

# Article 1.0 — Introduction

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## **Chapter 1.1 — Official Name and Map**

The official name of this Title is “Chapter 18, Development Code and Zoning Map.” It may be referred to as “Development Code” or “this Code” or “Chapter 18 of the Revised Silverton Municipal Code (RSMC).” The map may be referred to as “Zoning Map,” “Zoning District Map” or “Land Use District Map.”

## **Chapter 1.2 — Purpose**

The general purpose of this Code is to set forth and coordinate City regulations governing the development and use of land. The Code is more specifically intended to do the following:

1. Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner which protects the health, safety, and welfare of the citizens of Silverton.
2. Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.
3. Facilitate prompt review of development proposals and the application of clear and specific standards.
4. Provide for public information, review, and comment on development proposals which may have a significant impact on the community.
5. Guide public and private planning policies and actions to ensure provision of adequate water, sewerage, transportation, drainage, parks, open space and other public facilities and services for each development.
6. Establish procedures and standards requiring that the design of site improvements and building improvements be consistent with applicable standards and flexible design guidelines.
7. Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion, with particular emphasis on not exceeding the planned capacity of residential streets.
8. Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards as well as prevent the spread of blight, and aid in the prevention of crime.
9. Protect and enhance the city’s aesthetic beauty and character.
10. Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.

## Chapter 1.3 — How to Use the Development Code

The City of Silverton Development Code governs all uses of land within the incorporated limits of the City of Silverton. The five Articles of the code are used together to review land use applications. They are organized as follows:

**Article 1.** In addition to this brief introduction, Article 1 provides definitions for selected terms, land use classifications and categories, and information on the legal construct of the code. It also explains the city authority to enforce the Development Code.

**Article 2.** Every parcel, lot, and tract of land within the city’s incorporated boundaries is also within a “land use district”. (Land use districts are shown on the city’s official zoning map.) Article 2 identifies the land uses that are permitted within each district, and the standards that apply to each type of land use (e. g., lot standards, setbacks, and use-specific design standards). As required by state law, the zones or “land use districts” conform to the City of Silverton Comprehensive Plan. Other land use procedures such as the overlay zones are included within this Article. These regulations implement planned land uses and development densities, provide compatibility between uses, and establish urban design requirements for specific types of uses.

**Article 3.** The design standards contained in Article 3 apply throughout the city. They are used to help prepare development plans and review development applications. The Community Design Standards will help to ensure compliance with city standards for access and circulation, landscaping, parking, public facilities, storm water management, housing densities, and sensitive lands.

**Article 4.** Article 4 provides application requirements and administrative procedures for obtaining permits and approvals under this code. Four types of permit procedures are covered: Type I (non-discretionary, “ministerial” decision); Type II (discretionary, “administrative” decision); Type III (“quasi-judicial” decision with public hearing); and Type IV (“legislative” decisions). Other land use procedures such as appeals, code interpretations, miscellaneous permits, etc. are included within this Article. This article also identifies the process and requirements for each type of review procedure.

**Article 5.** Article 5 contains standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the code). This code cannot provide standards to fit every potential development situation. The city’s varied geography and complexities of land development require flexibility. Article 5 provides that flexibility, while maintaining the purpose and intent of the code.

## Chapter 1.4 — General Administration

### Sections:

- 1.4.100 Severability**
- 1.4.200 Compliance and Scope**
- 1.4.300 Consistency with Plan and Laws**
- 1.4.400 Use of a Development**
- 1.4.500 Pre-Existing Approvals**
- 1.4.600 Demolition Permit, Building Permit and Certificate of Occupancy**
- 1.4.700 Official Action**
- 1.4.800 Approval Compliance**

### **1.4.100 Severability**

The provisions of this Development Code are severable. If any section, sentence, clause or phrase of the Development Code is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Development Code.

### **1.4.200 Compliance and Scope**

- A. Compliance with the provisions in the Development Code.** Land and structures may be used or developed only as this Development Code (“Code”) or any amendment thereto permits. No plat shall be recorded or no building permit shall be issued or valid without compliance with the provisions of this Code and all permits, approvals, and conditions of approval issued under it.
- B. Obligation by successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest. Development approvals and applicable conditions shall run with the land. The approval transfers to a new owner if the property is sold or otherwise transferred, unless specifically conditioned otherwise.
- C. Transfer of development standards prohibited.** No lot area, yard, landscaping, or open space that is required by this Code for one use shall be a required lot area, yard, landscaping, or open space for another use, except as otherwise specifically allowed by this Code.

### **1.4.300 Consistency with Plan and Laws.**

This Development Code is designed to implement the City of Silverton Comprehensive Plan. All provisions of this Code shall be construed in conformity with the adopted comprehensive plan and applicable State and Federal laws.

**1.4.400 Use of a Development**

A development shall be used only for a lawful use. A lawful use of a development is one that is permitted by this Code and has received the applicable approvals (e.g., design review, land division, public improvement permits, state and federal regulations) and is not prohibited by law.

**1.4.500 Pre-Existing Approvals**

**A. Legality of pre-existing approvals.** Developments and uses for which approvals were granted prior to the effective date of this Code (“pre-existing approvals”) may occur pursuant to such approvals. Pre-existing approvals may be extended pursuant to the standards in effect at the time of the original approval notwithstanding any State or Federal law or rule precluding such extension. Modifications to pre-existing approvals shall comply with Chapter 4.6. Modifications to Approved Plans and Conditions of Approval.

**B. Subsequent development applications.** All developments and uses begun on or after *[effective date of Development Code]* shall conform to the provisions of this Code.

**1.4.600 Demolition Permit, Building Permit and Certificate of Occupancy**

**A. Demolition Permit.** A demolition permit shall not be issued until the Community Development Director has issued a Land Use Review or Design Review approval in accordance with the provisions of Chapter 4.2, or has otherwise found that such review is not required.

**B. Building permit.** A building permit shall not be issued until the Community Development Director has issued a Land Use Review or Design Review approval in accordance with the provisions of Chapter 4.2, or has otherwise found that such review is not required.

**C. Certificate of occupancy required.** To ensure completion of a development or use in the manner approved, a building shall not be occupied and a use shall not begin until the Building Official has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable approvals and permits.

**D. Prior to final completion.** Prior to the final completion of all work, the Building Official, at his or her discretion, may issue a temporary certificate of occupancy and/or a certificate of occupancy for a portion of the structure conditioned upon further work being completed by a date certain. At the Building Officials discretion, security in the form of a bond, contract, escrow funds, or other considerations may be required to ensure the final completion of all required work.

**1.4.700 Official Action**

**A. Official Action.** The city official and his or her designees are vested with authority to issue permits or grant approvals in conformance with this Code, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code.

- B. Declaring a Prior Decision Void.** Any permit or approval issued or granted that fails to comply with the provisions of this code or the Code in force at the time the permit or approval was granted may be declared void by the city. The reviewing body shall determine when an approval is void and may direct cessation of building activity or use or may direct modification in order to attain conformance to the Code.
- C. Notice.** The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to notice.
- D. Fees.** The City Council shall establish application and review fees and fee policies by separate resolution for the performance of the actions and reviews required by this Code.

#### **1.4.800 Approval Compliance**

- A. Application Materials.** Application materials and other information (such as oral and/or written testimony) submitted by an applicant and relied upon by the city staff and/or the decision making body during the review and approval process in order to gain development approval is considered part of the application and any commitment contained within this material shall become legally binding upon the applicant.
- B. Conditions of Approval.** Developments that have been granted approval subject to conditions of approval are required to comply with said conditions of approval. As these conditions run with the land, future owners, lessees, renters, etc. will also be required to comply with said conditions of approval. In the event that these conditions require reconsideration, then the appropriate application and review procedures must be followed for reconsideration of said conditions in accordance with the provisions of this code.

## Chapter 1.5 — Definitions

### Sections:

<b>1.5.100</b>	<b>Purpose</b>
<b>1.5.200</b>	<b>Applicability</b>
<b>1.5.300</b>	<b>Definitions</b>

### **1.5.100 Purpose**

The purpose of Chapter 1.5 is to define terms that are used frequently in the City of Silverton Development Code, to assist decision makers in interpreting and applying the Code. Some of the terms that are defined here may have different meanings in other communities.

### **1.5.200 Applicability**

- A. Definitions.** The definitions in Chapter 1.5 apply to all actions and interpretations under the City of Silverton Development Code. The meanings given terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control. Where a term used in this Code is already defined in another part of the City of Silverton Code (e.g., the International Building Code, etc.) the term is not redefined herein for purposes of that other code.
- B. Land Use Categories.** Chapter 1.6 provides descriptions of the land use categories used in Article 2.
- C. Interpretation.** Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. Webster’s Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference. In some situations, the Community Development Director may find it necessary to make a formal code interpretation or similar use ruling under Chapter 4.8. In such cases, the Director’s decision shall be processed through either a Type I or Type II procedure and a written record of it shall be kept on file with the Development Code.

### 1.5.300 Definitions

The following definitions are organized alphabetically and some related terms are also grouped together and cross-referenced under group headings (*e.g.*, Transportation-Related, Environment-Related, etc.). See also, Chapter 1.6 for descriptions of the land use categories used in Article 2.

## A

**Abutting.** Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

**Access.** A way or means of approach to provide pedestrian, bicycle, and/or motor vehicular entrances or exits to a property.

**Accessory.** Secondary or incidental to a primary use or structure.

**Accessory dwelling.** See Residential Structure Types.

**Accessory parking facility.** A parking facility that provides parking for a specific use or uses. The facility may be located on or off the site of the use or uses to which it is accessory. A fee may or may not be charged. An accessory parking facility need not be in the same ownership as the specific uses to which it is accessory. See also Commercial Parking in Chapter 1.6, Descriptions of Use Categories.

**Accessory structure.** A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure. Accessory structures are detached from the primary structure. Examples of accessory structures include but are not limited to: garages, decks, fences, arbors, gazebos, heat pumps, and other structures. See also Primary Structure.

**Accessory use.** A use or activity that is a subordinate part of a primary use and that is clearly incidental to a primary use on a site. Does not include Accessory Dwelling. See also Primary Structure.

