development Agreement Zone and voted to recommend approval to the City Council; and

**WHEREAS**, at the June 29, 2021 planning commission special meeting the Millcreek Planning Commission recommended that the City Center Overlay – Development Agreement Zone expire three years after the date it is enacted by the Council; and

**WHEREAS**, the Millcreek Code of Ordinances, provides among other things, that before finally adopting any such rezone, the Council shall consider the application during a public meeting which has been properly noticed in compliance with the provisions of Title 52, Chapter 4, of the Open and Public Meetings Act; and

**WHEREAS**, on July 21, 2021, the Council caused the required notice to be given; and

**WHEREAS**, on July 26, 2021 the Council considered amending Title 19 of the Millcreek Ordinance to enact Chapter 19.73A, entitled “City Center Overlay – Development Agreement Zone”.

**NOW THEREFORE, BE IT ORDAINED** by the Council that Chapter 19.73A of the Millcreek Ordinance is hereby enacted as follows:

**19.73A CITY CENTER OVERLAY - DEVELOPMENT AGREEMENT ZONE**

- 19.73A.010: Purpose and Intent:
- 19.73A.020: Scope:
- 19.73A.030: Uses Allowed:
- 19.73A.040: Development Approval:
- 19.73A.050: Development Standards:
- 19.73A.060: Other Applicable Regulations:

**19.73A.010: PURPOSE AND INTENT:**

The purpose of the City Center Overlay – Development Agreement (CCOZ-DA) Zone is to allow flexibility in the strict application of the City Center Overlay Zone Design standards given particular site conditions and opportunities for additional development of public open space, while adhering to the goals of the City Center Master Plan. The application of the development agreement concept is intended to advance the goals of the Millcreek City Center Master Plan and to further the purpose and intent of the City Center Overlay Zone, thus ensuring substantial compliance with the intent of zone regulations and other provisions of this title related to public health, safety, and general welfare, and at the same time securing the advantages of large scale site planning for mixed use development appropriate in Millcreek’s City Center.

**19.73A.020 SCOPE AND ELIGIBILITY:**

The City Council may approve a CCOZ-DA zone upon receiving a recommendation from the

Planning Commission regarding adoption of the zone and a development agreement. Once a CCOZ-DA zone is established over a particular property, the provisions of this chapter shall apply to all property located within the CCOZ-DA zone as shown on the official zoning map. Development Agreements are entered into and approved at the sole discretion of the City. The CCOZ-DA overlay zone may only be applied to land within the Mill Center and Marketplace Districts of the City Center Overlay Zone.

**19.73A.030: USES ALLOWED:**

The uses allowed on any lot in the CCOZ-DA zone shall be the same uses allowed in the underlying zone in which the lot is located. Allowed uses may be restricted or modified by development agreement conditions. Allowed uses may not create a nonconforming use or structure.

**19.73A.040: DEVELOPMENT APPROVAL:**

A. Generally: The use and development of land located in the CCOZ-DA zone shall be approved according to applicable administration and development review procedures applicable to the underlying zone set forth in this title except as modified by this chapter.

1. A CCOZ-DA zone may be used only in combination with the Mill Center and Marketplace Districts within the City Center Overlay Zone, subject to the requirements of this chapter.
2. A CCOZ-DA zone may only be applied to property that has at least 100 feet of frontage along the Millcreek Common or that provides a grade-separated non-vehicular access to the Millcreek Common.
3. Variations from applicable development standards of the City Center Overlay Zone may be approved pursuant to the provisions of this chapter.

B. Preliminary Site Plan Approval: A preliminary site plan shall be submitted and considered concurrently with an application for approval of a rezone to the CCOZ-DA zone. The preliminary site plan shall be considered pursuant to provisions of MKZ 19.02.080, and the application process described in MKZ 19.73.030, except as modified by this section.

1. The preliminary site plan shall show generally, building elevations, architectural elements, building materials, building height, open space, parking, residential unit types, commercial space layouts, landscaping, pedestrian and traffic circulation, drainage, utility layouts, and proposed improvements to public spaces; and
2. If the development is proposed to be developed in phases, the preliminary site plan shall also show phase boundaries. Each phase shall be of such size, composition, and arrangement so that construction, marketing, and operation of each phase is feasible as a unit, independent of any subsequent phases.

