



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

4/13/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Silverton Plan Amendment  
DLCD File Number 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, April 27, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jason Gottgetreu, City of Silverton  
Gloria Gardiner, DLCD Urban Planning Specialist  
Steve Oulman, DLCD Regional Representative  
Angela Lazarean, DLCD Urban Planner

<paa> YA



FORM 2

DLCD

# Notice of Adoption

In person  electronic  mailed

DATE STAMP

DEPT OF

APR 07 2010

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Silverton**

Local file number: **DC-09-01**

Date of Adoption: **April 5, 2010**

Date Mailed: **April 6, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 11-9-2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Development code amendment to revise certain parts the October 6, 2008 Development Code Update. Revisions include; revising definitions for "Emergency" and "Livestock", creating use categories to regulate renewable and non-renewable energy facilities, revising how duplexes are allowed in the R-1 zone, prohibiting kennels in residential zones, outright permitting schools with 20 or fewer children in all residential and commercial zones, revising corner lot fence height, creating minimum lot sizes of 1,600 sq ft in the DC zone and 6,000 sq ft in the GC zone, requiring a zone change to apply the Public Overlay, creating an allowed use table and design standards in the Public Overlay, increased the amount of buffering and screening between uses, and added provisions for septic systems on parcels larger than 2 acres when more than 300' away from sanitary lines

Does the Adoption differ from proposal? Yes, Please explain below:

The proposed amendment would have allowed the keeping of 3 or fewer chickens on any R-1 residential lot. The ordinance passed allowing chickens on lots that are at least 1 acre in size.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **City Wide**

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1  2  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No



**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Jason Gottgetreu**

Phone: (503) 874-2214 Extension:

Address: 306 S Water Street

Fax Number: 503-873-3210

City: Silverton

Zip: 97381

E-mail Address: [Jgottgetreu@silverton.or.us](mailto:Jgottgetreu@silverton.or.us)

## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this Form 2 on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5) **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009

**CITY OF SILVERTON  
ORDINANCE NO. 10-02**

**AN ORDINANCE RELATING TO AMENDMENTS TO THE TITLE 18-DEVELOPMENT CODE AND ZONING MAP TO MAKE THE APPLICATION OF THE CODE MORE CLEAR AND CONSISTENT.**

**WHEREAS**, the City of Silverton adopted a new Silverton Development Code (Code) in October, 2008 following two years of work sessions held by the Planning Commission using the Transportation Growth Management Model Code for Small Cities as a model to provide for clear and objective standards and/or land use procedures that allowed for appropriate review; to reflect desired types of development and development standards for the city; to help implement newly adopted master plans such as the Transportation System Plan, the Wastewater Master Plan and the Downtown Master Plan; to eliminate conflicting code provisions; and make other changes as needed to create a document that would be easy to use; and

**WHEREAS**, the Silverton Planning Commission held work sessions to review and update the Code to clarify or create language to better implement the Code consistent with the Silverton Comprehensive Plan in certain instances where the Code has been identified as vague, unclear, or deficient; and

**WHEREAS**, individual notice has been provided to all property owners within the city and its urban growth boundary of the proposed changes and other notice has been provided via legal advertising in the newspaper, and the city's website, to inform citizens of the proposed changes; and

**WHEREAS**, a duly advertised public hearing was held on January 12, 2010 to consider the proposed text amendments and the Planning Commission considered testimony received and reviewed and amended the proposed text amendments to Title 18-Development Code and Zoning Map; and

**WHEREAS**, following public testimony, the Planning Commission deliberated and in a vote of 7-0 recommended approval of the proposed Development Code amendments with certain revisions as noted in the Planning Commission minutes; and

**WHEREAS**, after proper legal notice, a public hearing before the City Council was held on February 1, 2010 to consider the Development Code Amendment application, DC-09-01. All interested parties participated and had an opportunity to be heard. The City Council reviewed all matters presented to it including the recommendations of the Planning Commission; and

**WHEREAS**, City Council passed Ordinance No. 10-02 on its first reading on February 1, 2010 and directed Staff to correct an error to Table 3.2.300(E)(4), Perimeter Screening and Buffering Structures, prior to the second reading of the Ordinance on March 1, 2010.

***THE CITY OF SILVERTON ORDAINS AS FOLLOWS:***

The City Council finds that the proposed amendment, DC-09-01, is consistent with the goals and policies of the Silverton Comprehensive Plan as described in the Staff Report and Findings of Fact attached as Exhibit 'A', which by this reference are incorporated herein and hereby adopted.

A full copy of all text amendments can be found in file DC-09-01, located in the Community Development Department at City Hall.

**FIRST READ** by the Council the 1<sup>st</sup> day of February, 2010.

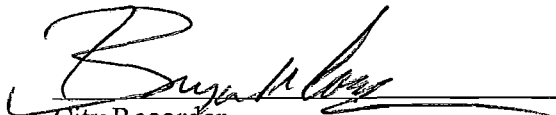
PASSED by the Council this 1<sup>st</sup> day of March, 2010.

SIGNED by the Mayor the \_\_\_ day of March, 2010.

Effective this 5<sup>th</sup> day of April, 2010.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder



City of Silverton  
Community Development  
306 South Water Street  
Silverton, OR 97381

## STAFF REPORT

PROCEDURE TYPE IV

LAND USE DISTRICT:

CITY WIDE

PROPERTY DESCRIPTION:

ASSESSOR MAP#: CITY WIDE

LOT #: ALL

SITE SIZE: 2,214 ACRES

ADDRESS: \_\_\_\_\_

CASE FILE: DC-09-01

APPLICANT:

CITY OF SILVERTON

306 SOUTH WATER STREET

SILVERTON, OR 97381

APPLICANT'S REPRESENTATIVE

JASON GOTTFREY

CONTACT PERSON:

JASON GOTTFREY, 503-874-2214

OWNER:

LOCATION: CITY WIDE

**PROPOSED DEVELOPMENT ACTION:** DEVELOPMENT CODE AMENDMENT TO AMEND PORTIONS OF THE DEVELOPMENT CODE TO MAKE THE APPLICATION OF THE CODE MORE CLEAR AND CONSISTENT.

DATE: JANUARY 25, 2010

Attachments

- A. Staff Report
- B. Testimony
- C. Appeal Information

# ATTACHMENT A: STAFF REPORT, DC-09-01

## I. APPLICABLE STANDARDS

### A. Silverton Development Code (SDC):

Article 4 – Administration of Land Use Development

Section 4.1.500 Type IV Procedure (Legislative)

Section 4.7.200 Legislative Amendments

Section 4.7.600 Transportation Planning Rule Compliance

### B. Silverton Comprehensive Plan Elements:

2. Urbanization

4. Open Space, Natural and Cultural Resources

5. Air, Water, and Land Resource Quality

6. Natural Hazards

7. Housing

9. Transportation

10. Energy

11. Public Facilities and Services

## II. Development Code Amendments

### SECTION A. Review Criteria

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Section 4.1.500. Amendments to the Comprehensive Plan and amendments to Zoning and Development Code or Zoning Map necessitating a Comprehensive Plan amendment, may be approved if the City Council finds that the change is consistent with the following criteria:

- A. The amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council;*
- B. The amendment conforms to the Transportation Planning Rule provisions as implemented through Section 4.7.600 of this Code; and*
- C. The amendment is in the public interest; for example, it is needed to meet changing conditions or new laws.*

The following is a brief summary of the proposed development code amendments followed by findings of compliance with the review criteria. A more detailed description of the changes can be found in Section B of this report.

- 1. Creating new regulations and standards for renewable and non-renewable energy facilities in all zones. Renewable energy facilities will be allowed as a Conditional Use in all zones in the City provided they are secondary to a permitted use and are granted approval by the Planning Commission at a public hearing. Non-renewable energy facilities are prohibited in all zones, except in Industrial zones when approval is granted by the Planning Commission at a public hearing as a Conditional Use.*

The Goal of the Energy element of the Comprehensive Plan (Comp Plan) is to “Conserve energy resources and encourage use of reusable energy resources.” This amendment allows for all Zones to establish renewable energy facilities provided they don’t negatively impact the surrounding area. Prior to this amendment there were no regulations that addressed renewable energy facilities. This amendment furthers the public interest to meet changing conditions as small scale renewable energy facilities are being developed for residential and small scale commercial uses. The Transportation Planning Rule (TPR) is not applicable to this amendment as it will not significantly affect a transportation facility. Correspondence via e-mail has been received with a concern over the maximum height of 55 feet for renewable energy facilities in residential zones. This 55 height limit is consistent with the exiting height limit for rooftop structures including, towers, spires, steeples and other similar structures. No other element of the Comp Plan is applicable to this amendment.



2. *Allowing up to 20% of new lots created in subdivisions to be identified on the final plat as duplex lots. Allowing 1 lot in a partition to be identified as a duplex lot on the final plat.*

*Allowing individual existing lots of record to be built with a duplex with Conditional Use approval.*

The Goal of the Housing element of the Comp Plan is to “meet the projected housing needs of citizens in the Silverton area” with an objective to “encourage an adequate supply of housing types necessary to meet the needs of different family sizes and incomes”. This amendment is designed to clarify the current language of when and how many duplexes are permitted in the R-1 zoning district. Having clear and objective standards regulating duplexes will further encourage a diversity of housing types to meet a wide variety of needs. The public interest of providing a consistent application of the Code is being served by this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment. Written testimony (attached as ‘Exhibit B’) has been received with a concern over using a static 20% limit on the amount of duplexes allowed in a new subdivision. The citizen feels that all duplexes should require Conditional Use approval. Oral testimony was given at the Planning Commission meeting indicating a desire that all subdivision should be allowed to be built with duplexes accounting for 20% of the lots. The amendment is designed to encourage a variety of housing types to meet the needs of different types of families by outright allowing duplexes on up to 20% of lots within in new subdivisions. This would be defined during the application phase of the project and would allow public testimony and would clearly define how many and where duplexes would be constructed. This amendment is also designed to clarify that pre-existing approvals remain valid for properties and a Modification approval is required to change a properties designated single family use to a duplex use. It also clarifies that an existing lot of record without pre-existing approvals requires a Conditional Use approval to construct a duplex.