**Adjacent.** Abutting or located directly across a street right-of-way.

**Adjustment.** A discretionary approval that modifies or waives a specific development standard, as expressly allowed under this Code (*e.g.*, Section 4.2.510, Design Performance Option).

**Administrative.** A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

**Adult foster care.** A family home or facility in which residential care is provided for five or fewer adults who are not related to the provider by blood or marriage. "Provider" means any person operating an adult foster care home. See also, "Group Home/Facility."

**Adverse impact or effect.** Negative effect that can be measured (e.g., noise, air pollution, vibration, dust, glare, emissions, etc.).

**Affordable.** Housing affordable to a certain percentage of the population earning a specified level of income and spending no more than 30 percent of their income on housing expenses. For more information, contact the federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.

**Aged person.** An individual 65 years of age or older.

**Agriculture.** See use category under Chapter 1.6, and ORS 215.203(2)(a).

**Alley.** See Transportation-Related definitions.

**Alteration.** See Development-Related definitions.

**Ambient.** Normal or background environmental condition, as in the level of light, dust or noise.

**Applicant.** A person who applies for a land use review or building permit. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.

**Arborist.** A professional listed as a certified arborist or a registered consulting arborist.

**Arterial.** See Transportation-Related definitions.

**Articulate/articulation.** The joining and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

**Attached house (townhouse or rowhouse).** See Residential Structure Types.

**Attached structure.** See Development-Related definitions.

**Automobile-dependent/oriented development.** See Development-Related definitions.

**Automobile-oriented use.** See Development-Related definitions.

## B

**Bed and breakfast inn.** Any establishment located in a structure designed for a single family residence and structures appurtenant thereto, that:

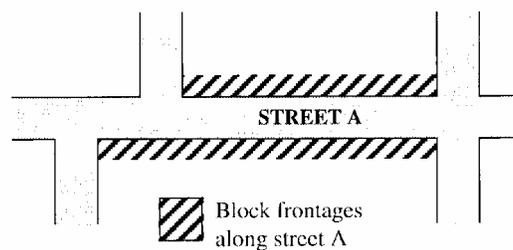
- (a) Has more than two, but less than five rooms for rent on a daily basis to the public; and
- (b) Offers a breakfast meal as part of the cost of the room.
- (c) Developed in accordance with Section 2.2.200

**Berm.** A small rise or hill in a landscape that is intended to buffer or visually screen certain developments, such as parking areas.

**Block.** All of the property bounded by streets, rights-of-way, and water features, but is not divided or separated in any way by streets or water features.

**Block frontage.** All of the property fronting on one side of a street that is between intersecting or intercepting streets, or that is between a street and a water feature, or end of a dead end street. An intersecting street determines the boundary of the block frontage only on the side of the street that it intercepts. See Figure.

**Block Frontage**



**Bollard.** A permanent or removable post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles); may contain sidewalk or pathway lighting.

**Boulevard.** See Transportation-Related definitions

**Building.** A structure that has a roof and is enclosed on at least 50 percent of the area of its sides. See Development-Related definitions for related definitions.

**Building Official.** The person who enforces the building ordinances and regulations for the City, and other ordinances and regulations as assigned.

**Build-to Line.** See Development-Related definitions.

**Business Street.** Any block length along any street, other than an arterial, within which there is or will be provided access to one or more commercial structures which in the judgment of the Planning Commission will result in a high volume of business traffic on such street.

## C

**Canopy.** A permanent roofed structure that may be free-standing or be partially attached to a building, for the purpose of providing shelter to patrons on foot and/or in motor vehicles; does not include a completely enclosed structure. See also, Tree Canopy, under Environment-Related definitions.

**Capacity.** Maximum holding or serviceability, as used for transportation, utilities, parks and other public facilities.

**Carport.** A stationary structure consisting of a roof, its supports, not more than one wall or storage cabinets substituting for a wall, used to shelter motor vehicles, recreational vehicles, or boats.

**Centerline radius.** The radius of a centerline of a street right-of-way.

**Certificate of Occupancy.** A certificate of occupancy or a certificate of inspection issued by the City at the completion of a building permit or change of occupancy.

**Change in Occupancy.** A change in the use of a structure that results in a different classification as defined by this Code or the International Building Code.

**Change of Use.** Change in the primary type of use on a site.

**Child care center, family child care.** See Use Categories, Sections 1.6.430 and 1.6.440.

**City.** The City of Silverton, Oregon.

**Clear and objective.** Decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

**Clear zone.** The ground area under the Approach Surface which extends from the end of the runway to a point where the Approach Surface is 50 feet above the runway in elevation.

**Clearing.** See Development-Related Definitions.

**Collector.** See Transportation-Related definitions.

**Commercial.** Land use involving buying/selling of goods or services as the primary activity.

**Common area.** Land commonly owned to include open space, landscaping or recreation facilities (e. g. , typically owned by a homeowners' association).

**Comprehensive Plan.** The current adopted Comprehensive Plan of the City of Silverton.

**Conditional use.** A use that requires a Conditional Use review. See Chapter 4.4.

**Condominium.** See Residential Structure Types.

**Conservation easement.** See Environment-Related definitions.

**Corner Lot.** See Lot, Corner Lot.

**Corner radius.** The radius of a street corner, as measured around the curb or edge of pavement.

**Cottage.** See Residential Structure types.

**Council.** The City Council of Silverton, Oregon.

**Courtyard.** See Development-Related definitions.

**Crown cover.** See Environment-Related definitions.

## D

**Days.** Calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding holidays.

**Dead-End Street.** See Transportation-Related Definitions.

**Dedication.** The designation of land by its owner for any public use as shown on a subdivision plat or deed. The term may also be used for dedications to a private homeowners' association.

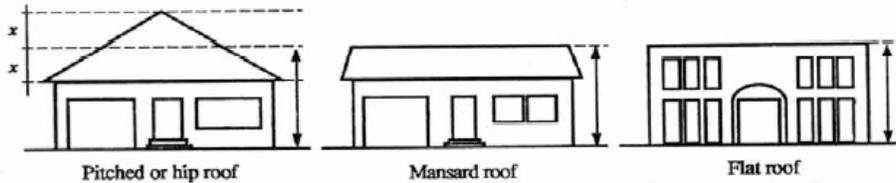
**Density(ies).** A measurement of the number of dwelling units in relationship to a specified amount of land. As used in this Code, density is determined based on the *gross* parcel or lot area, which includes land that will be dedicated as right-of-way through the development process. It does not include land previously dedicated as right-of-way. Density is a measurement used generally for residential uses.

**Design review.** A development review that addresses site and building design requirements of the applicable land use district and the design standards and public improvement requirements of this Code. See Chapter 4.2.

## Development-Related Definitions

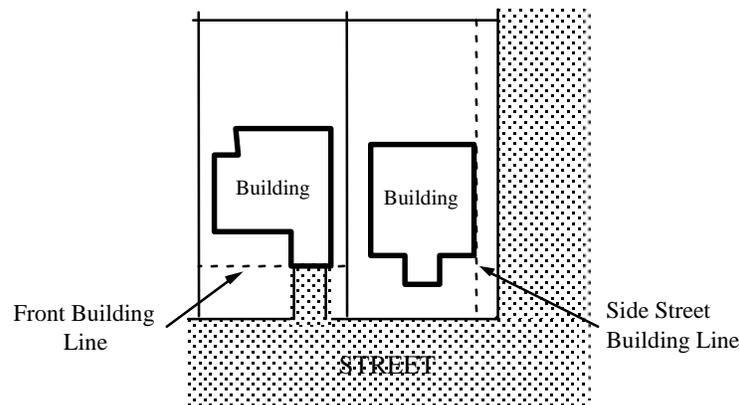
- **Alteration.** A physical change to a structure or site. Alteration does not include normal maintenance and repair or total demolition. (See also, Interior/Exterior Alteration.)  
Alteration does include the following:
  - Changes to the exterior of a building;
  - Changes to the interior of a building;
  - Increases or decreases in floor area of a building;
  - Changes to other structures on the site, or the development of new structures;
  - Changes to exterior improvements;
  - Changes to landscaping; and
  - Changes in the topography of the site.
- **Arcade.** An arched or covered passageway, e.g., along building fronts or between streets.
- **Attached structure.** Any structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. For example, decks or stairways are attached structures when they are connected to another structure. A garage may be attached to another structure by sharing a wall or by a breezeway. Structures connected by an "I" beam or similar connections are not considered attached.
- **Automobile-dependent development.** Primary or accessory uses servicing motor vehicles, or patrons in motor vehicles, such as motor vehicle repair, gas station, car wash, auto and truck sales, drive-up windows, kiosks, and similar uses.
- **Automobile-oriented development.** Development in which the site layout and design gives preference to automobiles as the primary mode of transportation; generally discouraged in all residential areas and most commercial and light industrial areas.
- **Building.** A structure that has a roof and is enclosed on at least 50 percent of the area of its sides.
- **Building area.** The total area of a building, both above and below ground, measured from the exterior faces of a building or structure. Gross building area does not include the following:
  - Roof area;
  - Roof top mechanical equipment; and
  - Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter.
- **Building coverage.** The area that is covered by buildings, and decks, stairways and entry bridges that are more than 30 inches above grade. Eaves are not included in building coverage. Building coverage is included within Lot Coverage. See also, Lot Coverage.

- **Building envelope.** Area outside of all required setbacks, easements or other constraints on a lot which could accommodate a structure(s).
- **Building footprint.** The outline of a building, as measured around its foundation, or Building Coverage, whichever is greater.
- **Building height.** The vertical distance from the grade plane to the average height of a gable roof, or the top of a Mansard or Flat roof including the parapet walls.



- **Building height step-down.** A development standard that requires a transition in allowable building height, whereby the buildings in a specific land use district must “step-down” in elevation where they abut a lower-intensity land use district.
- **Building line.** A line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building on the site. See Figure.