3. A development shall be in single ownership and control or under option to purchase by an individual or a corporate entity at the time of application, or the application shall be filed jointly by all owners of the property.
  4. As part of the Preliminary Site Plan Approval, the City at its sole discretion may obtain recommendations from various consultants, including but not limited to: a qualified traffic and parking consultant, and a designer with demonstrated expertise in urban design and placemaking. Consultant services shall be commissioned by the City and paid for by the applicant. The recommendations of these consultants shall be forwarded to staff and the Millcreek Planning Commission and City Council as part of an application for a CCOZ-DA zone approval.
  5. Upon receiving professional recommendations from various consultants, and upon completion of the application process as described in MKZ 19.73.030, each community council and the planning commission shall make a recommendation to the city council regarding a complete application for a CCOZ-DA rezone and development agreement. The planning commission shall approve, approve with conditions, or disapprove the completed application, consisting of, but not limited to, the preliminary site plan and draft development agreement for the property where the development is proposed to be located. At the same time, the planning commission will make a recommendation to the city council to adopt, adopt with conditions or not adopt the rezone of the subject property to the CCOZ-DA Zone. Planning commission approval of a preliminary site plan shall not be effective unless and until CCOZ-DA rezone is approved by the city council.
- C. Zone Change: After action by the planning commission, the city council shall consider the application to rezone the subject property to the CCOZ-DA zone as an amendment of the official zoning map.
1. Submittal of an application for the CCOZ-DA zone does not guarantee the application will be approved. A zoning map amendment may be approved only if the city council, after receiving a recommendation from the planning commission, finds that the proposed CCOZ-DA zone and the associated preliminary site plan:
    - a. Do not conflict with any applicable policy and guidance of the general plan or the City Center Master Plan;
    - b. Will allow integrated planning and design of the site and, on the whole, better development than would be possible under the strict application of the City Center Overlay Zone
    - c. Meets the use, and other requirements of this chapter and the zone with which the CCOZ-DA zone will be combined, except as otherwise allowed by this chapter.

- d. Enhances the public welfare, enhances urban design and walkability, and supports public investment in the Millcreek City Center.
    - e. Does not adversely impact existing public utilities, including but not limited to power, gas, telecommunications, storm water, culinary water, or sanitary sewer.
  - 2. In order to make findings necessary to approve CCOZ-DA zone, conditions of approval may be imposed to assure the master development will:
    - a. Accomplish the purpose of this title;
    - b. Be developed as one integrated land use rather than as an aggregation of individual and unrelated buildings and uses; and
    - c. Meet the requirements of the zone in which the proposed development is located except as such requirements are modified by this chapter and as shown on an approved preliminary site plan for the development.
  - 3. Zoning conditions, as provided in MKZ 19.90.060, also may be placed on property at the time of zoning to restrict or prohibit uses or development that would not be compatible with adjoining uses, notwithstanding whether such uses then exist or future uses as shown in the general plan.
- D. Subdivision Requirements: An application for subdivision approval may proceed concurrently with an application for a site plan approval. Compliance with the requirements of this chapter does not exempt any applicant from meeting other applicable requirements of this title.
- E. Construction Limitations: Upon approval of a zone change and development agreement construction shall proceed in accordance with approved plans and specifications, subject to subsequent conditional use and subdivision approval, if required by the underlying zone, and shall conform to any conditions associated with the preliminary site plan, zone change, or final site plan approval.
- F. Amendments: Amendments to approved plans shall be obtained by following the same procedure required for the original approval.

- G. Development Agreement. In conjunction with approval of a zone change and a preliminary site plan approval, the city may elect to enter into a development agreement with the owner of a proposed development which includes the following provisions.
1. Upon approval of a preliminary site plan and a related development agreement, the preliminary site plan shall vest in the owner the right to develop the subject property as a development, within the parameters set forth in the approved preliminary site plan and approved development agreement.
  2. The development agreement may, among other things, provide that:
    - a. The land subject to the preliminary site plan may be subdivided and the subdivided tracts may be sold to different owners; and
    - b. Any utility, grading and drainage plans, landscaping, fencing, screening plans, signs, lighting, materials and massing requirements, and site plans will be required as part of the site plan approval.
- H. Expiration of Preliminary Site Plan and Development Agreement: 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 Development Agreement, or in the event the applicant has failed to commence physical construction within two (2) years of the execution of the Development Agreement. The applicant can make a written request for an extension of the 24-month period to the Planning Director, but for a period not exceed one (1) year.

**19.73A.050: DEVELOPMENT STANDARDS:**

- A. Generally: The development standards for any lot in the CCOZ-DA zone shall be the same as in the underlying zone in which the lot is located except as modified by this chapter and an approved site plan and development agreement.
- B. Bulk and Yard Regulations: Bulk and yard regulations for the underlying zone may be modified by development agreement, subject to the following limitations:
1. Maximum height standards may only be modified for office/commercial/civic mixed use buildings, regulated by MKZ 19.73.070 (N)(5)(b). In order to qualify for a modification of the maximum height, an office/commercial/civic mixed use building, as defined in MKZ 19.73.070 (N)(5)(b), shall contain at least 40,000 square feet of public uses. In no case shall the maximum height of an office/commercial/civic mixed use building exceed 85 feet.
  2. Required minimum stepbacks may be modified only for building facades that front Millcreek Common.