3. *Revising the definition of Livestock from a vague, broad definition to one that includes but is not limited to, all breeds of cattle, pigs, goats, horses, donkeys, mules, llamas, alpacas, and similar animals.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” This amendment is designed to clarify the types of animals that are defined as livestock. This clarification will allow a more consistent application of the Code and is aimed at maintaining community livability by clearly regulating livestock. The public interest of providing a consistent application of the Code is being served by this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

4. *Allowing the keeping of Chickens within the Single Family Residential zone provided the number of chickens not exceed 3, that they are housed within a structure that is setback at least 5 feet from the side and rear property lines, and that they are kept in a state that does not constitute a nuisance, which includes roaming chickens, unclean and unsanitary conditions, and obnoxious smells and substances. No roosters are allowed.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” Allowing the keeping of chickens in the R-1 zone gives people an opportunity to produce fresh local food in a sustainable manner to increase community livability. Regulations that will protect neighboring properties from negative impacts are being put in place to maintain community livability for surrounding neighbors. The idea of producing sustainable food in an urban environment is a relatively new movement and these regulations are designed to meet changing conditions. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment. Written testimony (attached as ‘Exhibit B’) has been received with a concern that allowing chickens would cause a nuisance especially if the minimum setback for the coop is only 5 feet to a property line. A citizen also provided oral testimony at the Planning Commission meeting and voiced a concern about the amount of time city staff would have to spend enforcing the provisions. While there is a real possibility that this provision could lead to situations where nuisances are created existing nuisance abatement code do allow staff to remedy the nuisance.

*5. Prohibiting Kennels in all residential zoning districts. Kennels are defined as any location where 5 or more dogs or cats are boarded or bred. This does not include pets.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” Previously it was not clear if Kennels were permitted or prohibited in Residential Zones in the SDC. This amendment is designed to clearly prohibit Kennels in all Residential zones to consistently apply the SDC and to maintain community livability as Kennels are not suited in residential zones due to noise and other potential negative impacts. The public interest of providing a consistent application of the Code is being served by this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

*6. Dividing “Schools” into two categories based on the amount of students. Previously all schools were required to gain a Conditional Use approval from the Planning Commission. The new regulations would outright permit schools with 20 or fewer children in all zoning districts and allow schools with more than 20 through the Conditional Use process.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” Smaller private schools are a growing trend and are often start-ups. Previously they would have to follow the Conditional Use process in order to be established. This is a costly, time consuming process. The proposal is to allow outright schools with 20 or fewer individuals in all zones considering the low impact such a use would have on the surrounding area. Schools with more than 20 individuals will still have to follow the Conditional Use process. This will create a situation that will allow the efficient use of land and increase community livability due to small schools being located in residential areas where students would have a greater opportunity to walk to school. The TPR is not applicable to this amendment as it

will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

7. *Revising regulations for fence height on residential corner lots. Previously fences were restricted to be 42 inches in height if it was constructed in front of the house on either street frontage. Proposed regulations would allow a 6 foot high fence in certain areas as the following diagram demonstrates. A diagram can be found on page 13 of this report.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” Previously no fence in the front yard on a corner lot could be taller than 42 inches. This was intended to avoid a tall fence corridor next to sidewalks on corner lots. However, this also reduces the amount of yard area corner lots can enclose with a 6 foot tall fence. The proposal is to allow a 6 foot tall fence in certain portions of the front yard of a corner lot. This is a compromise between the preventing a corridor and allowing more area enclosed with a 6 foot fence, which will maintain community livability. The public interest of providing a consistent application of the Code is being served by this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

8. *Creating minimum lot sizes of 1,600 and 6,000 square feet for the Downtown Commercial and General Commercial zone, respectively. No previous minimum existed.*

The Goal of the Urbanization element of the Comp Plan is to ‘provide adequate land to meet future demands for urban development and orderly development.’ Previously there were no minimum lot sizes for the DC or GC zoning districts. This could create a potential to divide commercial property into very small parcels that would not be able to support any kind of development. Creating minimum lot sizes ensures there will be adequate room for buildings, landscaping, parking and other features necessary for orderly development. The public interest of providing a consistent application of the Code is being served by this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

9. *Creating provisions to screen all utility equipment in all commercial zones from the street when the equipment is located within landscape areas or attached to structures.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” This additional design standard will ensure high quality development that will draw attention away from unsightly utility equipment which will increase community livability by making a more aesthetically pleasing urban environment. The public interest of providing a consistent application of the Code is being served by this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

*10. Requiring a Geo-Technical report for all areas identified in a recent study undertaken by the Oregon Department of Geology and Mineral Industries (DOGAMI) as having a high or moderate susceptibility to shallow and deep seated landslides.*

The Goal of the Natural Hazard element of the Comp Plan is to “protect life and property from natural disasters and hazards.” The objectives of the element are to “inventory known hazards areas” and to “insure that appropriate protective measures are taken to prevent potential damage in hazard areas.” The study provided by DOGAMI presents new information regarding natural hazards that were not previously known. Requiring a Geo-Technical report for these new areas that have been identified as natural hazard areas furthers the goal and objectives ensuring enough information is gathered to be able to take appropriate protective measures to prevent potential damage in hazard areas. This amendment is in the public interest to meet changing conditions as these hazards were previously unknown due to lack of information. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

*11. Clarifying that land purchased by a public or semi-public agency requires approval for a zone change for a Public Use Overlay designation prior to development of a public use on the site. Creating a table of allowed uses and design standards for development within the Public Overlay were none previously existed.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” Previous development standards for public or semi-public agencies were vague and lacking clear and objective standards. This amendment is designed to clarify the process and allow more citizen involvement when the Public Use Overlay is applied to a property, as well as to define design standards to ensure high quality development to maintain community livability. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

*12. Creating clear and objective standards and increasing the amount of buffering and screening between land uses of different classification, as demonstrated in the diagrams that can be found on page 25 of this report.*

An objective of the Urbanization element of the Comp Plan is to “consistently apply and enforce the City’s development policies, codes, standards and other regulations to maintain community livability and ensure efficient use of land.” Previous landscape standards were vague and did not clearly identify the amount of buffer area or amount of vegetation required when creating a landscape buffer between uses. The new standards use a matrix to clearly identify how much buffer area and matrix of landscape material is required. These standards will increase community livability as it better mitigates impacts between conflicting land uses. Written testimony has been received from Silver Falls School District in opposition of the standard that would require future schools to install six-foot tall masonry walls along the side and rear boundaries of the site. The testimony raises concerns over cost, student supervision and safety and aesthetics. A copy of the letter is located in Attachment ‘B’ of this report. These standards would be for new school



construction and would not be retroactive to schools already in existence. This type of wall would provide a noise buffer between the school and surrounding uses and this wall would be visually buffered by required landscaping that would soften the walls appearance. The costs difference between a masonry wall and other barriers such as a chain link fence is small when compared to the budget of a large new school project. The Planning Commission considered the school's testimony, but decided to not remove the masonry wall requirement. This amendment will also make the application of landscape requirements more consistent due to the increased specificity in the proposed standards. The public interest of providing a consistent application of the Code is being served by this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

*13. Clarifying general administrative language governing requirements for submittal of land use applications.*

This proposed amendment does not affect any elements of the Comp Plan. It revises language dealing with submitting land use applications to make the responsibilities of the individual submitting the application clearer. It does not change the responsibilities of the applicant.

*14. Allowing the creation of Local Historic Districts, which are unregulated and is an informal designation that encourages the protection of historic homes. Revising criteria for alterations of historic structures so that standards are clear and objective.*

The goal of the Opens Space, Natural and Cultural Resources element of the Comp Plan is to "Conserve open spaces and preserve natural and cultural resources with an objective being to "identify open spaces, scenic and historic areas and natural resources that should be protected." Allowing the creation of Local Historic Districts will identify historic areas and will encourage the protection of resources within that area. This amendment creates a framework in which historic areas of Silverton can be identified and catalogued and home owners made aware of the historic significance of their home and a means to undertake historically sensitive improvements or repairs. The review criteria for Historic Design Reviews have been revised to be clear and objective which will make the application of the code more consistent and better protect identified historic resources. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

*15. Clarifying which administrative procedure is to be used in certain minor Historic Design Reviews.*

An objective of the Open Space, Natural and Cultural Resources element of the Comp Plan is to "Preserve scenic, historic and natural resource areas." This amendment clearly indicates whether a Type I or Type II procedure is to be used for certain types of alterations or additions to structures listed on the Designated Landmarks Register. Previously the Code stated that the Type I or Type II procedure be used, as applicable. The Code did not create a clear way in determining which procedure should be used for the different types of alterations or additions defined in the Code section. The public interest of providing a consistent application of the Code is being served by

this amendment. The TPR is not applicable to this amendment as it will not significantly affect a transportation facility. No other element of the Comp Plan is applicable to this amendment.

## **SECTION B.**

The following details the proposed changes to the Silverton Development Code. The notation below indicates the section and page number in bold italicized text with a commentary summarizing the change to the code in *italicized text*. The code text is regular text with additions indicated by it being in **bold**. The Development Code in its entirety can be found at <http://www.silverton.or.us/Departments/CommunityDevelopment/Planning/DevelopmentCode/tabid/5722/language/en-US/Default.aspx>

**1-11** - *Removes room range to be consistent with special standards in Chapter 2. Chapter 2 indicates a range of rooms allowed based on residential zoning district.*

Bed and breakfast inn.