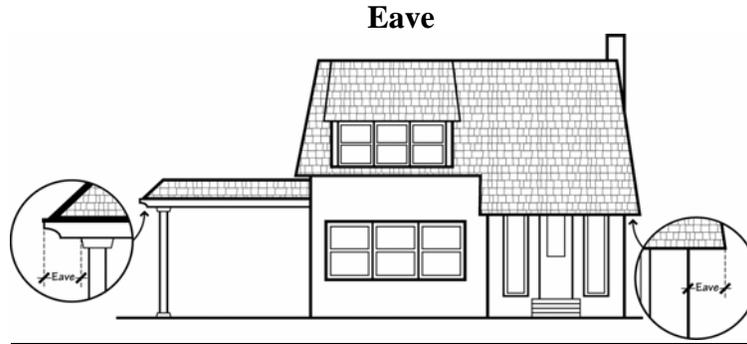
### Building Lines



Example of a front building line and a side street building line.

- **Building mass.** The aggregate size of a building, or the total height, width, and depth of all its parts.
- **Building pad.** A vacant building site on a lot with other building sites.
- **Building scale.** The dimensional relationship of a building and its component parts to other buildings.

- **Build-to line.** A maximum distance, or range within which, a building must be setback from a street right-of-way for pedestrian-orientation and human-scale design.
- **Clearing.** Any activity that removes existing vegetation or strips surface material from any portion of the site.
- **Cornice.** The projecting horizontal element that tops a wall or flat roof.
- **Courtyard.** A court or enclosure adjacent to a building, which usually provides amenities such as gardens, planters, seating, or art.
- **Develop.** To construct or alter a structure or to make a physical change to the land including excavations and fills.
- **Development.** All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land. See also Exterior Improvements.
- **Driveway.** There are two types of driveways:
  1. The area that provides vehicular access to a site from a street. A driveway is the same width as the curb cut excluding any aprons or extensions of the curb cut. This type of driveway begins at the street and extends into the site. A driveway does not include parking, maneuvering, or circulation areas in parking areas, such as aisles; and
  2. The area that provides vehicular circulation between two or more noncontiguous parking areas. A driveway does not include maneuvering or circulation areas within the interior of a parking area. Where required by Code for fire safety, a driveway must be used exclusively for circulation, with no abutting parking spaces.
- **Driveway apron/approach.** The edge of a driveway where it abuts a public way; usually constructed of concrete.
- **Eave.** Projecting overhang at the lower border of a roof and extending from a primary wall or support. See Figure.

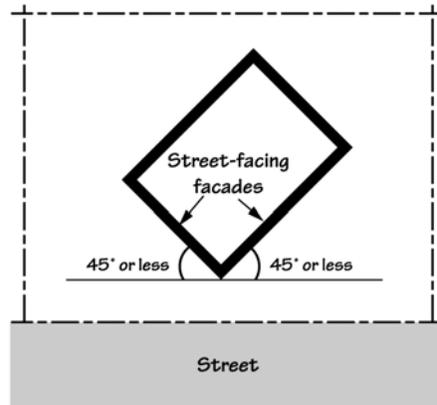


- **Exterior Alteration.** An alteration that is outside any buildings.
- **Exterior Improvements.** All improvements except buildings or other roofed structures. Exterior improvements include surface parking and loading areas, paved and graveled areas, and areas devoted to exterior display, storage, or activities. It includes improved open areas such as plazas and walkways, but does not include vegetative landscaping, natural geologic forms, or unimproved land. See also Development.
- **Facade.** The front or street-facing elevation of a structure.
- **Fire apparatus lane or fire lane.** A road or other way developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus.
- **Fire Code.** The State of Oregon 2007 Fire Code Amendments, based on the International Fire Code 2006 Edition, or as amended by the City of Silverton.
- **Floor area.** The total floor area of a building, both above and below ground with a clear ceiling height of at least seven (7) feet. Floor area is measured from the interior walls of a building or structure and does not include the following:
  - Roof area;
  - Roof top mechanical equipment; and
  - Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter.
- **Foundation plane.** The surface area defined by a structure’s foundation, including the perimeter of all footings, slabs and pads.
- **Grading.** All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development.
- **Impervious surface.** Surface area that does not allow for water infiltration or has a runoff coefficient of 0.90 or more (*e. g.*, non-permeable pavement, solid rock, roofs, foundations, underground tanks and vaults, and similar areas). Gravel is deemed an impervious surface unless the City Engineer finds otherwise.

- **New Development.** Development of a site that was previously unimproved or that has had previously existing buildings demolished; *e.g.*, not a remodel of an existing building.
- **Paved area.** An uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as porous concrete or pavers) that is able to withstand vehicular traffic or other heavy-impact uses. Graveled areas are not paved areas but are typically impervious.
- **Pedestrian amenity(ies).** Areas and objects that serve as places for public socializing and enjoyment and are usually closed to motorized vehicles. Examples include plazas, building frontage areas (extra-wide sidewalks), street furnishings (e. g. , benches, drinking fountains, bus waiting shelters), and pocket parks adjacent to a street, and similar areas and objects. Sidewalks designed to meet the minimum sidewalk width standards under Section 3.4 are not “amenities” for the purpose of this Code.
- **Pedestrian-Oriented Development.** Development that is designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than on auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades which face the street. Typically, buildings cover a large portion of the site. Although parking areas may be provided, they are generally limited in size and they are not emphasized by the design of the site.
- **Ridge line (building).** The top of a roof at its highest elevation.
- **Roof pitch.** The slope of a roof, usually described as ratio (e. g. , 1 foot of rise per 2 feet of horizontal distance equals 6:12 roof pitch).
- **Shared driveway.** When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) must be created and recorded for this purpose.
- **Shared parking.** Required parking facilities for two or more uses, structures, or lots or parcels, which are satisfied jointly with the same facilities. See Chapter 3.3
- **Shopping street.** A driveway in a commercial development that is designed to mimic a public street with sidewalks, tree wells, pedestrian lighting, and street furnishings. A shopping street may also have on-street parking.
- **Stormwater facility.** A facility designed to improve the quality and manage the quantity of stormwater runoff. Stormwater facilities include vegetated swales and sand filters, wet or dry ponds, marshes, infiltration facilities, and structural storm sewer devices. Stormwater facilities do not include conveyance systems that are meant only for conveying the stormwater from one place to another and do not affect the quality or quantity of the stormwater.

- **Storefront character.** The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (e.g., awnings or canopies), corner building entrances or recessed entries, and similar features.
- **Street-facing façade/wall.** All the wall planes of a structure as seen from one side or view that are at an angle of 45 degrees or less from a street lot line. See Figure below.

**Street-facing Façade**



- **Street furniture/furnishings.** Benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, and similar pedestrian amenities; may be located within a street furnishings zone or building front zone of a sidewalk or in a plaza. See also, Pedestrian Amenities.
- **Structure.** Any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.
- **Structure height.** The height of a structure, and the cumulative height of a building with any appurtenant structures.
- **Swale.** A type of storm water facility. Usually a broad, shallow depression with plants that filter and process contaminants.
- **Vehicle areas.** All of the areas on a site where vehicles may circulate or park including parking areas, driveways, drive-through lanes, and loading areas. See also, Driveway and Parking Area.

**Development Review.** A generic term meaning any type of review undertaken to ensure compliance with this code.

**Disabled Person.** For the purposes of this Code, a disabled person is a person who has a condition of physical or mental disability that substantially limits one or more major life activities as stated in Section 504 of the Federal Rehabilitation Act of 1973 and state law.

**Discontinued use.** A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract. See Chapter 5.2, Non-Conforming Uses and Developments. A use is considered temporarily discontinued during the first year after it ceases, after which it is considered permanently discontinued.

**Discretionary.** A permit action or decision that involves substantial judgment or discretion.

**Disturbance area.** See Environment-Related Definitions

**Drainage way.** See Environment-Related Definitions

**Drip-line.** See Environment-Related Definitions

**Drive-through/Drive-up facility.** A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through facilities are a type of site development that is usually found in conjunction with a Quick Vehicle Servicing use or a Retail Sales and Service use. Drive-through/drive-up facilities also include facilities designed for the rapid servicing of vehicles, where the drivers may or may not remain in their vehicles, but where the drivers usually either perform the service for themselves, or wait on the site for the service to be rendered. Drive-through facilities may serve the primary use of the site or may serve accessory uses. Examples are drive-up windows; automatic teller machines; coffee kiosks and similar vendors; menu boards; order boards or boxes; gas pump islands; car wash facilities; auto service facilities, such as air compressor, water, and windshield washing stations; quick-lube or quick-oil change facilities; and drive-in theaters.

**Driveway.** See Development-Related Definitions for examples and related definitions.

**Duplex.** See Residential Structure Types.

**Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill. See also, Residential Structure Types for examples and related definitions.

**Drought-tolerant/drought-resistant plants or xeriscaping.** As listed and described in the Sunset Western Garden Book (latest edition) or similar authoritative regional resource approved by the City.

## E

**Easement.** A grant of rights by a property owner that allows others to use the owner’s land for a specific purpose, such as access, or to locate utilities. Recorded and on record at Marion County.

**Eave.** See Development-Related Definitions for illustration and related definitions.

**Elevation.** Scaled drawing of the outside wall of a building or structure, from grade to roof ridgeline, typically specifying materials, color, and dimensions.

### Environment-Related Definitions

- **Conservation easement.** An easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees or groves, floodplains, wildlife habitat, and similar resources, typically in perpetuity.
- **Crown cover.** The area directly beneath the crown and within the drip line of a tree or shrub. The crown consists of the above ground branches, stems, and leaves.
- **Detention facility (stormwater).** The temporary storage of stormwater (i.e., as in a stormwater detention facility) before it is released through an engineered system that is designed to slow runoff. Detention facilities may be designed to filter or biologically process stormwater runoff, improving water quality before it is released. See also, Retention.
- **Disturbance area.** An area that contains all temporary and permanent development, exterior improvements, and staging and storage areas on the site, both existing and proposed. Vegetation planted for resource enhancement and agricultural and pasture land is not included.
- **Drainage land.** Land required for drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against floor damage or the accumulation of surface water.
- **Drainage way.** An open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water. It may be permanently or temporarily inundated.
- **Drip-line.** Imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.
- **Ecologically/Scientifically significant natural areas.** Land and water that has substantially retained its natural character, but is not necessarily completely natural or undisturbed, and which is significant for historical, scientific, paleontological, archeological, or natural features.