3. Required setbacks may be modified, but in no event to the point where shade trees, otherwise required, will not flourish to full maturity.
- C. Design Standards and Parking Requirements. Design standards and parking requirements established in the underlying zone and in MKZ 19.80 may be modified by development agreement, subject to the following limitations:
1. Parking requirements may be modified subject to a shared parking analysis using standards established in *Shared Parking, Third Edition* by the International Council of Shopping Centers.
  2. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, or Millcreek Common.
  3. Except as specified in this chapter, all underlying design standards expressed in numerical form are limited to a modification not exceeding 10% from the underlying standard.
  4. Minimum and maximum heights shall not be modified, except for office/commercial/civic mixed use buildings as defined in MKZ 19.73.070 (N)(5)(b), with at least 100 feet of frontage on the Millcreek Common.
  5. Sign standards shall not be modified.
- D. Effect on Adjacent Properties: The arrangement of structures and open spaces within a development shall assure that adjacent properties will not be adversely affected. Height and intensity of buildings and uses shall be arranged around the boundaries of the development in manner compatible with existing adjacent developments and zones, and with adjacent public spaces.
- E. Setback and Buffer Requirements: Setbacks and buffer requirements shall be as shown on an approved site plan.
- F. Walls and Fences: Walls and fences shall be as shown on an approved site plan.
- G. Height of Buildings: Maximum building height shall be as shown on an approved site plan.
- H. Open Space: Open space requirements and the location and amenities of all open space shall be reviewed and approved as part of the preliminary site plan process.

- I. **Public and Community Facilities:** In addition to dwellings and commercial facilities allowed by the underlying zone, a development may include areas for public or private recreation buildings, and other similar community facilities.
  
- J. **Required Improvements:**
  - 1. All streets in a City Center Overlay Zone-Development Agreement zone shall be constructed according to city standards and specifications adopted by the city, and shall advance the goals of the City Center Master Plan.
  
  - 2. Stormwater shall be controlled and managed according to a stormwater plan approved by the city.
  
  - 3. Infrastructure improvements, including but not limited to utilities, irrigation, street signs, street lighting, fencing, and other required improvements, shall be provided in accordance with city standards and specifications.
  
- L. **Grading and Drainage Plans:** A detailed grading and drainage plan shall be submitted as part of a site plan application.
  
- M. **Landscaping, Fencing, and Screening Requirements:** Landscaping, fencing, and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be submitted as part of a site plan application.
  
- N. **Signs and Lighting:** The size, location, design, and nature of signs, if any, and the intensity and direction of area lighting shall be detailed in a site plan application and shall conform to the City Center Master Plan and the City Center Overlay Zone, and shall comply with all applicable requirements in the City Center Overlay Zone, and shall adhere to best practices regarding dark sky illumination, pursuant to the guidelines of the International Dark Sky Association, as referenced in MKZ 19.73.070 (T).
  
- O. **Nonconforming uses and noncomplying structures.** Nonconforming uses or noncomplying structures may not be included in any CCOZ-DA approval unless first declared legal through special exception subject to the standards of MKZ 19.88

**19.73A.060: APPLICATION PROCESS**

An application for an adoption of a CCOZ-DA zone and enactment of a development agreement shall follow the process as outlined in MKZ 19.73.030, in addition to the following public meeting requirements:

- A. Neighborhood Meeting. At least four weeks prior to submitting a complete application, an applicant shall conduct a neighborhood meeting, and provide adequate proof of notice to include the following:
1. The applicant shall send a written notice stating the place, date, and time of the neighborhood meeting to all property owners, as identified in the Salt Lake County recorder's records, whose property is within 600 feet of the property described in the rezone.
  2. The applicant shall notify these owners at least one week prior to the neighborhood meeting.
  3. The neighborhood meeting shall be conducted at a location within Millcreek.
  4. Phone calls or informal door to door contacts shall not be considered to constitute a neighborhood meeting.
  5. The record of a neighborhood meeting shall include:
    - a. A list of all individuals who were notified;
    - b. A roster of attendees; and
    - c. A copy of the minutes.
- B. Joint Work Session of the Planning Commission and City Council. Prior to submitting a complete application and after conducting a neighborhood meeting, an applicant shall schedule with the City a joint work session of the Planning Commission and City Council. The purpose of the joint work session will be to discuss the proposed project and potential development agreement in conceptual detail. A Joint Work Session of the Planning Commission and City Council must be held prior to submitting a complete application.