Any establishment located in a structure designed for a single family residence and structures appurtenant thereto, that:

- (a) Has rooms for rent on a daily basis to the public; and
- (b) Offers a breakfast meal as part of the cost of the room.
- (c) Developed in accordance with Section 2.2.200

**1-21** - *Adds definition*

**Emergency.** Any event or circumstances posing an imminent threat to person or property, or including but not limited to: fire, explosion, flood, wind, land slide, severe weather, drought, earthquake, volcanic activity, improper storage, stockpiling, spill, or release of flammable or hazardous materials, contamination, utility or transportation emergencies, disease, blight, civil disturbance.

**1-31** - *Changes Livestock definition to be more specific*

**Livestock.** Domestic animal types customarily raised or kept on farms. See Agriculture.

*Changed definition to:*

**Livestock.** Animals kept on farms with the exception of chickens. Includes, but is not limited to, all breeds and sizes of cattle, pigs, goats, horses, donkeys, mules, llamas, alpacas, and similar animals. See Agriculture

**1-68** - *Adds new Use Categories and Special Use standards*

### **1.6.410 Renewable Energy Facilities**

**A. Characteristics.** This category includes facilities which produce renewable energy through the use of hydroelectric, wind, solar, geothermal, or other non-polluting technologies. Renewable Energy Facilities may provide energy to sustainable on-site uses or may provide some or all of the produced energy to off-site uses. This category may have regular employees at the site. These facilities may be publicly or privately owned.

**B. Accessory Uses.** Accessory uses may include parking, offices, and control, monitoring, data or transmission equipment.

**C. Examples.** Examples include hydroelectric dams and plants, geothermal power plants, single wind turbines or wind farms, solar farms, and greater than 200 square feet of solar panels not integrated into a structure's design and visible from a public right-of-way.

**D. Exceptions.** This category does not include Non-Renewable Energy Facilities which burn fossil fuels, biofuels, involve nuclear technologies, or other polluting technologies.

*Adds Special Use Standards where permitted.*

**K. Renewable Energy Facilities.** Where Renewable Energy Facilities are allowed, they shall require approval through Conditional Use Review (Type III) and conform to all of the following standards.

**1. Accessory Use.** The use must be accessory to an allowed use within a Residential District.

**2. Maximum Height.** Renewable Energy Facilities structures built according to the International Building Code shall be limited to a total height of 55 ft. when approved by the Planning Commission and Fire Dept.

**1. Setbacks.** Facilities which exceed 35 feet in height shall be setback a distance at least equal to the facilities' total height from all property lines.

**2. Performance Standards.** Renewable Energy Facilities shall not exceed the performance standards stated by 18.2.4.160(C).

**3. Landscaping.** Screening and buffering for the facility shall follow the standards of 18.3.2.300. When renewable energy facilities are allowed, the subject site shall be considered to be located within the IP District when applying the standards of the Screening and Buffering Matrix.

**4. Other Permit or Licensing Requirements.** The owner of the facility shall be responsible for obtaining and complying with all other applicable permit and/or licensing requirements.

*Renewable Energy Facilities are allowed as a Conditional Use when an Accessory Use in all residential zones, however they are not permitted as a primary use in all residential zones. They are allowed as a Conditional Use when an Accessory Use in all commercial zones, however they are not permitted as a primary use except in the General Commercial zone. They are allowed as Accessory or Primary Use in all industrial and public zones as a Conditional Use.*

#### **1.6.420 Non-Renewable Energy Facilities**

**A. Characteristics.** This category includes facilities which produce non-renewable energy from the burning of fossil fuels or biofuels, use of nuclear technologies, or use of other polluting technologies. Non-Renewable Energy Facilities may provide energy to on-site uses or may provide some or all of the produced energy to off-site uses. This category may have regular employees at the site. These facilities may be publicly or privately owned.



- B. Accessory Uses.** Accessory uses may include parking, offices, and control, monitoring, data or transmission equipment.
- C. Examples.** Examples include coal or oil fired power plants, biofuel fired power plants, or nuclear power plants.
- D. Exceptions.** This category does not include Renewable Energy Facilities which produce energy through the use of hydroelectric, wind, solar, geothermal, or other non-polluting technologies.

*Non-Renewable Energy Facilities are allowed as Conditional Use in industrial zones only.*

*1-76 - Adds a paragraph under the 'Inspection and Right of Entry' section*

- B. Emergency Inspection Without Search Warrant.** Nothing within the Silverton Development Code shall be construed as prohibiting an inspection or investigation without a warrant in an emergency situation if immediate inspection is necessary to the protection of the public health or safety and if it would be impractical and represent an increased hazard to seek a warrant under the provisions of section 18.1.7.500(A).

*2-10 - Prohibits Kennels in all residential districts*

**Kennel.** Any location where 5 or more dogs or cats aged 6 months or older are boarded or bred. The sale of these animals may be a part of the kennel use. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels

*2-12 - Prohibits Jails and Detention Facilities in all residential zones.*

*2-12 - Breaks schools into 2 categories based on amount of students. Schools of all size previously required a Conditional Use. These regulations apply to all Residential, Commercial, Public, Industrial Park and Light Industrial zoning districts.*

<b>Schools</b>	
- 20 or Fewer Students	<b>P</b>
- More than 20 Students	<b>CU</b>

*2-12 - Allows Chickens in the R-1 zones provided:*

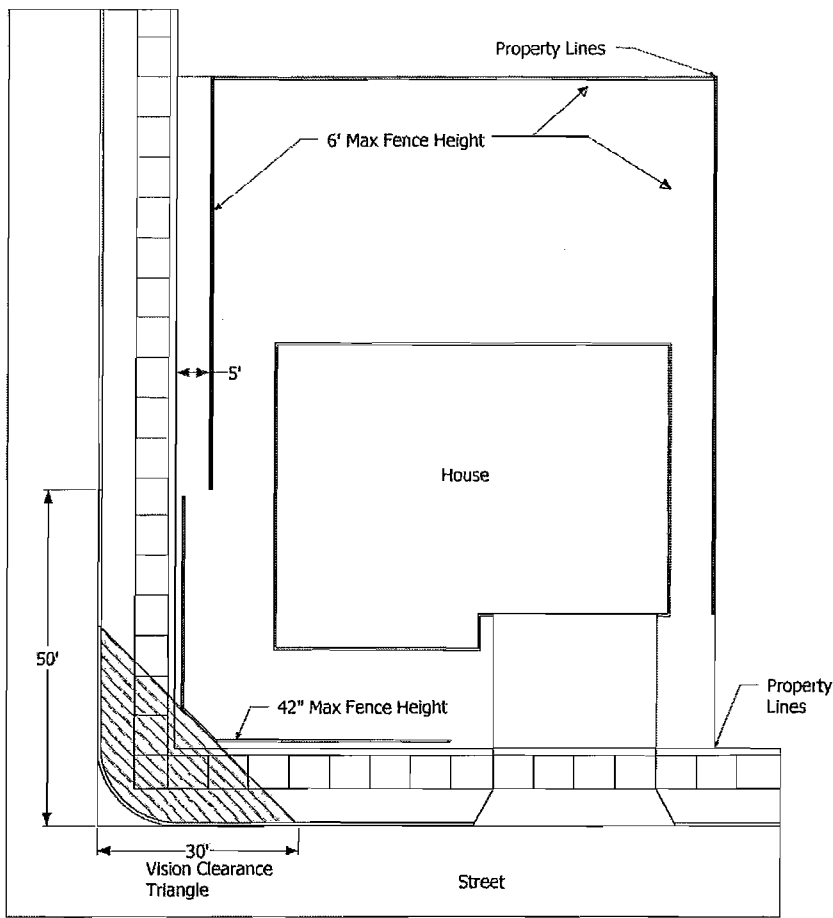
- L. Chickens.** Where chickens are allowed, they shall conform to all of the following standards.

1. A lot shall be limited to the keeping a total of three or fewer chickens. Roosters are not permitted.
2. The chickens shall be housed in a structure that meets applicable setback regulations

3. The chickens shall be kept in a state that does not constitute a public nuisance, which includes, but is not limited to chickens roaming at large, chickens kept in an unclean and unsanitary condition, and obnoxious smells and substances. If the Community Development Director or designee determines a nuisance exists, they shall follow the applicable regulations to abate the nuisance.

2-19 - Modifies corner lot fence regulations to allow 6' tall fence in certain areas in front yard. Previously all fences in front yard on corner lots had a max height of 42". Adds diagram on pg 3-28

<u>Interior Lot: Fences, Retaining/Garden Walls*</u>				
Max. Height. – Front Yard	42 inches	42 inches	42 inches	42 inches
Max. Height. – Interior Side	6 ft	6 ft	6 ft	6 ft
Max. Height – Rear Yard	6 ft	6 ft	6 ft	6 ft
Max. Height – Reverse Frontage Lot (rear)	42", or 6 ft with 5 ft landscape buffer between fence/wall and sidewalk	42", or 6 ft with 5 ft landscape buffer between fence/wall and sidewalk	42", or 6 ft with 5 ft landscape buffer between fence/wall and sidewalk	42", or 6 ft with 5 ft landscape buffer between fence/wal and sidewalk
<b>Corner Lot: Fences, Retaining/Garden Walls</b>				
<b>Max Height – Front Yard within 50' of intersection of curb lines</b>	<b>42 inches *see figure 3.2.500</b>	<b>42 inches *see figure 3.2.500</b>	<b>42 inches *see figure 3.2.500</b>	<b>42 inches *see figure 3.2.500</b>
<b>Max Height – Front Yard outside 50' of intersection of curb lines and a minimum of 5' from property line</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>
<b>Max Height – Side Yard</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>
<b>Max Height – Rear Yard</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>
<b>Alley</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>	<b>6 ft</b>
<i>*Retaining walls taller than 4 feet and fences taller than 6 feet require a building permit.</i>				



2-35 - Clarifies that up to 20% of new lots created in subdivisions can be identified on the final plat as duplex lots without a Conditional Use, and allows 1 lot in a partition to be identified as a duplex lot on the final plat. Clarifies duplex status for existing lots, as the following text illustrates:

**Up to 20% of new lots created in subdivisions are permitted for duplex use and shall be identified as duplex lots on the final plat, with any percent larger than 20% requiring Conditional Use approval. Duplexes are permitted on 1 new lot in a partition and shall be identified as a duplex lot on the final plat. Lots designated for single-family use through a pre-existing approval may be changed to a duplex use with the approval of a Modification application.**

**Duplexes may be permitted on an existing lot of record without pre-existing land use approval with approval of a Conditional Use application.**

2-36 - Allows accessory dwelling unit to be setback 5 feet from alley where previous setback was 20 feet.