- **Fish and wildlife habitat areas.** Lands that contain significant food, water, or cover for native terrestrial and aquatic species of animals. Examples include forests, fields, riparian areas, wetlands, and water bodies.
- **Flood or flooding.** As designated by the National Flood Insurance Act of 1968, the general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of streams, rivers or other inland water
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudslides (i.e., mudflows).
  - d. Flooding also means the collapse or subsidence of land along a water body as a result of erosion or undermining exceeding anticipate levels or suddenly caused by an usually high water level.
- **Flood elevation determination.** A determination by the Federal Insurance Administrator of the water surface elevations of the base flood from the best available data source.
- **Flood hazard area.** Areas subject to periodic water inundation, as identified on the Flood Insurance Rate Map for Marion County and its incorporated communities.
- **Flood hazard map.** The official map of Silverton is the Flood Insurance Rate Map (FIRM) for Marion County and Incorporated Communities. The FIRM delineates a Special Flood Hazard Area or floodplain where regulations apply.
- **Flood Plain.** A physical geographic term describing any land area susceptible to being inundated by water from any source.
- **Flood Plain Management.** Means the operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.
- **Floodproofing.** Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real property, water and sanitary facilities, structures, and their contents.
- **Floodway, regulatory.** The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the waters of a base flood without cumulatively increasing the water surface elevation.
- **Identified natural features (e.g., wetlands or streams).** Natural features that are identified in the National Wetlands Inventory and/or other references used by the City or natural resource regulatory agency, as being significant and in need of protection.

- **Retention facility (stormwater).** The infiltration of stormwater (i.e., as in a stormwater retention facility) in an engineered system that is designed to contain runoff on a development site. Retention facilities are typically designed to filter or biologically process stormwater runoff, improving water quality before it is released. See also, Detention.
- **Riparian areas.** Lands adjacent to rivers, streams, lakes, ponds, and other water bodies. They are transitional between aquatic and upland zones, and as such, contain elements of both aquatic and terrestrial ecosystems. They have high water tables because of their close proximity to aquatic systems, soils that are usually made up largely of water-carried sediments, and some vegetation that requires free (unbound) water or conditions that are more moist than normal.
- **Sensitive lands.** Wetlands, significant vegetation, steep slopes, flood plains and other natural resource areas designated for protection or conservation by the Development Code, Comprehensive Plan, refinements to the Comprehensive Plan, or individual site inventory or study as may be required by the City, State or Federal natural resource agency through the development review process..
- **Shoreline.** Banks and other areas adjacent to a river, stream, creek, lake or similar water body.
- **Shoreline stabilization.** The protection of a shoreline by City-approved vegetative or structural means.
- **Stream.** An area where enough natural surface water flows to produce a stream channel, such as a river or creek that carries flowing surface water either intermittently or during most of the year. This includes:
  - The water itself, including any vegetation, aquatic life, or habitat;
  - Beds and banks below the high water level that may contain water, whether or not water is actually present;
  - The floodplain between the high water levels of connected side channels;
  - Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and
  - Stream-associated wetlands.
- **Stream channel.** An area with evidence of perennial or seasonal water passage. The depression between the banks worn by the regular and usual flow of the water. The channel need not contain water year-round. This definition does not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses.
- **Top of bank.** The first major change in the slope of the incline from the ordinary high water level of a water body. A major change is a change of ten degrees or more. If there is no major change within a distance of 50 feet from the ordinary high water level, then the top of bank will be the elevation 2 feet above the ordinary high water level.

- **Tree canopy.** The ground area that, when viewed from above the crown of one or more trees, is mostly covered by the tree(s). For deciduous trees, canopy area is based on the time of year when foliage is present.
- **Water bodies.** Permanently or temporarily flooded lands that may lie below the deepwater boundary of wetlands. Water bodies include rivers, streams, creeks, sloughs, drainage ways, lakes, and ponds.
- **Wetland.** An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas.

**Evidence.** Application materials, plans, data, testimony and other factual information used to demonstrate compliance or non-compliance with a code standard or criterion.

**Excavating or filling.** The removal, placement, or replacement of earth, concrete, asphalt, and similar non-decomposable materials whether permanent or temporary in nature. Excavating or filling does not include the movement of earth or placement of gravel, asphalt, or other paving materials that is done in conjunction with road improvements. It does not include the excavation of mineral or aggregate resources. Excavating or filling includes the terms grading, preloading, surcharging, and stockpiling.

**Exterior display.** Exterior display includes the outdoor display of products, vehicles, equipment, and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products. There is variety or a distinction among the goods on display, through different products, brands, or models. The display area does not have to be visible to the street. Exterior display does not include goods that are being stored or parked outside, if there is no variety or distinction among the goods, and the goods are not examined and compared by customers. It does not include damaged or inoperable vehicles, vehicles or equipment being serviced, bulk goods and materials, and other similar products. Exterior display does not include car and boat sales and leasing when such vehicles are not accessible to customers to inspect and compare; this situation is considered exterior storage. Examples of uses that often have exterior display are car and boat sales and leasing, and plant nurseries. See also, Exterior Work Activities and Exterior Storage.

**Exterior improvements.** See Development-Related Definitions.

**Exterior storage.** Exterior storage includes the outdoor storage of goods that generally have little or no differentiation by type or model. The goods may be for sale or lease, but if so, they are the type that customers generally do not inspect and compare. Exterior storage also includes the outdoor storage of goods for sale, lease or rent that may be differentiated by type or model, but that are not accessible for customers to inspect or compare. Exterior storage includes the storage of raw or finished goods (packaged or bulk), including gases, oil, chemicals, gravel; building materials, packing materials; salvage goods; machinery, tools, and equipment; vehicles

that are for sale, lease or rent, which are not accessible to the customer to inspect or compare; vehicles that have been unloaded at port facilities and are waiting transport to off-site locations; vehicles that have been towed and are being kept in an impound lot; and other similar items. The storage of recreational vehicles outdoors is also considered exterior storage. Damaged or inoperable vehicles, or vehicles that have missing parts, which are kept outside are also included as exterior storage. Examples of uses that often have exterior storage are lumber yards, wrecking yards, tool and equipment rental, bark chip and gravel sales, car dealerships or car rental establishments, and port facilities. See also, Exterior Display and Exterior Work Activities.

**Exterior work activities.** Exterior work activities include the outdoor processing, assembly, or fabrication of goods; the maintenance, repair, and salvage of vehicles and equipment; and other similar activities that generally have an industrial orientation. Exterior work activities do not include normal pick-up and deliveries to a site, parking, excavation and fills, exterior eating areas, outdoor recreation, or outdoor markets. See Exterior Display and Exterior Storage.

## F

**Facade.** The front or street-facing elevation of a structure. See Development-Related definitions for related definitions.

**Family day care.** See Child Care Center, Family Child Care.

**Farming or farm use.** As used in this Code, “agriculture” is the same as “farm use”. [See ORS 215.203(2)(a).] Includes utilization of land to raise, harvest, or sell crops; feed, breed, manage, and sell livestock, poultry, fur-bearing animals, honeybees, or their produce; dairy and sell dairy products; or any other agricultural or horticultural use, animal husbandry, timber agricultural use, or combination thereof. Farm uses include preparation or processing and storage of products raised on such land, but do not include construction or use of dwellings and other buildings customarily provided in conjunction with farm uses.

**Fence.** An accessory structure, including landscape planting, wood, vinyl, masonry, or any other material, designed and intended to serve as a barrier or as a means of enclosing a yard or other area, or other structure, or to serve as a boundary feature separating two or more properties.

**Festoon Light.** A group of two (2) or more incandescent light bulbs hung or strung overhead, not on a building or structure that is exposed to persons on a public right-of-way, or that are not shaded or hooded to prevent the direct rays of the light from being visible from the property line.

**Final plat.** The diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions and information concerning a land division.

**Fire apparatus lane or fire lane.** A road or other way developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus.

**Flag.** A piece of cloth or other flexible material attached to a staff, cord, bracket, or structure.

**Flag Lot.** A lot with two distinct parts:

- The flag, which is the only building site; and is located behind another lot; and
- The pole, which connects the flag to the street; provides the only street frontage for the lot; and at any point is less than the minimum lot width for the zone. See Lot.

**Flood hazard area.** See Environment-Related definitions.

**Floor area.** See Development-Related definitions for examples and excluded areas.

**Foundation plane.** See Development-Related definitions.

**Foot-candle.** A unit of illumination (light standards), equal to one lumen per square foot, or the amount of light from a source of one candela directly thrown on a square foot of surface at a distance of one foot.

**Frontage.** The dimension of a property line abutting a public or private street.

**Frontage street or road.** A minor street that parallels an arterial street or highway in order to provide access to abutting properties and minimize direct access onto the arterial or highway.

**Functional classification.** The classification given to streets by the road authority (e. g. , “local/collector/arterial”). See Transportation-Related definitions, and Section 3.4.100 for street standards.

**Future division plan or future development plan.** A document that shows lot, tract and right-of-way boundaries for all potential future phases of a land division. The plan is not binding on the City or the applicant. The purpose of the plan is to document that the design of the first phase of the plan does not preclude future phases from meeting City standards.

## G

**Garage.** A covered structure designed to provide shelter for vehicles, and which is accessory to a use in these structure types: houses, attached houses, duplexes, mobile homes, or houseboats. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to or detached from another structure.

**Gas Station/Fuel Station.** A facility selling fuel and lubricants for street motor vehicles which does not include services such as oil changes and mechanical repairs to automobiles. See also, definition of Service Station; and see Chapter 1.4 for specific land use categories.

**Grade.** A reference plane representing the average finished grade elevation. This elevation is to be measured on the fire lane side of the building along at a point six (6) feet from the building or along the property line whichever is closer to the building.

**Grading.** See Development-Related Definitions.

**Ground cover.** Living or processed plant material (e. g. , mulch, bark chips) that is used to cover bare ground. See Chapter 3.2, Landscaping.