**19.73A.070: OTHER APPLICABLE REGULATIONS:**

To the extent that use and development of land located in a CCOZ-DA zone includes any matter governed by other applicable regulations set forth in this title, such regulations shall apply in addition to the requirements of this chapter.

**NOW THEREFORE, BE IT FURTHER ORDAINED** by the Council that Chapter 19.73A of the Millcreek Ordinance is repealed on July 26, 2024.

**PASSED AND APPROVED** this 26<sup>th</sup> day of July, 2021.

**MILLCREEK COUNCIL**

By: \_\_\_\_\_  
**Jeff Silvestrini, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Elyse Sullivan, City Recorder**

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

**CERTIFICATE OF POSTING**

I, the duly appointed recorder for Millcreek, hereby certify that:  
ORDINANCE 21-31: AN ORDINANCE AMENDING TITLE 19 OF THE MILLCREEK  
ORDINANCE TO ENACT CHAPTER 19.73A, ENTITLED “CITY CENTER OVERLAY –  
DEVELOPMENT AGREEMENT ZONE” was passed and adopted the 26<sup>th</sup> day of July 2021 and  
certifies that copies of the foregoing Ordinance 21-31 were posted in the following locations  
within the municipality this \_\_\_\_ day of July, 2021.

- 1. Millcreek City Hall, 3330 S. 1300 E., Millcreek, UT 84106
- 2. Millcreek Community Center, 2266 E. Evergreen Ave., Millcreek, UT 84109
- 3. Calvin S. Smith Library, 810 E. 3300 S., Millcreek, UT 84106

\_\_\_\_\_  
**Elyse Sullivan, City Recorder**

**MILLCREEK, UTAH**  
**RESOLUTION NO. 21-32**

**A RESOLUTION OF THE MILLCREEK COUNCIL APPROVING AMENDED RULES OF ORDER AND PROCEDURE FOR THE MILLCREEK PLANNING COMMISSION**

**WHEREAS**, the Millcreek Council (“*Council*”) met in regular meeting on July 26, 2021 to consider, among other things, approving amended Rules of Order and Procedure for the Millcreek Planning Commission (“Amended Rules”); and

**WHEREAS**, as Millcreek Code of Ordinances Section 19.05.060 provides, “[t]he Commission shall adopt rules of order and procedure for use by the planning commission in a public meeting and for any other purposes considered necessary for the functioning of the Commission. Such policies and procedures shall be approved by the Council before taking effect,” and

**WHEREAS**, at a business meeting held on July 21, 2021, the Planning Commission considered and adopted and recommended approval of the Amended Rules pursuant to Millcreek Code of Ordinances Section 19.05.060; and

**WHEREAS**, a copy of the Amended Rules adopted by the Planning Commission has been presented to the Council, a copy of which is attached hereto; and

**WHEREAS**, the Council has reviewed the Amended Rules and determines that the Amended Rules are acceptable.

**NOW, THEREFORE, BE IT RESOLVED** by the Council that the Rules are hereby approved (designated by interlineating the words to be deleted and underlining the words to be added).

This Resolution, assigned No. 21-32, shall take effect immediately upon passage.

**PASSED AND APPROVED** by the Council this 26<sup>th</sup> day of July, 2021.

**MILLCREEK**

**ATTEST:**

\_\_\_\_\_  
Jeff Silvestrini, Mayor

\_\_\_\_\_  
Elyse Sullivan, City Recorder

Roll Call Vote:

Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

# MILLCREEK PLANNING COMMISSION

## RULES OF ORDER AND PROCEDURE

These Rules of Order and and Procedure (“Rules of Procedure”) shall govern the proceedings of the Millcreek Planning Commission (“Commission”) and shall be consistent with applicable provisions of the Utah Code (“Utah Code”) and Millcreek Code of Ordinances. (“Millcreek Ordinances”).

### **I. Authority and Duties**

The Commission shall act on all planning matters that arise within the jurisdiction of Millcreek (“City”) as required or permitted by Utah Code and/or Millcreek Ordinances.

### **II. Membership**

Section 1. Appointment of Members and Participation– Members of the Commission (“Members”) shall be appointed as provided in the Millcreek Ordinances.

Section 2. Rights of Members– All Members, including the Chair, shall be entitled to one vote on all matters properly brought before the Commission for action. Proxy votes shall not be permitted, and Members must be present to vote unless otherwise allowed by a duly adopted policy on electronic meetings.