The dwelling shall be setback not less than twenty (20) feet from the front property line, seven (7) feet from side property lines, and twenty (20) feet from the rear property line. **When the dwelling is accessed from an alley, the rear yard setback may be reduced to 5 feet.**

2-52 – Establishes minimum lot sizes for commercial districts

<b>Minimum Lot Area* (square feet)</b>	<b>DC</b>	<b>GC</b>	<b>DCf</b>
<b>*Development must conform to lot width, depth, yard setback and coverage standards.</b>	<b>1,600 sf</b>	<b>6,000 sf</b>	<b>1,600 sf</b>

**Multiple Sections** - Adds regulations for screening of utility equipment in all commercial zones

**9. Utility equipment within landscaped areas or attached to structures shall be screened from view from public right-of-ways**

**2-115** - Incorporates DOGAMI slide hazard study into Hillside standards. Added exemptions. Required slope map to coincide with development regulations and placed a time limit on the required geotech report

**A. General.** The Hillside Development standards apply to all areas that have an average slope of twelve percent (12%) or greater and areas classified as having moderate or high susceptibility to shallow and deep seated landslides by the Department of Geology and Mineral Industries (DOGAMI)

**2.6.130 Reports Required**

**Prior to issuance of a land use decision or a building permit on land that exceeds twelve percent (12%) average slope or contains areas classified as having moderate or high susceptibility to shallow-seated and deep-seated landslides by DOGAMI, a geotechnical study prepared and stamped by a Geotechnical Engineer and Certified Engineering Geologist, following applicable guidelines for preparing Engineering Geologic Reports in Oregon as adopted by the Oregon State Board of Geologist Examiners, indicating that the site is stable for the proposed use and development shall be submitted to the City. Peer review of a geotechnical study required by this chapter shall be performed by a professional or professional firm of the City’s choice that meets the qualifications listed above. The peer review will occur at the applicant’s expense.**

**The study shall be approved for a specific development plan and shall be valid for five (5) years. Should the time limit expire for the approved study, if environmental conditions associated with the site change, or if the proposed development activities change, an amendment to the study shall be submitted for review. The study shall include the following information:**

**D. A scale-drawing map for the property showing areas with 0-11.9% slopes, 12-14.9% slopes, 15-24.9% slopes, 25-29.9% slopes, 30-34% slopes, and 34.1-100% slopes. The map shall include a square foot calculation for each slope category area on the site.**



2-137 *Public Overlay Chapter - Adds process in which to designate properties under the Public Overlay, previously determined by ownership. Adds allowed uses table were none existed previously. Added design standards were none existed previously.*

**2.8.120 Applicability**

The Public overlay is **available** to properties in public, semi-public, or governmental ownership. **A Zone Map Amendment (Chapter 4.7) is required to apply the overlay to properties in public, semi-public, or government ownership that change to a public, semi-public or government use.** The overlay zone is in addition to the site's base zone. Development of site's with the (P) overlay shall be consistent with the Comprehensive Plan and the Public overlay standards as identified below in accordance with **Article 4**

**2.8.150 Allowed Uses**

Use Categories <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	Public (P)
<b>Residential Categories</b>	
<p><b>All Residential Uses (Household Living and Group Living) allowed, if:</b></p> <ul style="list-style-type: none"> <li>- Lawfully existing as of September 1, 2006, or</li> <li>- Replacement or rebuilding of residential structure conforming to the same footprint as previously existed as of <i>[effective date]</i>, or</li> <li>- New dwelling, free-standing, or</li> <li>- New dwelling(s) built in conjunction with a permitted use, including caretaker dwellings</li> </ul>	<p style="text-align: center;">P</p> <p style="text-align: center;">P</p> <p style="text-align: center;">CU</p> <p style="text-align: center;">P</p>
<b>Commercial Categories</b>	





<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.6.)</i>	<b>Public (P)</b>
<b>Colleges</b>	<b>CU</b>
<b>Community Service</b>	<b>P</b>
<b>Daycare, adult or child day care; does not include Family Daycare (16 or fewer children) under ORS 657A.250</b>	<b>P</b>
<b>Parks and Open Space</b>	<b>P</b>
<b>Religious Institutions and Houses of Worship,</b>	<b>CU</b>
<b>Schools</b> - 16 or Fewer Students - More than 16 Students	<b>P</b> <b>CU</b>
<b><i>Other Categories</i></b>	
<b>Accessory Structures (with a primary permitted use)</b>	<b>P</b>
<b>Agriculture – Animals</b>	<b>N</b>
<b>Agriculture – Nurseries and similar horticulture (See also, Wholesale and Retail Uses)</b>	<b>CU</b>
<b>Historic Building Alterations, per Chapter 3.5</b>	<b>S</b>
<b>Mining</b>	<b>N</b>
<b>Radio Frequency Transmission Facilities and Telecommunication Towers and Antennae, except those allowed as ancillary to a primary permitted use</b>	<b>CU</b>
<b>Rail Lines and Utility Corridors, except existing facilities on non-zoned RR properties are permitted.</b>	<b>CU</b>
<b>Temporary Uses (limited to “P” and “CU” uses), per Section 4.9.100.</b>	<b>P/CU</b>
<b>Transportation Facilities (operation, maintenance, preservation, and</b>	<b>P</b>

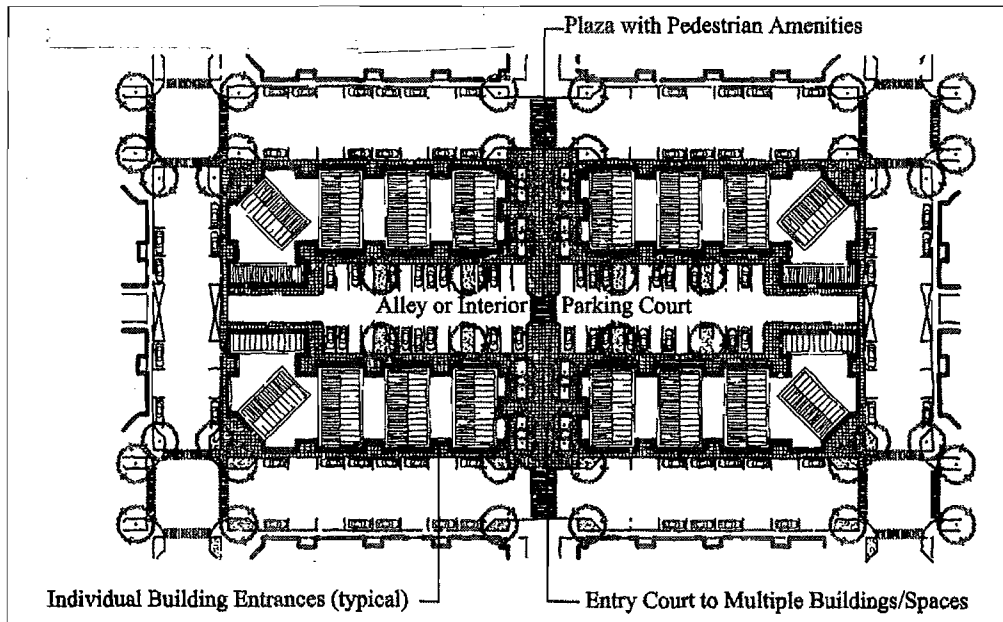
Use Categories (Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5)	Public (P)
construction in accordance with the City's Transportation System Plan)	
Jails and Detention Facilities	CU

*New Building orientation standards for Public Overlay as follows:*

**C. Building orientation standards.** Developments subject to this Section shall have their buildings oriented to a street, as generally shown in Figure 2.8.160.C(1). All of the following criteria must be met:

1. **Compliance with the setback and build-to line standards, where applicable in the underlying zone. The build-to line may be setback to provide additional space for pedestrian amenities between a building and its adjoining street. In the DC underlying zone, the maximum setback is 5 feet;**
2. **Except as provided in subsections 2.8.160.C(4) and (5), below, all buildings shall have at least one primary building entrance (i.e., dwelling entrance, a tenant entrance, lobby entrance, or breezeway/courtyard entrance) facing an adjoining street (i.e., within 45 degrees of the street property line), or if the building entrance is turned more than 45 degrees from the street (i.e., front door is on a side elevation), the primary entrance shall not be more than 60 feet in the GC underlying zone, except to provide pedestrian amenities; a walkway shall connect the primary entrance to the sidewalk. In the DCF underlying zone, all buildings with street frontage must have at least one primary building entrance facing an adjoining street. Additionally, street facing facades of buildings shall provide an entrance at least every 45 feet along the street.**
3. **Off-street parking, driveways, and other vehicle areas shall not be placed between buildings and the street(s) to which they are oriented. Off-street parking shall be oriented internally to the site, with parking bays separated by landscaping, as generally shown in Figure 2.8.160.C(2). Bays shall contain no more than 10 parking spots each, as an average over all contiguous parking bays on the same parcel.**

Figure 2.8.160.C(1) – Building Orientation With Internal Parking



4. The building orientation standard may be met with vehicle areas allowed between the street right-of-way and a building's primary entrance when the approval body finds that all of the following criteria are met:
  - a. Placing vehicle areas between the street right-of-way and building's primary entrance will not adversely affect pedestrian safety, comfort or convenience, based on the distance from the street sidewalk to the building entrance, projected vehicle traffic volumes, and available pedestrian walkways;
  - b. The proposed vehicle areas are limited to one drive aisle of not more than 20 feet in width with adjoining bays of not more than eight (8) consecutive parking spaces per bay (including ADA accessible spaces) on the side(s) of the drive aisle. (The intent of which is to create a drive aisle that is street-like, and to break up parking into small bays with landscaping); and
  - c. The building's primary entrance is connected to an adjoining street by a pedestrian crosswalk as specified under Section 3.1.300.
  