**Group living structure.** See Residential Structure Types.

## H

**Hardscape.** Non-vegetative landscape materials or installations, including pathways, decorative pavers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas, and similar amenities.

**Hazardous Substances.** Any substance, material, or waste listed below:

- Nuclear or radioactive materials or waste;
- Chemicals Subject to Reporting Under *Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986*, published July, 1987, U.S. Environmental Protection Agency; and
- Hazardous Materials Table, in the Code of Federal Regulations (CFR), Title 49, Part 172.101.

### Historic Landmark - Related Definitions

- **Alteration:** An addition, removal, or reconfiguration which significantly changes the character of an historic resource, including new construction in historic districts. Does not include normal maintenance and repair.
- **Contributing Historic Resource:** A resource that retains its architectural integrity and is within the period of significance as defined in that resource’s National Historic Register nomination application.
- **Demolition:** The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.
- **Designated Landmark:** A property officially recognized by The City of Silverton, Marion County, as important in its history.
- **Designated Landmark Register:** The list of, and record of information about, properties officially recognized by The City of Silverton, Marion County, as important in its history.
- **Historic Significance:** An individual building, structure, site, tree, landscape, or other object that has been determined to have importance because of its past relationship to any of the following:
  1. The importance of its designer, previous owners, or builder, in local, state or national history;
  2. The quality of its architecture or landscaping;

3. The fact that it is one of a few remaining examples of a building type that is of significance in local, state, or national history;
  4. Association with a significant cultural or ethnic group or the role that it has played in shaping local, state or national history.
- **Historic Integrity:** The quality or wholeness of historic location, design, setting, materials, workmanship, feeling, and/or association of a resource, as opposed to its physical condition.
  - **Historic Resource:** A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:
    1. **Building:** A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, train station, garage, school, etc.
    2. **Structure:** A construction made for functions other than shelter or habitation, e.g. bridge, windmill, dam, highway, boat, kiln, etc.
    3. **Object:** A construction which is primarily artistic or commemorative in nature and not normally moveable or part of a building or structure, e.g. statue, fountain, milepost, monument, sign, etc.
    4. **Site:** The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e.g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food gathering area, etc.
    5. **District:** A geographically defined area possessing a significant concentration of buildings, structures, objects, and/or sites which are unified historically by plan or physical development, e.g. downtown, residential neighborhood, military reservation, ranch complex, etc.
  - **Historic Resource of Statewide Significance:** Buildings, structures, objects, sites, and districts which are listed on the National Register of Historic Places.
  - **Inventory of Historic Resources:** The record of information about resources potentially significant in the history of the City of Silverton, Marion County.
  - **Non-contributing Resource:** New construction or construction that has occurred in a period outside that identified as the significant period in the resources National Register Historic Nomination or a resource that has lost its architectural integrity through modification.
  - **Relocation:** The removal of a resource from its historic context and placement in a different location.

**Home occupation, home occupation site.** A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the Household Living use on the site, subject to the provisions of Chapter 2.2 (Residential Districts)

**Hotel/Motel.** A building or portion thereof designed and used for occupancy of transient individuals lodged with or without meals. (See ORS 446.310.)

**House.** See “Dwelling Unit” under Residential Structure Types.

**Household.** One or more persons related by blood, marriage, civil union, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.

**Human-scale design/development.** Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e. g. , as is typical of downtowns and main street developments); larger buildings that have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e. g. , awnings or canopies), and similar features. These features are all generally smaller in scale than those that are primarily intended to accommodate automobile traffic. (See also, Pedestrian-Oriented Development under Development-Related definitions. )

## I

**Impervious surface.** See Development-Related Definitions.

**Incidental and subordinate to.** Secondary to, and less apparent, than the primary use or other portion of the development.

**Infill.** The development of vacant, bypassed, or underdeveloped lands located in an area that is mainly developed.

## J

**Junk yard.** (1) Any property or establishment on which one or more persons are engaged in breaking up, dismantling, sorting, storing, distributing, buying, or selling scrap or waste materials. (2) Any establishment or place of business on which two (2) or more inoperable motor vehicles or an equivalent volume of waste or refuse are maintained, stored, bought, or sold. Includes wrecking yards, automobile grave yards, garbage dumps, and scrap metal processing facilities.

**K**

**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.

**L**

**Land division.** The process of dividing land to create parcels or lots. See Chapter 4.3.

**Landing (stairs).** A level part of a staircase, usually at the end of a flight of stairs..

**Landmark, Historic.** Historic Landmark designations may include buildings, sites, trees; a portion of a building or site; statues, signs, or other objects or spaces that the City or the Keeper of the National Register of Historic Places has designated or listed for their special historic, cultural, archaeological, or architectural merit. See Section 3.5, and Historic Resource-Related Definitions for examples and related definitions.

**Landscaping.** Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains or the like. Also includes irrigation systems, mulches, topsoil, and re-vegetation or the preservation, protection and replacement of trees.

**Land use.** The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses. See also, Chapter 1.6., Use Categories.

**Land use approval.** A land use decision for approval or approval with conditions. It includes any time limits or other restrictions that may apply to the land use decision.

**Land use district.** As used in this code, a land use district is the same as a zoning district.

**Land Use Review.** An application for land use approval under Section 4.2, or the review of such application.

**Lane, mid-block.** Similar to an alley. See Transportation-Related definitions.

**Living area.** The habitable floor area of a residential structure conforming to applicable building codes; typically does not include garage area, and attic and basement areas with substandard ceiling height or substandard egress.

**Legislative.** A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation). See also, Chapter 4.1.500 (Type IV Procedure).

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

**Local Improvement District ("LID").** A small public district formed for the purpose of carrying out local improvements (paving of streets, construction of storm sewers, development of a park, etc. ). Property owners within the LID are assessed for the cost of the improvements in accordance with ORS 223.387-223.485.

**Loading Area.** The area for the maneuvering and standing of vehicles engaged in delivering and loading goods, freight, or other articles. See also, Chapter 3.3, Parking and Loading.

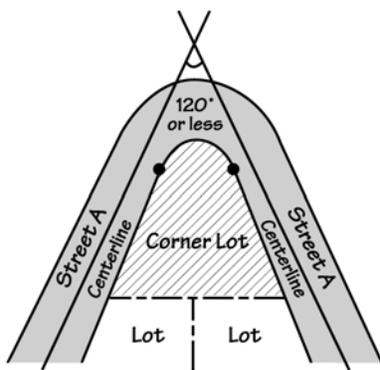
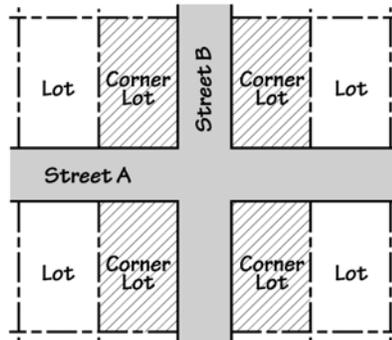
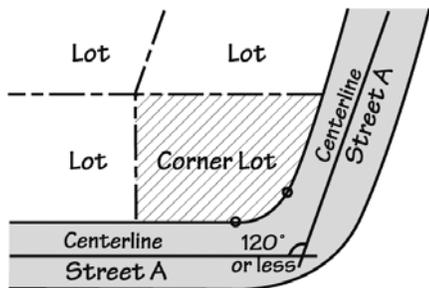
**Longest street-facing wall.** The longest wall that faces a street. If two or more street-facing walls are of equal length, then the applicant chooses which is to be the longest street-facing wall for purposes of applying regulations of the Development Code. See also, Facade, and Chapter 2.3, Building Orientation in Commercial Districts.

**Lot.** A lot is a legally defined piece of land other than a tract that is the result of a subdivision. The following definitions for “lot” apply to the State definition of both lot, (result of subdividing), **and** parcel, (result of partitioning). See also, Ownership and Site.

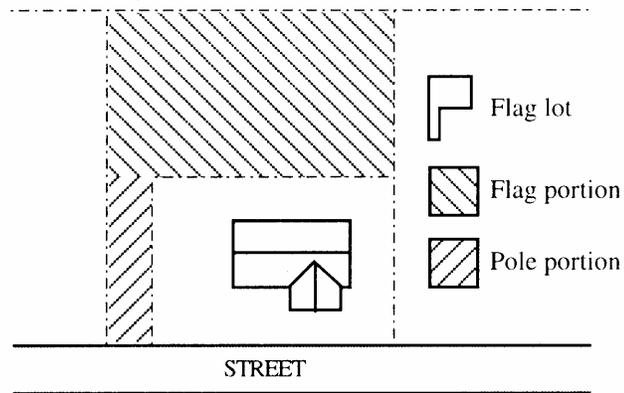
- **Corner lot.** A lot that has frontage on more than one intersecting street. A street that curves with angles that are 120 degrees or less, measured from the center line of the street, is considered two intersecting streets for the purpose of evaluating whether a lot is a corner lot. See Figures below.
- **Flag lot.** A lot with two distinct parts (See Figure below):
  - The flag, which is the only building site; and is located behind another lot; and
  - The pole, which connects the flag to the street; provides the only street frontage for the lot; and at any point is less than the minimum lot width for the zone.
- **Interior lot.** A lot that abuts other lots on two or more sides.
- **Through lot.** A lot that has frontage on two parallel or approximately parallel streets.
- **Lot lines/property lines.** The property lines along the edge of a lot or site.
- **Front lot line.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front lot line. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length. See Figures below.
- **Rear lot line.** A lot line that is opposite a front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is the longest lot line that is most nearly opposite the front lot line. See Figures below.
- **Side lot line.** A lot line that connects front and rear lot lines. On a corner lot, the longer lot line that abuts a street is a side lot line. See Figures below.

- **Side street lot line.** A lot line that is both a side lot line and a street lot line. See Figures below.
- **Street lot line.** A lot line, or segment of a lot line, that abuts a street. Street lot line does not include lot lines that abut an alley. On a corner lot, there are two (or more) street lot lines. Street lot line can include front lot lines and side lot lines. See Figures below.