Section 3. Supporting Staff - The Millcreek Planning and Zoning Department and the Millcreek City Recorder shall be the supporting staff of the Commission (the “Supporting Staff”) and shall digitally record all meetings, make recordings available to the public within seven (7) business days, take written minutes, and post all agendas and meeting activities as required by Utah Code. The Supporting Staff in consultation with the Chair shall create the agenda for each meeting and shall send an agenda to the Members of the Commission. Additional items may be placed on the business meeting section of the agenda by Members of the Commission or Supporting Staff as provided below.

Section 4. Members’ Terms– The terms of regular and alternate Members shall be as set forth in the Millcreek Ordinances.

Section 5. Training – Planning Commissioners shall obtain training as required by UTAH CODE ANN. §10-9a-302. A newly appointed Member may not participate in a public meeting as an appointed Member until the member completes the training as required by Utah Code, and meets with the Supporting Staff to review among other things the Rules of Procedure and the General Plan. Failure to comply with this provision may result in removal of the Member from the Commission. All Members should attend additional trainings scheduled from time to time by the Supporting Staff.

Section 6. Attendance – Members shall regularly attend Commission meetings. A Member who misses more than three scheduled meetings in a calendar year may result in removal of the Member from the Commission.

Section 7. Member Responsibilities – As a Member of the Commission, each member shall be responsible to:

1. Read and study the agenda, staff reports, and all attached documents prepared by Supporting Staff so that they are fully informed about each application prior to the scheduled Commission meeting.
2. Act in a courteous and respectful manner to their fellow Members, the Supporting Staff, applicant, and the public, during all meetings.
3. Attend Commission meetings and arrive on time.

Section 8. Removal Proceedings – Removal from the Commission shall be as set forth in the Millcreek Ordinances.

Section 9. Vacancies – A Member may resign at any time by giving written notice of such resignation to the Mayor, Chair, and Supporting Staff. Resignations shall be recorded in the meeting minutes. Any vacancy during a Member's term shall be filled as set forth in Millcreek Ordinances.

Section 10. Compensation and Reimbursement – Members shall receive no compensation for their services and no reimbursement for expenses.

### **III. Officers**

Section 1. Election of Officers – As the first order of business at the first regularly scheduled Commission meeting of the calendar year, the Commission shall hold elections for the positions of Chair and Vice Chair from among regular Members by a majority vote of the Members' present.

Section 2. Officer Terms - Officers may serve successive terms.

Section 3. Officers Duties

1. The Chair Shall:
  - a. Serve as the Presiding Officer of the Commission
  - b. Implement the Rules of Procedure
  - c. Coordinate with the Supporting Staff to provide an agenda for each public meeting, and timely reports and other relevant information to the Commission
  - d. Execute all official documents and letters of the Commission
  - e. Identify and bring before the Commission such policy matters as are within the purview of the Commission
2. The Vice Chair Shall:
  - a. Assist the Chair in all necessary capacities
  - b. Assume the duties and responsibilities for the Chair in all instances where the Chair is not available or unable to carry out the duties and responsibilities
  - c. Identify and bring before the Commission such policy matters as are within the purview of the Commission

Section 4. Chair *pro tempore* – In the absence or incapacity of both the Chair and the Vice Chair for a Commission meeting, the Members present at the meeting shall elect a Chair *pro tempore* to serve as Presiding Officer only for that meeting. ~~Alternate Members shall not serve as Chair *pro tempore*.~~

#### **IV. Meetings of Members**

Section 1. A Quorum shall consist of a majority of its Members and shall be necessary to conduct any business of the Commission. A commissioner who is not physically present may nevertheless participate in the meeting through electronic means and be counted toward the required quorum. All electronic meeting proceedings shall comply with UTAH CODE ANN. § 52-4-207. Any Commissioner participating via electronic means may make, second, and vote on all motions and participating in the discussion as though present, except that the Commissioner who chairs the meeting must be present at the anchor location.

Section 2. Adherence to City, State, and Federal Law – Except as provided herein, all meetings shall be generally guided by Roberts Rule of Order-Simplified. With respect to matters of interpretation or applicability of these Rules of Procedure, or applicability of the Roberts Rules of Order-Simplified a determination by a majority of the Commission in attendance shall control. All meeting shall adhere to the Utah Open Meetings Act, and the Government Records Access Management Act.

Section 3. Regular Meetings – Meeting locations shall be publicly noticed and held each month. Annual notice of meeting dates shall be noticed as required by Utah Code. In addition, dates and times of the meeting shall be posted as required by Utah Code.

Section 4. Special Meetings – Special meetings may be called by the Chair or Supporting Staff, with the consent of the Chair, at any time, provided that a preferred seventy-two (72) hours' notice (minimum of twenty-four (24) hours' notice) is given to each Member before the meeting is held and notice is given as required by Utah Code.