5. Where a development contains multiple buildings and there is insufficient street frontage to which buildings can be oriented, a primary entrance may be oriented to plaza or courtyard. When oriented in this way, the primary entrance(s) plaza or courtyard shall be connected to the street by a pedestrian walkway meeting the standards in Section 3.1.300.

*Adds Design Standards to Public Overlay as follow. Most standards are taken from the General Commercial Design Standards with some edits:*

#### **2.8.170 Public Overlay Design Standards**

- A. **Purpose.** Section 2.8.170 promotes the public health, safety, and welfare by requiring at least a minimum level of design on every building in the Public Overlay District. Design

is important to identifying Silverton as a unique place with successful public use areas. The design standards are intended to:

- Encourage architecture that is consistent with the character of Silverton
- Ensure that new development creates a close, intimate human-scale and architectural designs address all four sides of a building.
- Encourage the use of contextually appropriate materials, textures and colors.
- Promote pedestrian oriented uses by orienting buildings and their entrances to the street or to civic spaces abutting the street.
- Create vibrant civic spaces (e.g., plazas, public art, café seating areas, etc.) oriented to take advantage of southern exposures; civic spaces should help identify the village, create intrigue, and offer weather protection and comfort to pedestrians while adding value to adjoining properties.
- Break down large building masses and provide visual interest along the street.
- Balance rhythm and continuity – encourage creativity in the design of building elevations, rooflines and façade elements.
- Treat corner lots as focal points with vertical elements, public art, seating, and other design features.
- Provide weather protection where commercial and mixed-use buildings abut the street

**B. Applicability.** The following standards are applied through Design Review prior to building permit review. The applicant is required to demonstrate that the standards are met by complying with the criteria under each standard. Remodels of, or additions to, designated historic residential structures are subject to the requirements under Chapter 3.5. The provisions of Section 2.8.170 may be adjusted through the Design Performance Option in Section 4.2.510.

**C. Pedestrian-Orientation.** The design of all buildings on a site shall support a safe and attractive pedestrian environment. This standard is met when the approval body finds that all of the criteria in 1-8, below, are met. Alternatively, the approval body may approve an alternate design under Section 4.2.510 through a Type III procedure upon finding that the proposed design equally or better achieves the above standard.

1. The building orientation standards under Section 2.8.160 are met;
2. Primary building entrances shall open directly to the outside and, if not abutting a street, shall have walkways connecting them to the street sidewalk; every building shall have at least one primary entrance that does not require passage through a parking lot or garage to gain access;
3. Corner buildings (*i.e.*, buildings within twenty (20) feet of a corner as defined by the intersecting curbs) shall have corner entrances, or shall provide at least one entrance within 20 feet of the street corner or corner plaza;
4. At least fifty (50) percent of a building's street-facing elevation(s) shall be located at the build-to line or closer to the street; build-to lines are prescribed by Section 2.8.150;



5. **Ground floor windows or window displays shall be provided along at least fifty (50) percent of the building's (ground floor) street-facing elevation(s). Design elements such as large regularly spaced and similarly shaped windows with window trim, and with transom or clerestory windows above building entrances are counted; windows and display boxes shall be integral to the building design and not mounted to an exterior wall;**
  6. **Windows shall cover no more than 90 percent of the ground floor façade length, and shall not begin less than 18 inches or more than 30 inches above the sidewalk (except transom windows). Second and third story windows shall match the vertical and horizontal character of ground level windows;**
  7. **Street-facing elevations shall be designed with weather protection, such as awnings, canopies, overhangs, or similar features. Such weather protection shall project a minimum of four (4) feet and a maximum of eight (8) feet over sidewalks or other pedestrian space;**
  8. **Drive-up and drive-through facilities, when allowed, shall conform to Section 2.3.160;**
- D. Compatibility. All new buildings and major remodels shall be designed consistent with the architectural context in which they are located. This standard is met when the approval body finds that all of the criteria in 1-6, below, are met. Alternatively, the applicant may propose different design elements as provided under Section 4.2.510, Design Performance Option.**
1. **There is continuity or effective transitions in building sizes between new and existing buildings;**
  2. **The ground floor and upper floor elevations and architectural detailing are compatible with adjacent buildings;**
  3. **Roof elevation is compatible with adjacent buildings (roof pitch, shape, height step-down);**
  4. **There is continuity in the rhythm of windows and doors on the proposed building(s);**
  5. **The relationship of buildings to public spaces, such as streets, plazas, other areas, and public parking, including on-street parking, is strengthened by the proposed building(s);**
  6. **The materials, colors, and architectural style are compatible with Silverton's character. Compatible materials include masonry, tile, stucco, split face concrete blocks, or wood. Unadorned poured or tilt-up concrete or metal siding are subject to design review. Entirely pre-cast concrete buildings are not permitted. Where blank walls are required for structural reasons, all such walls visible from public streets shall include a combination of architectural elements and features such as offsets, entry treatments, patterns of varied materials and colors, decorative murals and divisions into bays, or similar features.**

**E. Human Scale.** The design of all buildings shall be to a human-scale. This standard is met when the approval body finds that all of the criteria in 1-9, below, are met. Alternatively, the applicant may propose different design elements as provided under Section 4.2.510, Design Performance Option.

1. Regularly spaced and similarly-shaped windows are provided on all building stories;
2. Ground floor spaces have tall ceilings (*i.e.*, 12-16 feet) with display windows on the ground-floor;
3. Display windows are trimmed, recessed, or otherwise defined by wainscoting, sills, water tables, or similar architectural features;
4. On multi-story buildings, ground floors are defined and separated from upper stories by appropriate architectural features (*e.g.*, cornices, trim, awnings, canopies, arbors, trellises, overhangs, or other features) that visually identifies the transition from ground floor to upper story; such features should be compatible with the surrounding architecture;
5. The tops of flat roofs are treated with appropriate detailing (*i.e.*, cornice, pediment, flashing, trim, or other detailing) that is compatible with the surrounding architecture;
6. Pitched roofs have eaves, brackets, gables with decorative vents, or other detailing that is consistent with the surrounding architecture;
7. Historic design and compatibility requirements under Chapter 3.5, where applicable, are met; and
8. Where buildings with greater than 10,000 square feet of enclosed ground-floor space are proposed, they shall provide articulated facades on all street-facing elevations. This criterion is met when there is a major break in the building plane not less than once for every thirty (30) feet of a building's horizontal length. Breaks in building plane include windows, primary entrances, weather protection (awnings, canopies, arbors, arcades), offsets/projections/changes in elevation or horizontal direction, sheltering roofs, terraces, a distinct pattern of divisions in surface materials, ornamentation, screening trees, small-scale lighting (*e.g.*, wall-mounted lighting, or up-lighting), and/or similar features as generally shown in Figure 2.3.180.E. See also, subsection 2.3.170.C.
9. Utility equipment within landscaped areas or attached to structures are screened from view from public right-of-ways.

3-22 - *Landscaping and Buffering* - Adds more specific screening and buffer requirements between land uses. No specific language or requirements previously existed. All text below is new text and new diagrams in development code.

c. **Between Different Land Uses.** Perimeter screening and buffering requirements of Table 3.2.300(E)(2), Table 3.2.300(E)(3) and Figure 3.2.300(E)(4) are in addition to standard setbacks of the applicable zoning district and the yard setback landscaping requirements of Section 3.2.300(E)(2). Perimeter screening and buffering shall be located as near to the property line as possible. In a case of two overlapping screening and buffering types, the higher type shall prevail. To determine the type of perimeter screening and buffering required, the following procedures shall be used:

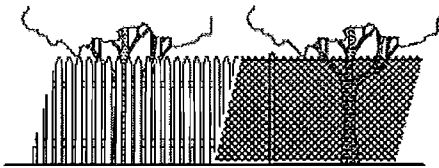
1. Identify the subject property's zoning district. Identify the adjacent property(s) zoning district(s) and determine if the property(s) is developed or vacant.
2. Determine the Perimeter Screening and Buffering Type by referring to Table 3.2.300(E)(2).
3. Determine the Perimeter Screening and Buffering Type Standards by referring to Table 3.2.300(E)(3). For the landscaping requirements, all plant units shall be rounded up and existing vegetation may be used to satisfy planting requirements.
4. Determine the Perimeter Screening and Buffering Structures by referring to Figure 3.2.300(E)(4).
5. Screening and Buffering requirements for developments adjacent to the city limits or Urban Growth Boundary shall be determined by the Community Development Director or designee.
6. When the subject property develops prior to an adjacent vacant property, the Vacant Perimeter Screening and Buffering Type shall be used. When the adjacent vacant property develops, all remaining screening and buffering requirements of Table 3.2.300(E)(2) shall be installed between the two developed uses.
7. The Perimeter Screening and Buffering standards of this section is not required when properties are separated by a public street.
8. When different land uses are developed with a Planned Development, screening and buffering standards between those uses shall be similar to Table 3.2.300(E)(2), as determined by the Community Development Director or designee.