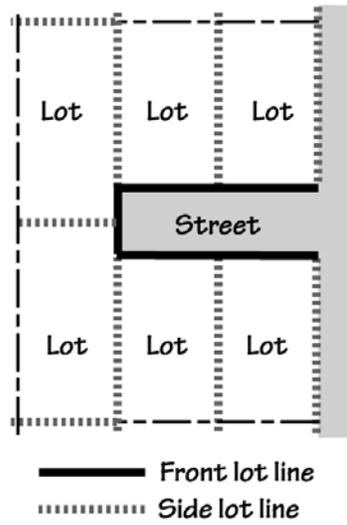
*See lot types and lot line graphics on the following pages* **Corner Lots**



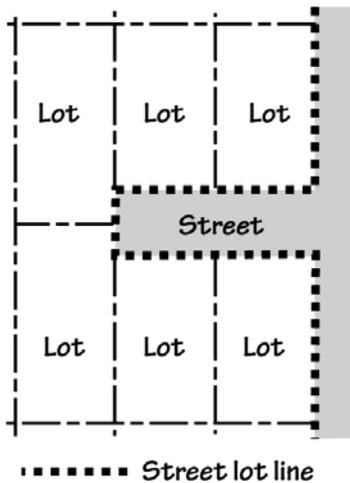
### Flag Lot



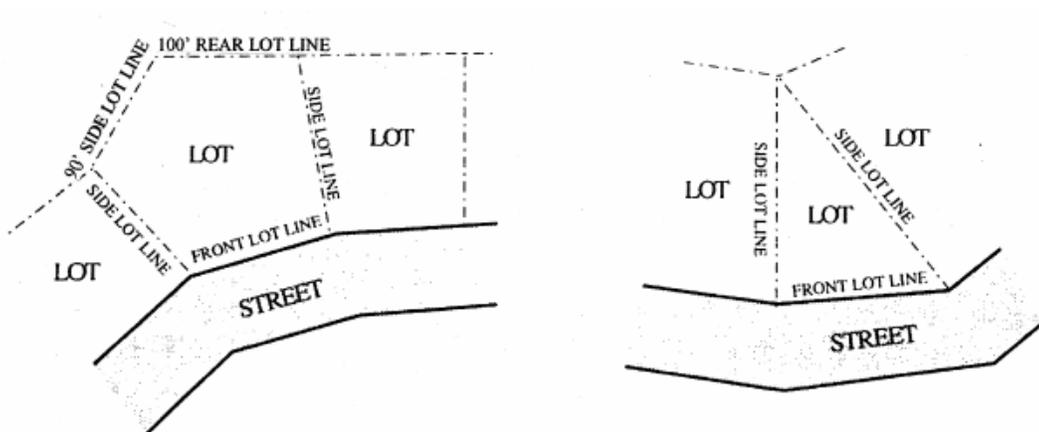
### Front and Side Lot Lines



**Street Lot Lines**



**Lot Lines on Irregular Lots**



**Lot of record.** A lot of record is a plot of land:

- that was not created through an approved subdivision or partition;
- that was created and recorded before *[date of code adoption]*; and
- for which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder.

See Chapter 5.3, Lots of Record

**Lot, double-frontage.** See Lot, Through Lot.

**Lot area.** The total surface area (measured horizontally) within the boundary lines of a lot.

**Lot coverage.** The total area of a lot covered by the foundation plane, as allowed by the applicable land use district development standards. Does not include overhangs, eaves, projecting (e.g., cantilevered) decks, and similar projections beyond the foundation plane.

**Lot line adjustment.** See Property Line Adjustment.

## M

**Main/Primary building entrance.** A main entrance is the entrance to a building that most pedestrians are expected to use. Generally, each building has one main entrance. Main entrances are the widest entrance of those provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building's lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a main entrance. In single-tenant buildings, main entrances open directly into lobby, reception, or sales areas.

**Major partition.** A partition which includes the creation of a road or street and which does not result in the creation of more than two (2) or three (3) lots within a calendar year. See also, “Partition” and “Subdivision.”

**Major remodeling.** Projects where the floor area is being increased by 50 percent or more, or where the cost of the remodeling is greater than the assessed value of the existing improvements on the site. Assessed value is the value shown on the applicable county assessment and taxation records for the current year.

**Maneuvering area/aisle.** The driving area in a parking lot where motor vehicles are able to turn around and access parking or loading spaces.

**Manufactured home/dwelling.** Includes residential trailer, mobile home, and manufactured home. See also, Residential Structure Types.

**Manufactured home/dwelling park.** Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Manufactured dwelling park” does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot. See also, ORS Chapter 446.

**Master road plan.** The plan(s) adopted by the Council of the City according to the procedures provided for this Title.

**Ministerial.** A routine administrative action or decision that involves little or no discretion. The issuance of a building permit is generally such an action. See Chapter 4.1.200 (Type I Review).

**Mitigation.** To avoid, rectify, repair, or compensate for negative impacts that result from other actions (*e.g.*, improvements to a street may be required to mitigate for transportation impacts resulting from development.)

**Mixed-use.** The combination on a site of residential uses with commercial (*e.g.*, office, retail, or services), civic, or industrial uses.

**Mobile home.** See Residential Structure Types.

**Mobile home park.** Two or more mobile homes that are located on a single site for 30 days or more and intended for residential use. Mobile home park does not include sites where unoccupied mobile homes are offered for sale or lease. See also Recreational Vehicle Park.

**Mobile home space.** The area occupied by a mobile home and its accessory uses and structures in a mobile home park.

**Motor home.** See Recreational Vehicle, under Vehicle Types.

**Motor vehicle.** See Vehicle Types.

**Multi-dwelling development** or **Multifamily housing.** See Residential Structure Types.

**Multi-dwelling structure.** See Residential Structure Types.

**Multi-use pathway.** A transportation facility serving pedestrians, bicycles and, where allowed, equestrian usage.

## N

**Natural resource areas/natural resources.** See “Sensitive Lands” under Environment-Related Definitions.

**Natural hazard.** Natural areas that can cause dangerous or difficult development situations. For example, natural hazard areas include steep slopes, unstable soils, and areas prone to landslides, floodways and flood plains.

**Neighborhood.** A residential area usually having distinguishing character or geography.

**Nonconforming development.** An element of a development, such as a setback, height, or parking area, that was created in conformance with development regulations but which subsequently, due to a change in the zone or zoning regulations, is no longer in conformance with the current applicable development standards. Nonconforming development includes development that is over a maximum allowed amount of floor area, as long as the development

does not include an amount of floor area that is specifically prohibited by the current development standards. See Chapter 5.2.

**Nonconforming residential density.** A residential use that is an allowed use in the zone and that was constructed at a lawful density, but which subsequently, due to a change in the zone or zoning regulations, now has greater density than is allowed in the zone. See Chapter 5.2.

**Nonconforming situation.** A Nonconforming Residential Density, Nonconforming Development, or Nonconforming Use. A situation may be nonconforming in more than one aspect. For example, a site may contain a nonconforming use and also have some nonconforming development. See also Nonconforming Residential Density, Nonconforming Development, and Nonconforming Use. See Chapter 5.2.

**Nonconforming Use.** A use that was allowed by right when established or a use that obtained a required land use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Chapter 5.2.

**Non-native invasive plants.** Plants listed under current Oregon State University Extension Service Bulletins as non-native, invasive plants in Oregon.

## O

**Off-street parking.** All off-street areas designed, used, required or intended to be used for the parking of motor vehicles. See Chapter 3.3 for parking standards.

**On-street parking.** Parking in the street right-of-way, typically in parking lanes or bays. Parking may be “parallel” or “angled” in relation to the edge of the right-of-way or curb. See Chapter 3.3 for parking standards.

**Open space (public/private/dedicated in common).** Land that has been dedicated in common to the ownership within a development or to the public, or privately held, specifically for the purpose of providing places for recreation, conservation or other open space uses. Includes parks and mini-parks and incorporates the classifications found in the City of Silverton Parks and Recreation Master Plan.

**Orientation.** To cause to face toward a particular point of reference (e.g., “A building oriented to the street”). See also, Pedestrian-Oriented Development.

**Outlying commercial pad.** A small, free-standing commercial use (e.g., bank, restaurant, gas station, car wash, etc.) adjacent to larger commercial use(s), either on the same parcel or on a separate parcel, and typically oriented and designed to take advantage of internal driveways and surface parking that the uses share; may include a drive-up/drive-through facility.

**Outdoor commercial use.** A use supporting a commercial activity that provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials or display of merchandise exceeds the total floor area of all buildings on the site. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumber yards and equipment rental businesses.

**Overlay zone/district.** Overlay zones impose and/or relax requirements of an underlying land use district, or base zone, where characteristics of the land or neighborhood, or the types of development planned for an area, require special regulations. See Chapters 2.5, 2.6, 2.7 & 2.8.

**Owner.** The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the County Assessor. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the City a copy of a deed or contract of sale showing date, book, and page of recording.

**Ownership.** An ownership is one or more contiguous lots that are owned by the same person, partnership, association, or corporation. Ownership also includes lots that are in common ownership but are separated by a right-of-way. See also, Lot and Site.

## P

**Parcel.** A legally defined area of land created through a partition.

**Parking Area.** A parking area is all the area devoted to the standing, maneuvering, and circulation of motor vehicles. Parking areas do not include driveways or areas devoted exclusively to non-passenger loading.

**Parking lot perimeter.** The boundary of a parking lot area that usually contains a landscaped buffer area.

**Parking space.** A space designed to provide standing area for a motor vehicle. See Chapter 3.3 for parking space standards.

**Parking.** Area designed and developed in accordance with Chapter 3.3 for automobile or bicycle parking, as applicable.

**Parking bay.** A parking area with a concrete curb forming one side of the parking stall(s). Bays are typically adjacent and accessible to a sidewalk or walkway within a development.

**Parking versus storage.** Parking is to leave a motor vehicle for a temporary time, no longer than 72 hours. Storage is to place or leave in a location for maintenance, repair, sale, rental, or future use more than 72 hours in the future. See also, Exterior Display.