Section 5. Staff and Applicant Participation at Electronic Meetings – Staff members or applicants who are not physically present may nevertheless participate in the meeting through electronic means, provided the Chair and City Recorder receive at least twenty-four (24) hours' advance notice of electronic participation.

Section 5. Meeting Cancellation – Notice of cancellation of a meeting shall be posted as required by Utah Code. If a meeting is rescheduled the new meeting time, date, and location shall be posted as required by Utah Code.

#### **V. Subcommittees**

The Chair may create subcommittees as deemed necessary. Members of subcommittees shall be Commission Members.

#### **VI. Procedures**

##### **A. Business Section**

Section 1. The Commission shall conduct business as a component of each regularly scheduled meeting. The Supporting Staff, or the Commission, by a majority vote, may adjust the scheduled time as needed. Members of the public may attend such meetings, but will not participate unless invited to do so by the Chair.

Section 2. The commission shall review, correct, and approve of the minutes from the previous meeting. Additional items may be added to the business meeting section of the agenda by the Supporting Staff,

Chair, or the Commission, by a majority vote. The Commission may also discuss and render decisions on policy issues, legislative issues and administrative matters ~~that do not require public input~~. Special presentations, reports, and updates from the Supporting Staff that do not require a decision may also be made. ~~During a business meeting, there shall be no discussion of an application, request, or approval scheduled for the regular meeting.~~ During the business meeting there shall be no discussion of any completed application, either administrative or legislative, that is scheduled for the regular meeting.

## B. Meeting Procedures

Section 1. Order – The order of business at the regular meeting shall follow the noticed agenda. The Chair, with the consent of the Commission, by a majority vote, or upon recommendation of the Supporting Staff, may consider matters out of the agenda order.

Section 2. Decisions – A matter for decision will be placed before the Commission by motion made by any Member present at the meeting. The Chair shall not make motions before the Commission except in the absence of a response from other Members to an invitation by the Chair that a motion on a pending matter would be in order. Any Member may second a motion. ~~Alternates may make motions and second motions only if they are serving as an acting Member of the Commission at the meeting because of the absence of a regular Member.~~

Section 3. A majority vote by the present Members in favor of a motion shall carry the motion.

Section 4. Following a seconded motion, the Chair may ask each Member to verbally pronounce their name and vote and shall record each individual vote in the written minutes as an “aye”, “yes”, “nay”, or “no.”

Section 5. Following a non-unanimous vote, the Chair may ask Members who vote “nay” or “no” to state for the record their rationale for their opposing vote.

## C. Procedures for Applications

### Section 1. Application Public Hearing Procedure

1. Any person or entity may appear in person or be represented by an authorized agent at any meeting of the Commission
2. Unless altered by the Chair, the order of the procedure at a public hearing on an application shall be:
  - a. Presentation of the application by the Supporting Staff, including its recommendations and a summary of pertinent written comments and reports concerning the application
  - b. The applicant’s presentation, not to exceed fifteen (15) minutes
  - c. Any group representing the area in which the subject property is located, not to exceed five (5) minutes

- d. Persons other than the applicant in favor of, or not opposed to, or in opposition to, the application, not to exceed three (3) minutes per person
- e. Rebuttal by the applicant as necessary to respond to new issues or questions raised by other parties, not to exceed five (5) minutes
- f. Surrebuttal may be allowed at the discretion of the Chair.

## Section 2. Application Public Hearing Rules

1. Each speaker, before talking, shall give their name and their address.
2. Only one speaker is permitted before the Commission at a time.
3. The discussion must be confined to essential points stated in the application bearing on the desirability or undesirability of the application and is not a time for debate regarding the applications.
4. The Chair may cease any presentation or information that has already been presented and acknowledge that it has been noted in the public record.
5. No personal attacks shall be indulged in by either side, and such action shall be sufficient cause for stopping the speaker from proceeding.
6. No applause or public outbursts shall be permitted.
7. The Chair or Supporting Staff may request police support to remove offending individuals who refuse to abide by these rules.

Section 3. Discussion and Vote – After all presentations have been made, the Chair ~~may request or entertain a motion to~~ shall close the public hearing. Members may continue to discuss the application among the Commission. Following this discussion on the application, a motion must be made and seconded, which may include; Approval, Approval with Conditions, Denial, a Recommendation to the Council (as appropriate), or Continuation of the item with or without date.

Section 4. Decisions –A decision of the Commission on an application shall be documented in writing by the Supporting Staff and shall include reasons for the decision.