		ADJACENT LAND USE DISTRICT									
		DEVELOPED					VACANT				
		R-1 AR	R-5	RM-10 RM-20 DCF	DC GC P	IP LI I	R-1 AR	R-5	RM-10 RM-20 DCF	DC GC P	IP LI I
SUBJECT PROPERTY LAND USE DISTRICT	R-1 AR	0	1	2	3	4	0	1	2	3	3
	R-5	1	0	2	3	4	1	0	3	3	3
	RM-10 RM-20 DCF	2	2	0	3	4	2	2	0	3	3
	DC GC P	3	3	3	0	3	3	3	3	0	3
	IP LI I	4	4	4	3	0	4	4	4	3	0

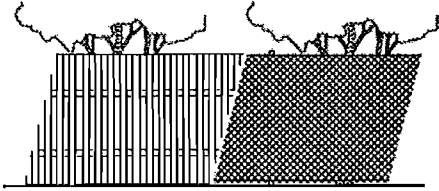
**Perimeter Screening and Buffering Types**  
Table 3.2.300(E)(2)

SCREENING AND BUFFERING TYPE	PLANT UNITS PER 100 LINEAL FEET	ADDITIONAL SETBACK OPTIONS (IN FEET)	PLANT UNIT MULTIPLIER	STRUCTURE REQUIRED (TABLE 3.2.300(E)(3))
1	2 Canopy Trees 2 Understory Trees	5.0	1.0	F-1
		7.5	0.8	F-1
		10.0	0.6	None
		12.5	0.4	None
2	2 Canopy Trees 4 Understory Trees	5.0	1.0	F-2
		7.5	0.8	F-2
		10.0	0.6	F-2
		12.5	0.4	F-2
3	5 Canopy Trees 10 Understory Trees 15 Shrubs	10.0	0.9	BW-1
		15.0	1.0	BW-1
		20.0	0.8	F-3
		25.0	0.6	F-3
4	6 Canopy Trees 9 Understory Trees 36 Shrubs 18 Evergreen Trees	20.0	0.6	BW-2
		30.0	0.8	BW-2
		40.0	1.0	BW-1
		50.0	0.8	BW-1

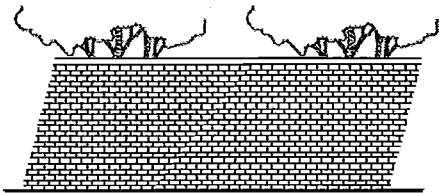
**Perimeter Screening and Buffering Standards**  
Table 3.2.300(E)(3)



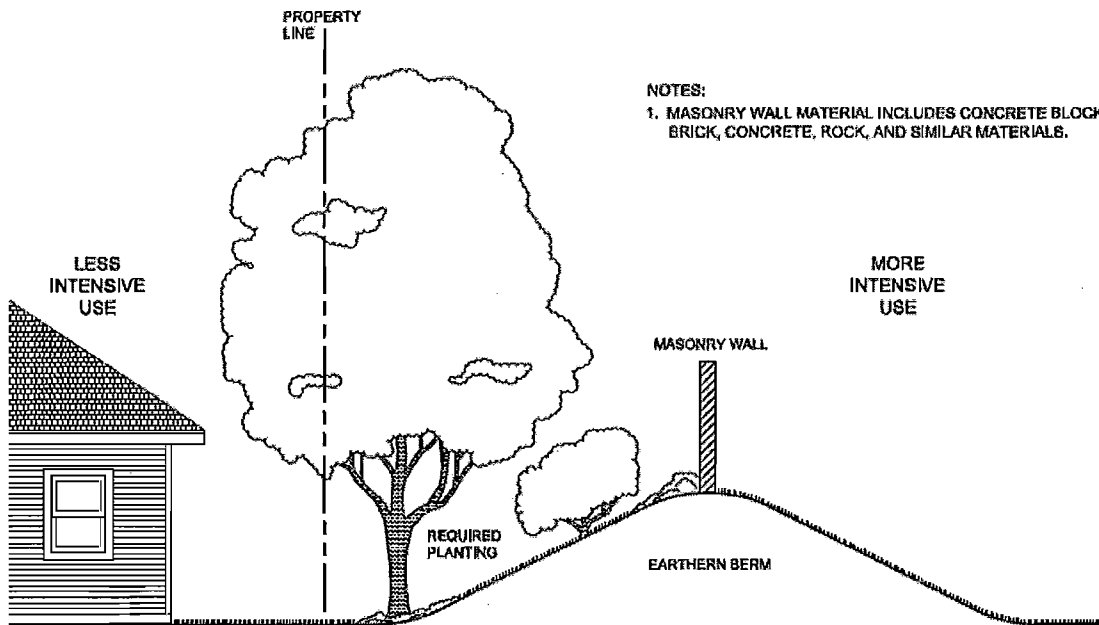
STRUCTURE SYMBOL	MATERIAL AND HEIGHT
F-1	5' WOOD/CHAIN LINK FENCE



F-2	6' WOOD/CHAIN LINK SITE OBSCURING FENCE
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F-3	6' MASONRY WALL (CONCRETE, BRICK, CONCRETE BLOCK, ROCK, ETC.)
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NOTES:  
1. MASONRY WALL MATERIAL INCLUDES CONCRETE BLOCK, BRICK, CONCRETE, ROCK, AND SIMILAR MATERIALS.

STRUCTURE SYMBOL	MATERIAL AND HEIGHT
BW-1	6' EARTHEN BERM WITH 6' MASONRY WALL (1)
BW-1	8' EARTHEN BERM WITH 6' MASONRY WALL (1)

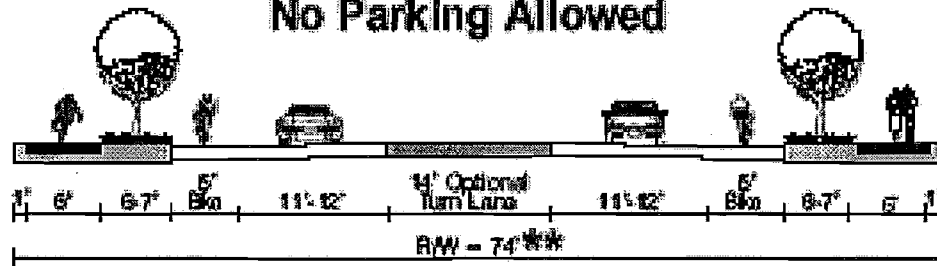
**Perimeter Screening and Buffering Structures  
Table 3.2.300(E)(4)**

3-31 - Parking standards waiver made more specific that it applies to Downtown Commercial zoning district rather than just "Downtown."

Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, shared parking, and designated on-street parking when approved through Land Use Review or Design Review, as applicable, and subject to Section 3.3.300.C. In recognition that downtown is the most compact and walkable area of Silverton, off-street parking requirements are waived in the **Downtown Commercial (DC) District**

3-46 - Adds Silverton Transportation System Plan diagrams to Transportation Standards in SDC

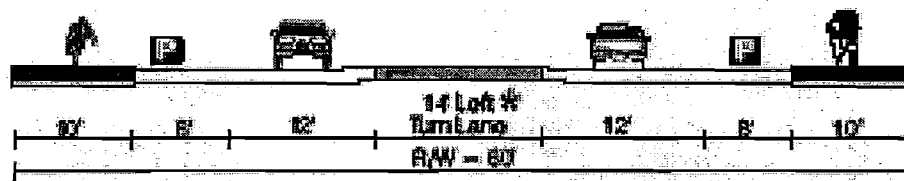
### 2/3 Lane Highway \* No Parking Allowed



\* ≤30 MPH Use 11' Travel Lane & 6.5' Planter Strip  
 >30 MPH Use 12' Travel Lane & 5.5' Planter Strip

\*\* For 2 Lane Section Use Minimum 34' Curb Width

### 2 Lane Downtown District (STA) Designated Sections



\* Remove Parking When Turn Lane Used

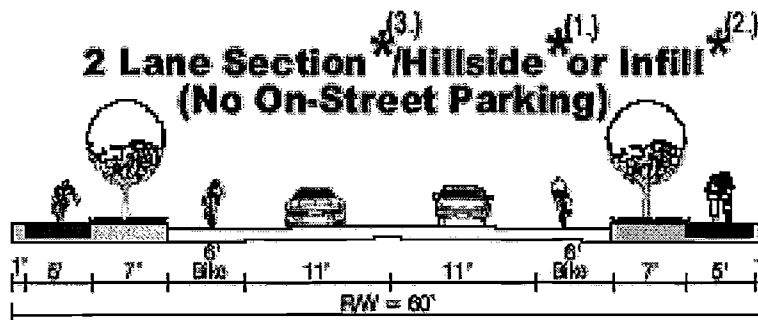
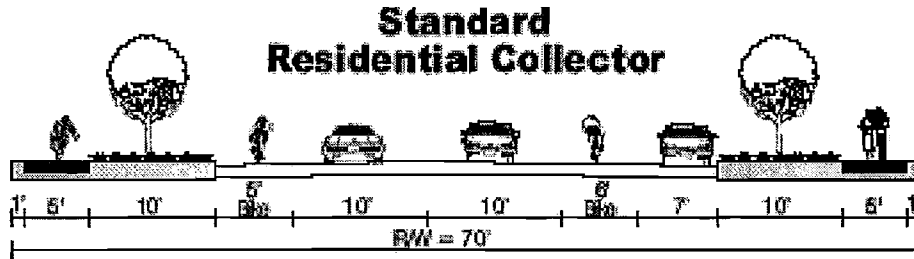
NOTE: Use 5' Building Setback for New Construction

**Notes:**

1. For new or re-constructed roadways.
2. Turn lane widths should be reviewed using Highway Research Record No. 211, NCHRP Report No. 279 or other updated/superseding reference.
3. ODOT "Highway Design Manual" requirements supersede all standards.