**Partition.** To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See ORS 92. 010(8))

**Pathway.** See Transportation –Related Definitions.

**Pedestrian amenity(ies).** See Development-Related for examples and related definitions.

**Planning office.** The Silverton City Hall, Silverton, Oregon.

**Planter strip.** A landscape area for City-approved street trees and other plantings within the public right-of-way, usually a continuous planter area between the street and a sidewalk. See also, Tree Well. [*Refer to the City of Silverton list of recommended trees.*]

**Plat.** Diagrams, drawings and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division. This term includes the State law definitions of “partition plat” and “subdivision plat”. See also, Chapter 4.3, Land Divisions.

**Plaza.** An area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas typically provided with amenities, such as seating, drinking and ornamental fountains, art, trees, and landscaping for use by pedestrians. See also, Pedestrian Amenities (Development-Related definitions).

**Practicable.** Capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Primary structure.** A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.

**Primary use.** An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use.

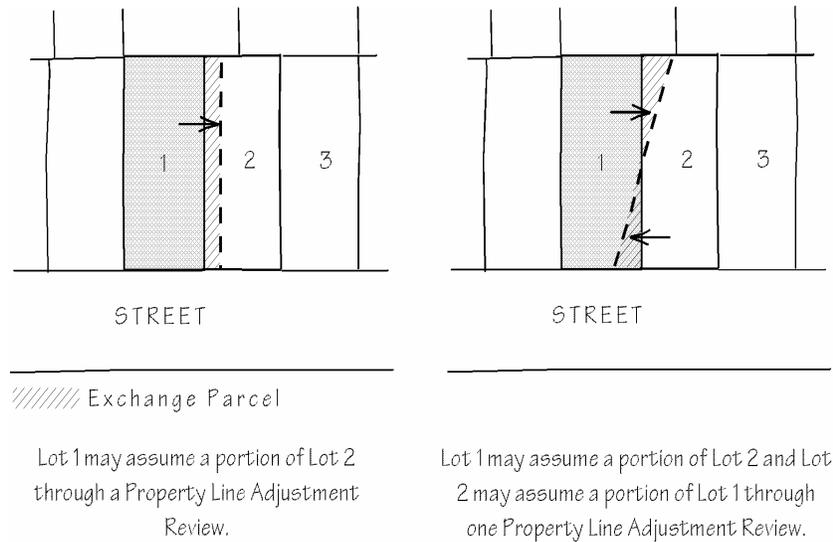
**Project.** An existing or proposed use or development.

**Project, major.** A project that requires Design Review (Sections 4.2), Subdivision or Partition review (Chapter 4.3), Conditional Use review (Chapter 4.4), or Planned Development review (Chapter 4.5).

**Project, minor.** A project that requires Land Use Review but does not require Design Review (Chapter 4.2), Subdivision or Partition review (Chapter 4.3), Conditional Use review, or Planned Development review (Chapter 4.5).

**Property line adjustment.** The relocation of a single common property line between two abutting properties, in conformance with ORS 92.010(11). See Figure.

**Property Line Adjustment**



**Public access easement.** An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access. See also, Transportation-Related Definitions.

**Public safety facility.** A facility necessary to respond to an immediate hazard to the public health and safety, and that is owned, leased, or operated by the City of Silverton. Public safety facilities include fire and police stations, flood control facilities, water towers and pump stations needed for emergency service, and emergency communication broadcast facilities.

**Property line: front, rear, interior side, street side.** See Lot Line.

**Public improvements.** Development of public infrastructure, as required by the City, County, Special District, or Road Authority, as applicable. See Chapter 3.4.

**Public right-of-way.** Land dedication or easement conveyance to the City or other public entity for public use; typically for streets, utilities, parkland and/or similar facilities. Permanent structures, objects and buildings are not allowed to project over or encroach into public rights-of-way, except as allowed by the City for landscaping and trees.

## Q

**Quasi-judicial.** An action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to the facts of a development proposal, and usually involves a public hearing. See Chapter 4.1.400 (Type III Procedure).

## R

**Recreation camp.** (1) An area devoted to facilities and equipment for recreation purposes, including swimming pools, tennis courts, playgrounds, and similar uses, either open to the public upon payment of a fee, or limited to private membership. (2) An area designated by the landowner for picnicking or overnight camping and offered to the general public, with or without a fee or charge. (See ORS Chapter 446)

**Recreational vehicle.** See Vehicle Types.

**Recreational vehicle park.** A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks. See also Mobile Home Park.

**Residence.** Same as Dwelling. See Residential Structure Types.

### Residential Structure Types

- **Accessory Dwelling Unit.** A second dwelling unit created on lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than the house, attached house, or manufactured home.
- **Attached Duplex.** A duplex located on its own lot that shares one or more common or abutting walls with one other duplex (for a total of 4 dwelling units). The common or abutting wall must be shared for at least 50 percent of the length of the side of the dwelling.
- **Attached House (Townhome or Rowhouse).** A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 50 percent of the length of the side of the dwelling. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a rowhouse or a common-wall house.
- **Condominium.** A building or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common area, and facilities are owned by all the owners on a proportional, undivided basis

- **Cottage.** A small house, generally containing not more than 1,200 square feet of floor area.
- **Cottage cluster.** A group of two or more cottages on one lot.
- **Duplex.** A building that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.
- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill.
- **Group Living Structure.** A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses:
  - **Residential facility/group care facility.** A residence for 6 to 15 physically, mentally or socially dependent/disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility but also includes, but is not limited to, nursing homes, convalescent homes, retirement homes, assisted care facilities, etc.
  - **Residential home/group care home.** A residence for five or fewer physically, mentally or socially dependent/disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Home.
  - **Residential institution/group care institution.** A residence for more than 15 physically, mentally or socially dependent/disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility but also includes, but is not limited to, nursing homes, convalescent homes, retirement homes, assisted care facilities, etc.
- **Mobile Home.** A dwelling unit constructed off of the site and that is not constructed to the standards of the uniform building code. Mobile homes include residential trailers and manufactured homes.
  - **Manufactured Home.** A manufactured home is a mobile home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976.
  - **Residential Trailer.** A mobile home that was not constructed in accordance with federal manufactured housing construction and safety standards (HUD code), in effect

after June 15, 1976. This definition includes the State definitions of residential trailers and mobile houses, as stated in Oregon Revised Statutes (ORS) 446.

- **Multi-dwelling development.** A grouping of individual structures where each structure contains 1 or more dwelling units. The land underneath the structures is not divided into separate lots. A multi-dwelling development project may include an existing single-dwelling detached building with 1 or more new detached structures located to the rear or the side of the existing house. It might also include a duplex in front with either 1 or more single-dwelling houses behind or 1 or more duplex units or multi-dwelling structures behind. There is no requirement for the structures on the sites to be attached.
- **Multi-dwelling structure.** A structure that contains three or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-dwelling includes structures commonly called garden apartments, apartments, and condominiums.
- **Senior housing.** Housing designated and/or managed for persons over a specified age. Specific age restrictions vary.
- **Single Family house/dwelling.** A detached dwelling unit located on its own lot.
- **Single room occupancy housing (SRO).** A structure that provides living units that have separate sleeping areas and some combination of shared bath or toilet facilities. The structure may or may not have separate or shared cooking facilities for the residents. SRO includes structures commonly called residential hotels and rooming houses.
- **Zero-lot line house.** A single-family detached dwelling with one "0" side yard setback

**Review Body.** The person or group who is assigned to make decisions on land use reviews, whether initially or on appeal. Review body includes the Community Development Director, Planning Commission, and the City Council.

**Right-Of-Way.** A public use area that allows for the passage of people or vehicles. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public may be in a tract. See also, Transportation-Related Definitions.

**Riparian Areas.** See Environment-Related Definitions.

**Roadway; Roadway Authority.** See Transportation-Related Definitions.

**Rooftop Structures.** Include towers, spires, steeples and other structures when built according to section 1509 of the International Building Code. (May extend 20 feet past the roof height limit of this code when approved through a conditional use, and subject to Fire Department approval.)

**Rowhouse (Rowhome).** See Residential Structure Type.

## S

**Senior housing.** See Residential Structure types.

**Sensitive lands.** See Environment-Related Definitions.

**Service station.** A gas station that also offers services such as oil changes and mechanical repairs to automobiles.

**Setback/Setback yard.** The minimum distance required between a specified object, such as a building, and another point, measured from lot lines to a specified object. Typically, a setback refers to the minimum distance (yard dimension) from a building to a specified property line.

**Shared driveway.** See Development-Related definitions.

**Shared parking.** See Development-Related definitions.

**Shopping street.** See Development-Related definitions.

**Shoreline.** See Environment-Related definitions.

**Sign.** Signs are regulated under a separate City of Silverton Ordinance

**Significant trees, significant vegetation.** Any tree, shrub, or combination thereof, meeting the threshold standards in Section 3.2.200, and those that are located within a sensitive land area as identified by the Comprehensive Plan or any refinement of the Comprehensive Plan, or as inventoried through the development review process. See also, Environment-Related Definitions in this Chapter, and Section 3.2.200, Landscape Conservation.

**Single Room Occupancy Housing (SRO).** See Residential Structure Types.

**Site.** For land divisions, property line adjustments, and lot consolidations, the site is the lots, lots of record, parcels, or tracts proposed to be divided or reconfigured. For all other purposes, the site is an ownership except as follows:

- If a proposed development includes multiple ownerships, then the site is the combined area of all the ownerships.
- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

**Site frontage.** The part of a site that abuts a street. See also, Block Frontage.

**Specific Area Plan.** An adopted plan for a sub area of the City and/or Urban Growth Area providing a framework and standards for future land uses, densities, blocks, typical lot patterns, public improvements and streets, and site design; may also include architectural design guidelines or standards.

**Standards and Criteria.** Both are code requirements for how to develop uses and structures on land. A standard is a quantitative requirement, or a qualitative requirement that is used in interpreting a subjective criterion. (*Example.* Criterion: All developments subject to design review shall comply with the Chapter 3 parking standards. Standard: Medical and dental office uses must provide one vehicle parking space for each  $x$  square feet of gross floor area. )

**Steep slopes.** Slopes exceeding 12 percent or as regulated by Hillside Development regulations.

**Step-down.** See Building Height in Development-Related definitions.

**Storefront character.** See Development-Related definitions.

**Stormwater facility.** See Development-Related definitions.

**Stormwater management system.** A stormwater facility (e. g. , conveyance, detention/retention, treatment system or outfall.