## **VII. Ethics and Conflicts of Interest**

Section 1. Compliance -All Members shall abide by Utah Code and, annually complete any necessary volunteer forms, documents, and training.

Section 2. Voting/ Recusal:—A member of the Commission who has a conflict of interest as defined by Utah Code and/or Millcreek Ordinances shall declare the conflict of interest as required by Utah Code

and recuse themselves from the agenda item relating to the conflict of interest. The Chair shall announce the recusal for the record.

Section 3. Ex Parte Communications – No member of the Commission shall have any ex parte discussion regarding any administrative land use application or re-zone application pending before the Commission. Ex parte communication means any communication, including but not limited to electronic or social media communication, with interested parties of an administrative land use application or re-zone application pending before the Commission prior to the Commission reaching a final decision. An administrative land use application means any land use application where by Utah Code or Millcreek Ordinances the Commission is the final decision-maker. A re-zone land use application means any land use application where by Utah Code or Millcreek Ordinance the City Council is the final decision-maker.

### **VIII. Amendments and Adoption**

#### **A. Adoption and Amendment Procedure**

These Rules of Procedure must be reviewed and approved by the Council before they become effective and may be amended upon approval by the Council.

**MILLCREEK, UTAH**  
**RESOLUTION NO. 21-33**

**A RESOLUTION OF THE MILLCREEK COUNCIL APPROVING AN AGREEMENT  
WITH SALT LAKE LEGAL DEFENDERS ASSOCIATION TO PROVIDE COURT  
INDIGENT DEFENSE SERVICES**

**WHEREAS**, the Millcreek Council (“*Council*”) met in regular session on July 26, 2021, to consider, among other, approving an Agreement with Salt Lake Legal Defenders to provide court indigent defense services; and

**WHEREAS**, an agreement has been presented to the Council for review and approval, a copy of which is attached hereto (“*Agreement*”); and

**WHEREAS**, the Agreement sets forth the purpose thereof, the extent of participation of the parties, and the rights, duties, and responsibilities of the parties.

**NOW, THEREFORE, BE IT RESOLVED** that the Agreement is approved, and that the Mayor and Recorder are hereby authorized and directed to execute and deliver the same.

This Resolution assigned No. 21-33, shall take effect immediately on passage.

**PASSED AND APPROVED** by the Millcreek Council this 26<sup>th</sup> day of July 2021.

**MILLCREEK COUNCIL**

By: \_\_\_\_\_  
**Jeff Silvestrini**, Mayor

**ATTEST:**

\_\_\_\_\_  
**Elyse Sullivan**, City Recorder

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

## Indigent Defense Legal Services Agreement

**THIS AGREEMENT** (this "**Agreement**") is effective July 1, 2021 by and between **MILLCREEK**, a Utah municipal corporation (the "**City**"), and **SALT LAKE LEGAL DEFENDERS ASSOCIATION**, a Utah nonprofit corporation ("**Legal Defenders**").

### **RECITALS:**

- A. Legal Defenders is in the business of providing criminal defense services for indigents.
- B. Legal Defenders employs attorneys that are licensed to practice in Utah.
- C. The City is in need of indigent criminal defense services.
- D. The parties desire to enter into a service contract for indigent criminal defense services and to assist eligible clients in addressing substance abuse and mental health issues.
- E. The parties have determined that it is mutually advantageous to enter into this Agreement.

### **AGREEMENT:**

**NOW, THEREFORE**, in consideration of the premises, mutual covenants and undertakings, the parties agree as follows:

1. **Scope of Services to be Provided.** Legal Defenders agree to furnish and provide for the defense with respect to criminal violations of Utah State law, Salt Lake County ordinances, City ordinances and matters initiated by the City, or its authorized agents, of an indigent upon a determination of indigence and as appointed by the Salt Lake County Justice Court, Third District Court, Utah Court of Appeals, or the Supreme Court of Utah ("**Court**" and such services collectively "**Legal Services**") during the term of this Agreement. Legal Services shall include, but not limited to, appearing and representing criminal defendants at all appropriate meetings, hearings, etc., including, but not be limited to, pretrial conferences order to show cause hearings, and bench and jury trials. Legal Defenders shall be responsible to cover costs to serve subpoenas or other pleadings, the cost of investigations, expert witnesses, and transcription costs. Legal Services provided by Legal Defenders shall at all times be subject to applicable laws, rules and regulations, including without limitation, the Rules of Professional Conduct adopted by the Utah Supreme Court. Legal Defenders shall immediately notify the City of the final adjudication by the Utah State Bar of any violation of the Rules of Professional Conduct by Legal Defenders or anyone associated with or performing legal services through Legal Defenders.