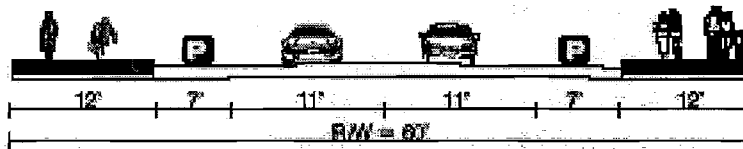
On-street Parking Lane (except at intersections)

Arterial Street Cross Sections  
Figure 3.4.100(E)(1),



- (1) Cross Slopes  $\geq 3.5H:1V$  for More than 400'
- (2) Infill Defined as  $> 80\%$  of Lots Already Developed Within 500'
- (3) Row Must be 70' Within 100' of a Collector Intersection and 200' of Arterials, Plus 50' of ROW Taper

**2 Lane Section  
(Downtown District Designated Sections)\***



- On-street Parking Lane (except at intersections)

- No Bike Lane Needed Unless Volume is Over 5,000 Per Day or Posted Speed is Greater than 25 mph.

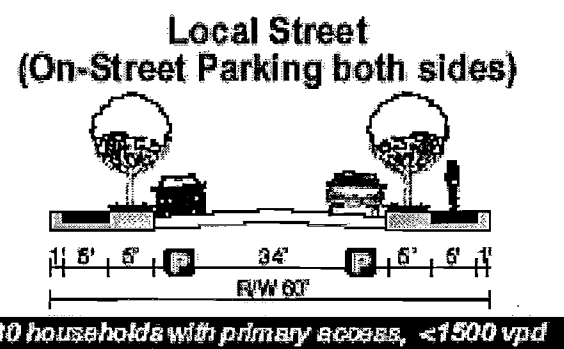
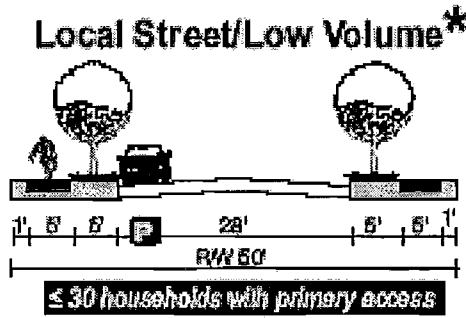
**Collector  
Street Design Characteristics**

Vehicle Lane Widths	10R - 11R
On-Street Parking	7R
Bicycle Lanes (minimums)	5R
Sidewalks (minimums)	5R
Neighborhood Traffic Management (NTM)	Under Special Conditions
Turn Lanes	When Warranted
VFD Buildout	$> 1500$ but $\leq 4500$
Landscape Strips	5.5R Min

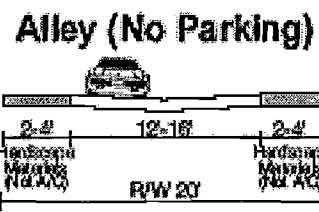
**Notes:**

1. For new or re-constructed roadways.
2. Turn lane warrants should be reviewed using Highway Research Record No. 211, NCHRP Report No. 279 or other updated engineering reference.





- \* - Not Multi-Family
- Not on Neighborhood Routes
- Subject to Review for Expected Traffic Volumes



- On-street Parking Lane

**< 1500 vpd** - Guide for Traffic Volume Per Day (does not require conversion of existing routes)

**Notes:**

1. Selection of placement of sidewalk and planter specific to application. Cross sections show two choices for reference.
2. Width of curb is included in sidewalk or planter strip width when adjacent to street.
3. Samples show the desirable applications; given number of lanes; minimum standards can be applied case by case.
4. Actual width of street and sidewalk area can be adjusted within RW based on modal priorities and adjacent land use.

### Local/Neighborhood Street Design Characteristics

Vehicle Lane Widths (minimum widths)	10R
On-Street Parking	7R
Sidewalks (minimum width)	5R
Landscape Strips	Required Except for Hillsides & Certain Infills
Neighborhood Traffic Management	Should not be necessary (under special conditions)
Bike Lanes	N/A

Local/Neighborhood Street Cross Sections  
Figure 3.4.100(E)(3),

3-58 - Adds provisions for properties far from sanitary sewer

**A. Sanitary Sewer, Storm Drainage and Water System Improvements.** Sanitary sewer system and water system improvements shall be installed with new development in accordance with the City's Sanitary Sewer Master Plan, Water System Master Plan, and Public Works Design Standards. When streets are required to be stubbed to the edge of the subdivision, sewer and water system improvements shall also be stubbed with the streets, except where the Public Works Director finds that future extension is not practical due to topography or other constraints. **Where public sanitary sewer or water service is not available within 300 feet of a property, private wells and septic systems may provide service for the development of a single family dwelling**

or use serving the public on parcels containing at least 2 acres, provided that a Petition for Improvement/Waiver of Remonstrance is signed for their share of the costs for and future connection to public water and sewer services. These provisions are supplementary to the provisions in SMC 13.12 and 13.36. Any private well or septic system allowed by this section must be approved by Marion County and the State Water Resources Department.

3-63 *Changes wording from “subdivisions” to “New Development” when requiring the undergrounding of utilities.*

2. **New Development**. The following additional standards apply to all new development, in order to facilitate underground placement of utilities:

*Multiple Sections - Adds general language for all Types of application.*

- d. Applications which are not filled out completely and include all information required by the application form will not be processed by the City.
- (6) Appeal applications which are not filled out completely and include all information required by the application form will not be processed by the City.

Stated that “the applicant shall bear the burden of proof” for all land use applications.

3-67 - *Allows creation of a Local Historic Districts which are an informal designation which are unregulated and is an informal designation that encourages the protection of historic homes*

#### 3.5.400 Local Historic Districts

- A. Any individual or group, including the Commission acting on its own initiative, may nominate a defined geographical area as a Local Historic District by submitting a complete application to the Commission.
- B. The Historic Landmarks Commission shall review a request for the creation of a Local Historic District and make a recommendation to City Council for the approval or denial of the proposed district. City Council shall establish or abolish a Local Historic District by the enactment of ordinance.
- C. Documentation of properties within a proposed Local Historic District shall be on forms compatible with property survey standards established by the State Historic Preservation Office.
- D. At least 55% of properties within a proposed Local Historic District shall be identified as historic contributing properties using State Historic Preservation standards.
- E. Properties identified as historic contributing within approved Local Historic Districts shall be listed on the Historic Resources Inventory.

- F. The alteration, moving, or demolition of a property located within a designated Local Historic District is not subject to the regulations of Sections 3.5.600 and 3.5.700 unless that property is also listed on the National Registry of Historic Places.**

*3-72 - Revises Historic Design Review Criteria to be clear and objective.*

**3.5.600**

**I. In general, a proposed alteration or new construction shall either:**

- 1. Cause the property listed on the Designated Landmarks Register to more closely approximate the original historic design or style, appearance, or material composition of the historic; or**
- 2. Be compatible with the historic characteristics of the property listed on the Designated Landmarks Register based on a consideration of the historic design or style, appearance, or material composition of the historic resource**

**J. In order to approve Historic Design Review applications, the reviewing body shall consider the following criteria:**

- 1. Facades – Characteristic architectural features, such as balconies, porches, bay windows, dormers, or trim details on main facades shall be retained, restored, or designed to complement the primary structure and any existing surrounding comparable historic resources. Particular attention should be paid to those facades facing street rights-of-way. Architectural elements inconsistent with the property's existing building design or style shall be avoided.**
- 2. Building Materials - Building materials shall be reflective of, and complementary to, those found on the existing Designated Landmarks Register property and existing surrounding comparable historic resources. Siding materials of vertical board, plywood, cement stucco, aluminum, exposed concrete block, and vinyl shall be avoided, unless documented as being consistent with the original design or style of the property.**
- 3. Architectural Details - Retention and repair of existing character-defining elements of a structure, such as molding or trim, brackets, columns, cladding, ornamentation, and other finishing details and their design or style, materials, and dimensions, shall be considered by the property owner prior to replacement. Replacements for existing architectural elements or proposed new architectural elements shall be consistent with the resource's design or style. If any previously existing architectural elements are restored, such features shall be consistent with the documented building design or style. Conjectural architectural details shall not be applied.**
- 4. Scale and Proportion - The size and proportions of the alteration or new construction shall be compatible with existing structures on the site, if proposed to remain, and with any surrounding comparable structures. Additions or new construction shall**

generally be smaller than the impacted Designated Historic Resource, if proposed to remain. In rare instances where an addition or new construction is proposed to be larger than the original historic resource, it shall be designed such that no single element is visually larger than the original resource, if proposed to remain, or any existing surrounding comparable historic resources.

5. **Height** - To the extent possible, the height of the alteration or new construction shall not exceed that of the existing historic resource, if proposed to remain, and any existing surrounding comparable historic resources. However, second story additions are allowed, provided they are consistent with the height standards of the underlying zoning designation and other chapters of this Code, and provided they are consistent with the other review criteria contained herein.
6. **Roof Shape** - New roofs shall match the pitch and shape of the original historic structure if proposed to remain, or any existing surrounding compatible historic resources.
7. **Pattern of Window and Door Openings** - To the extent possible window and door openings shall be compatible with the original features of the existing historic resource, if proposed to remain, in form (size, proportion, detailing), materials, type, pattern, and placement of openings.
8. **Building Orientation** - Building orientation shall be compatible with existing development patterns on the Designated Landmarks Register property, if proposed to remain, and any existing surrounding comparable historic properties. In general, alteration or new construction shall be sited so that the impact to primary facade(s) of the historic structure proposed to remain is minimized.
9. **Site Development** - To the extent practicable, given other applicable development standards, such as standards in this Code for building coverage, setbacks, landscaping, sidewalk and street tree locations, the alteration or new construction shall maintain existing site development patterns, if proposed to remain.
10. **Accessory Development/Structures** - Accessory structures development such as exterior lighting, walls, fences, awnings, and landscaping that are associated with an alteration or new construction shall be visually compatible with the architectural design or style of the existing Designated Landmarks Register property, if proposed to remain, and any surrounding comparable historic properties.
11. **Garages** - Garages, including doors, shall be compatible with the site's primary structure, if proposed to remain, based on factors that include design or style, roof pitch and shape, architectural details, location and orientation, and building materials. The design or style of alteration or new construction involving an existing or new garage, visible from public rights-of-way or private street rights-of-way, shall also be compatible with the design or style of other surrounding comparable historic properties.

**12. Chemical or Physical Treatments - Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.**

**13. Differentiation - An alteration or new construction shall be differentiated from the portions of the site's existing historic resource. However, it shall also be compatible with the historic resource's significant materials, design or style elements, features, size, scale, proportion, and massing. Therefore, the differentiation may be subtle and may be accomplished with variations in wall or roof alignment, offsets, roof pitch, or roof height. Alternatively, differentiation may be accomplished by a visual change in surface, such as a molding strip or other element that acts as an interface between the original resource and the alteration or new construction.**

*3-70 - Defines which administrative procedure shall be used in certain Historic Design Reviews.*

**C The following activities shall require staff level Historic Design Review through a Type I (items 1-4) or Type II (items 5-8) procedure (Sections 4.1.200-4.1.300), as applicable**

*4-69 - Changes authority for granting extensions from The "City" to "Community Development Director" for property line adjustments.*

*4-70 - Adds time limit for Conditional Uses*

**C. New Application for Conditional Use. When activities requiring conditional use approval have ceased for more than one year, the conditional use is no longer valid. Reestablishment of the conditional use shall be approved through the Type III procedure process.**

*4-73 - Adds extension process for Conditional Use.*

**D. Extension. The Community Development Director shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:**

- 1. No changes are made to the original Conditional Use as approved by the City;**
- 2. The applicant can show intent of completing the approved plan within the one-year extension period;**
- 3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the property line adjustment conflicts with a code change, the extension shall be denied; and**
- 4. The extension request is made before expiration of the original approved plan.**

### **III. SUMMARY AND CONCLUSION**

Findings have been made for all of the applicable Code sections. The proposed Development Code amendments meet all applicable Silverton Development Code Review Criteria.

The Planning Commission held a public hearing on January 12, 2010 to hear public testimony and to evaluate the proposed Development Code Amendments.

The Planning Commission adopted a resolution recommending the City Council adopt the proposed Development Code Amendments.

The City Council met in a duly advertised public hearing on February 1, 2010 to consider the Planning Commission's recommendation and to hear public testimony regarding the proposed Development Code Amendments.

Staff finds the application, as presented, meets or can meet the applicable City codes and requirements.

#### **City Council Options:**

1. APPROVAL of the proposed Development Code Amendments by adopting findings declaring it meets the review criteria.
2. DENIAL of the proposed Development Code Amendments and adopt findings declaring it does not meet the review criteria.
3. MODIFICATION of the proposed Development Code Amendments of the proposed annexation so that it meets the review criteria and adopting findings declaring the modified proposal meets the review criteria.

Staff and the Planning Commission recommends the City Council approve the proposed Development Code Amendments by adopting findings that it meets the review criteria.

ATTACHMENT B: TESTIMONY

December 23, 2009

City of Silverton  
306 S. Water St.  
Silverton, OR 97381

RECEIVED  
DEC 24 2009  
City of Silverton

Subject: Proposed Code Amendments

I would like to comment on two of the proposals from the PUBLIC NOTICE.

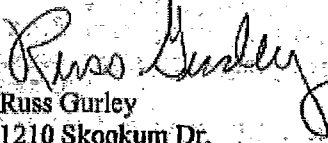
Item # 2.

Re: duplex lots in new subdivisions. To use a flat 20% is an overly simplistic approach to planning. The number of lots, their configuration, and the proposed locations within a development are all potentially critical to good planning. Thus, all proposed duplexes in single-family residential zones should always require the conditional use process. Current homeowners should have a right to weigh in on potential issues. The public should have a right to know when a particular developer or builder is definitely planning on adding duplexes and in what manner. This proposal smacks very heavily of being developer friendly at the expense of everything else potentially important to quality planning.

Item #4.

Please. Yes, I know that Salem has grappled with this and is on the verge of caving. And I know that a few other cities have allowed it and say it's working fine. Perhaps, but it would not work fine in Silverton. Most of our lots are pretty small. If you're experienced, you know that hens make more noise and more often than do roosters, and even with daily clean-up there is no way to contain the smell. Even outside the city limits, chickens can become a real problem when owners do not attend to the many issues of caring for them humanely, cleanly, and safely. If allowed in the city, the chances are high that people who do not understand or do not care will be among the list of owners. The language of the proposed code reflects a lack of knowledge about chickens. You simply cannot house chickens five feet from a city property line and not have the nuisance issues you purport to disallow. And we cannot afford more time lost by police, code enforcers and the courts to enforce what cannot be enforced except by just saying no.

Thank you for your consideration.

  
Russ Gurley  
1210 Skookum Dr.



SILVER FALLS SCHOOL DISTRICT  
802 Schlador Street  
Silverton, OR 97381  
Phone: (503) 873-5303 | Fax: (503) 873-2936



January 5, 2010

RECEIVED

JAN 06 2010

City of Silverton

Steve Kay  
City of Silverton  
Community Development Dept.  
306 South Water Street  
Silverton, OR 97381

Re: Proposed Development Code Amendments

Dear Steve:

I am writing with concerns about the proposed code amendment that would require future school developments to install six-foot masonry walls along the sides and rear boundaries. Besides the costs of such construction, I have concerns about student supervision and safety. A solid masonry wall provides an easy hiding (hangout) place for students and others. It would make it difficult for neighbors, school personnel and the police to provide visible supervision of school grounds. "We need to design our schools in such a fashion that we maximize visibility. A key statement that describes this principle is see and be seen."<sup>1</sup>

In addition to the concern about supervision, I am also concerned about the cost to taxpayers to construct six-foot masonry walls on three sides of a school located on an 8-15 acre site (typical site size for elementary and middle schools). In addition to initial construction costs, I imagine that such a wall could be an attractant for graffiti, and with the graffiti comes the added cost to taxpayers for its removal.

Elementary schools, in particular, tend to be pretty quiet places except for a few hours each school day at lunch recess, and even then, Oregon's rainy days tend to keep kids under covered play areas or inside school gyms.

---

<sup>1</sup> Crime Prevention Through Environmental Design, National Crime Prevention Council (2006).

Steve Kay  
January 5, 2010  
Page 2

I think we all want our schools to be inviting to both students and the general public. In my judgment, a school surrounded on three sides by a six-foot masonry wall does not communicate a sense of openness and invitation. Can you imagine what the new high school site, most of which is not adjacent to a public street, would look like if it was now surrounded by a six-foot masonry wall.

I urge the Planning Commission to eliminate the proposed requirement of masonry walls on the sides and rear boundaries of future schools within the Silverton city limits. I do think there is a place in the code for buffers, including chain link fences, berms, and green plantings.

Sincerely,



Craig Roessler  
Superintendent

CR:dac

pc: Bryan Cosgrove  
Rick Lewis  
Andy Bellando

Hi Steve, Jason, and Sheena,

I didn't get my comments on the code revisions in the mail so I will be there tonight to testify. I have comments on Renewable Energy, Livestock, Chickens, Duplexes, Schools, Kennels, and Geology/Geotechnical

Most are recommended language additions or revisions but I will be strongly opposing the change for Chickens and Duplexes. Wanted to give you a heads up. I would have sent you a copy of my notes but I forget them at home this morning. See you tonight.

6. **SCHOOLS** - Revise to prohibit activity in residential zones. While I understand some individuals desires to provide alternative forms of education to the public system this should be restricted to commercial property, churches, and other similar facilities that take into account the additional traffic and underground facility demands.

7. No comment. *RECOMMEND ELIMINATING 5' OFFSET  
PUE OK NOTCH OUT AROUND CHASED RASERS  
AND FALLETTES.*

8. No comment.

9. No comment.

10. **GEOTECHNICAL REPORTS** - Revise to require all sites subject to development in the described areas have an engineering geological/geotechnical report on site suitability submitted to the City at the time of land use application. Report needs to meet the guidelines of the Oregon State Board of Geologists Examiners and be stamped by a Certified Engineering Geologist or Geotechnical Engineer licensed in the State of Oregon. Do not allow a land use decision to move forward without having all of the facts about the stability of the hillside.

Regards,

Gerald Fisher

## **ATTACHMENT D: APPEAL INFORMATION**

The applicant or owner of the subject property, or any person who participated in the proceeding by submitting oral or written comments have legal standing to appeal a Type IV decision.

Any interested person who disagrees with the City Council's decision may request that the application be considered by the Land Use Board of Appeals (LUBA) in conformance with ORS 197.830. An appeal must be submitted to LUBA within 21 days of the day the notice of decision is mailed.

The complete file is available in the Community Development Department at City Hall located at 306 South Water Street for review.

For further appeal information, contact Jason Gottgetreu at (503)874-2214.

CITY OF SILVERTON  
306 SO. WATER ST.  
SILVERTON, OR 97381-2199

Attn: Plan Amendment Specialist  
Department of Land Conservation + Dev.  
635 Capitol St WE Suite 150  
Salem, OR 97301-2540



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