2. **Fees for Legal Services.** City shall pay Legal Defenders a fixed amount of \$112,558 for Legal Services ("**Contract Price**"). If Legal Services are anticipated to exceed the Contract Price, then Legal Defenders shall not incur expenditures that exceed the Contract Price without the written consent of the City. City shall pay Legal Defenders one-fourth of the

Contract Price quarterly. City shall remit payment to Legal Defenders 275 East 200 South, Salt Lake City, Utah 84111, no later than thirty (30) days after the end of the quarter.

3. **Term.** This Agreement shall be effective as of the date hereof and shall terminate on June 30, 2022, provided, however, upon the consent of the parties hereto and subject to the right to terminate as provided herein, this Agreement may be renewed for successive one(1)-year terms.

4. **Assignment and Delegation.** The Legal Defenders will not assign or delegate the performance of their duties under this Agreement without the prior written approval of the City.

5. **Employment Status.**

a. **Official Status.** The Legal Defenders shall have complete control and discretion over all personnel providing Legal Services.

b. **Salary and Wages.** The City shall not have any obligation or liability for the payment of any salary or other compensation to personnel providing Legal Services.

c. **Employment Benefits.** All personnel providing Legal Services are and shall remain employees of the Legal Defenders. All personnel providing Legal Services shall have no right to any City pension, civil service or any other City benefits pursuant to this Agreement or otherwise.

6. **Alcohol and Drug-Free Work Place.** All personnel during such time that they provide Legal Services shall not be under the influence of alcohol, any drug, or combined influence of alcohol or any drug to a degree that renders the person incapable of safely providing the Legal Services. Further, all personnel during such time that they provide Legal Services shall not have sufficient alcohol in his body, blood, or on his breath that would constitute a violation of Utah Code Ann. § 41-6a-502 (without giving any consideration to or establishing the requirement of operating or being in physical control of a vehicle) or any measurable controlled substance in his body that would constitute a violation of Utah Code Ann. § 41-6a-517 (without giving any consideration to or establishing the requirement of operating or being in physical control of a vehicle).

7. **Progress Reports.** Legal Defenders shall as requested from time to time by City submit periodic progress reports to the City, attend quarterly accountability meetings with City representatives City, submit an annual report regarding Legal Services in such form that contains such information as the City may require, and attend City Council meeting as requested by City to answer questions about the report and Legal Services in general.

8. **Termination.** Either party may terminate this Agreement upon 30 days prior written notice to the other party.

9. **Insurance.** Legal Defenders shall obtain Workers Compensation and employer liability insurance in a statutory amount. The Legal Defenders shall furnish the City certificates

of insurance evidencing the insurance requirements herein. Certificates of insurance shall contain the provision that at least 30 days prior written notice will be given to the City in the event of cancellation, reduction or renewal of the insurance.

10. **Notice.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof; or (b) within three days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below:

City: Mayor Jeff Silvestrini  
3330 S. 1300 E.  
Millcreek, UT 84106

cc: John N. Brems  
10717 Water Way  
South Jordan, UT 84009

Legal  
Defenders: 275 East 200 South  
Salt Lake City, Utah 84111

11. **Titles and Captions.** All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

12. **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

13. **Applicable Law.** The provisions hereof shall be governed by and construed in accordance with the laws of the State of Utah including, but not limited to, the status verify system requirements for contractors of Utah Code Ann. § 630-12-302. Legal Defenders understands and agrees that this Agreement and related documents will be public documents, as provided in Utah Code Ann. § 63G-2-101, et seq.

14. **Integration.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

15. **Time.** Time is the essence hereof.

16. **Survival.** All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

17. **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy shall constitute a waiver of any such breach, right or remedy. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

18. **Indemnity.** Legal Defenders shall defend, protect, indemnify, save, and hold harmless the City, including its elected and appointed officials, employees, agents, and contractors from and against any and all demands, liabilities, claims, damages, actions, or proceedings, in law or in equity, including reasonable attorneys' fees and costs of suits, relating to or arising from Independent Contractor providing Legal Services to the City. Nothing herein shall be construed to require Legal Defenders to indemnify the City against the City's own negligence.

19. **Rights and Remedies.** The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

20. **Severability.** In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

**IN WITNESS WHEREOF**, the City caused this Agreement to be signed by its mayor and attested by its recorder and delivered; and the Legal Defenders has caused the same to be signed and delivered.

**MILLCREEK**

By: \_\_\_\_\_  
**JEFF SILVESTRINI, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Elyse Sullivan, City Recorder**

**APPROVED AS TO FORM:**

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**John N. Brems**, City Attorney

**LEGAL DEFENDERS:**

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**Richard P. Mauro**, Director  
Salt Lake Legal Defender Association