**Stream.** See Environment-Related Definitions

**Street.** See Transportation-Related Definitions.

**Street connectivity.** See Transportation-Related definitions.

**Street-facing façade/wall.** See Development-Related Definitions.

**Street furniture/furnishings.** See Development-Related definitions.

**Structure.** See Development-Related Definitions.

**Subdivision.** To divide land into four or more lots within a single calendar year. See also, Chapter 4.3, Land Divisions, and ORS 92.010(13).

**Surface water management.** Storm drainage and/or storm drainage facilities that are functioning in accordance with the City of Silverton Storm Drainage Master Plan.

**Swale.** See Development-Related definitions.

## T

**Tangent.** Meeting a curve or surface in a single point.

**Terrace.** A porch or promenade supported by columns, or a flat roof or other platform on a building.

**Through lot.** See Lot.

**Through street.** See Transportation-Related Definitions.

**Top of bank.** See Environment-Related Definitions.

**Topographical constraint.** Where existing slopes, landforms (e.g., streams, canals, rock outcropping, etc.) or manmade feature (e.g., embankment or berm) make conformance with a Code standard impracticable.

**Townhouse.** See Residential Structure Types

**Tract.** A piece of land within a platted subdivision reserved for open space, utility corridor, recreation facilities, sensitive lands, or other purpose; may be dedicated to a homeowner’s association or other entity for maintenance.

### Transportation-Related Definitions

- **Access.** A way or means of approach to provide pedestrian, bicycle, and/or motor vehicular entrances or exits to a property.
- **Access easement.** An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access. **Cross access** is a service drive providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.
- **Access way.** A walkway or multi-use pathway providing a through connection for pedestrians between two streets, between two lots, or between a development and adjoining public right-of-way. It may be an access way for pedestrians and bicyclists (with no vehicle access), or a walk way on public or private property (*i.e.*, with a public access easement). See also, Walkway.
- **Accessible.** Two meanings are possible depending on the specific code provision: In general, accessible means approachable by pedestrians, vehicles or other transportation mode, as applicable. Accessible may also mean, under approachable and useable by people with disabilities, in conformance with the Federal Americans With Disabilities Act. Either or both definitions may apply in a particular situation. See Accessible Route.

- **Accessible route.** A route that can be used by a disabled person using a wheelchair and that is also usable by people with other disabilities.
- **Access management.** The systematic control of the location, spacing, design, and operation of driveways, median openings interchanges, and street connections to a roadway to minimize conflicts between turning and through vehicles, bicyclists and pedestrians. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Public facility measures to support access management include roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. Measures that may be included as conditions of approval for development decisions include but are not limited to 1) standards such as minimum spacing of driveways and onsite vehicle storage requirements, 2) mitigations related to site conditions such as right-in-right-out only approaches, medians, dedicated turn lanes, and shared access approaches, and 3) provision for future opportunities for mitigation by land dedication or easement.
- **Access spacing/intersection spacing.** The minimum required distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.
- **Alley.** A right-of-way that provides vehicle access to a lot or common parking area. Generally, alleys provide secondary vehicle access; however, where vehicle access from the street is not allowed, not possible, or not desirable the alley may provide primary vehicle access.
- **Arterial.** The highest order classification of streets; includes highways and other major streets with limited or no direct access from adjoining properties. Also includes streets designated as “Arterial” within the City of Silverton Transportation System Plan.
- **Bicycle facility.** There are different types of bicycle facilities: In general, a bicycle facility is a public or private way designed for and dedicated to bicycle use. It may consist of a road, a lane within or on the shoulder of a road, a path, multi-use path, or other way that is specifically designated for bicycle travel or shared bicycle/pedestrian travel.
- **Boulevard.** A street with broad open space areas; typically with planted medians. See standards under Section 3.4.100.
- **Bus stop.** A location where bus service stops to load and unload passengers. For purposes of measuring, the bus stop is the location of a sign denoting the bus stop.
- **Collector.** Type of street that serves traffic within commercial, industrial, and residential neighborhood areas, connecting local neighborhood or district streets to the arterial

network. Part of the street grid system. Also includes streets designated as “Collector” within the City of Silverton Transportation System Plan.

- **Common green.** A courtyard that provides for pedestrian and bicycle access, but not vehicle access, to abutting property and generally provides a common area for use by residents. A common green may function as a community yard. Hard and soft landscape features may be included in a common green, such as groundcover, trees, shrubs, surfaced paths, patios, benches, or gazebos.
- **Curb cut.** A driveway opening delineated by a concrete apron along a street.
- **Dead-end street.** A street that connects to another street at only one end and does not have a City-approved turnaround on its other end. A pedestrian connection may extend from the end of a dead-end street to connect with another street of any type, or with another pedestrian connection.
- **Lane, mid-block.** A narrow, limited use roadway facility, similar to an alley in design, usually used to access a limited number of dwelling units.
- **Level of service ("LOS").** A quantitative standard for transportation facilities describing operational conditions. Level of Service may be described for intersections (signalized or unsignalized) or street segments (between signalized intersections).
- **Local.** Type of street that serves traffic within a residential neighborhood connecting residential streets as part of a grid system. Also includes streets designated as “local” within the Silverton Transportation System Plan.
- **Multi-use pathway.** A transportation facility serving pedestrians, bicycles and, where allowed, equestrian usage.
- **Pathway.** A walkway conforming to Chapter 3.1 that is not within a street right-of-way.
- **Public access easement.** A public access easement is an easement granted to the public for all the purposes for which a public sidewalk may be used, including but not limited to, pedestrian and bicycle travel.
- **Rail right-of-way.** A public or private right-of-way, for the purpose of allowing rail travel.
- **Right-of-way.** A public use area that allows for the passage of people or vehicles. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public may be in a tract.

- **Roadway.** The portion of a right-of-way that is improved for motor vehicle travel. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.
- **Road authority.** The City (typically the Public Works Director or his/her designee) or other agency (e. g. , Oregon Department of Transportation, Marion County, a special purpose district, or other agency) with jurisdiction over a road or street.
- **Sidewalk.** A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb or curb and planter strip.
- **Sight distance.** The unobstructed viewing distance measured from one object or location to another object or location, usually required for the purpose of traffic safety.
- **Street.** A right-of-way that is intended for motor vehicle, pedestrian or bicycle travel or for motor vehicle, bicycle or pedestrian access to abutting property. For the purposes of this Code, street does not include alleys, rail rights-of-way that do not also allow for motor vehicle access, or freeways and their onramps.
- **Street connectivity.** Expressed as the number of street and/or access way connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.
- **Street stub.** A temporary street ending where the street will be extended through adjacent property in the future, as that property develops. Not a permanent street-end or dead-end street.
- **Street tree.** A City-approved tree planted in a planter strip or tree well in City right-of-way. *[See the City of Silverton recommended list of trees.]*
- **Through Street.** A street that connects to other streets at both ends.
- **Transportation mode.** The method of transportation (e.g., automobile, bus, walking, bicycling, train, etc. )
- **Turnaround.** A vehicle maneuvering area at the end of a dead-end street (e.g., hammerhead, cul-de-sac, or other configuration) that allows for vehicles to turn around. See Section 3.4.100 for related standards.
- **Walkway.** A sidewalk or pathway, including access ways, providing a pedestrian connection that is improved to City standards, or to other roadway authority standards, as applicable. See also, Access way, Pathway, Sidewalk.

**Travel trailer.** A vacation structure or self-propelled vehicle equipped with wheels for street or highway use; intended for human occupancy; equipped with plumbing, sink or toilets; used for vacation and recreational purposes; and not used as a residence. (See ORS 446.003(5), (24).). See also Vehicle Types.

**Travel trailer/recreational vehicle park/campground.** A lot or parcel on which two or more travel trailers, recreational vehicles, motor homes, tent trailers, tent sites, campers, and/or similar vehicles or devices are permitted outright, with or without a charge or fee.

**Tree well.** A planter area cut out of a sidewalk within the street furnishing zone, planted with a street tree and including ground cover or a grate cover; typically used in commercial districts where on-street parking or pedestrian traffic makes the use of a planter strip impracticable.

## U

**Use.** The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained. See also, Chapter 1.6, Use Categories.

**Utilities.** For the purposes of this Code, utilities are telephone, cable, natural gas, electric, and telecommunication facilities.

## V

**Vacate plat/street.** To abandon a subdivision or street right-of-way. For example, vacation of a public right-of-way that is not needed or cannot be used for a street or other public purpose. Vacation of a plat typically returns the property to the adjoining owners and restores it to an undivided condition and ownership.

**Vacation home rental.** A commercial use of a single family or duplex dwelling unit where the unit is rented for periods of time of 28 or fewer consecutive days.

**Variance.** An administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this Code. See Chapter 5.1.

**Vehicle areas.** See Development-Related definitions.

### Vehicle Types.

- **Motor vehicle.** Vehicles that have their own motive power and that are used for the transportation of people or goods on streets. Motor vehicle includes motorcycles, passenger vehicles, trucks, and recreational vehicles, except all terrain vehicles, off-road vehicles, snow mobiles, and similar vehicles are not allowed on streets.
- **Passenger vehicle.** A motor vehicle designed to carry ten persons or less including the driver. Passenger vehicles are passenger cars and multipurpose passenger vehicles as defined by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3. See also Recreational Vehicle, and Truck.
- **Recreational vehicle.** A vehicle with or without motive power that is designed for sport or recreational use, or that is designed for human occupancy on an intermittent basis. Recreational vehicle is divided into two categories as follows:
  - **Motor home.** Motor home includes motorized vehicles designed for human occupancy on an intermittent basis. A camper is considered a motor home when it is on the back of a pick-up or truck. Motor homes are regulated as trucks unless the regulations specifically indicate otherwise. See also Truck.

- **Accessory recreational vehicle.** Accessory recreational vehicle includes nonmotorized vehicles designed for human occupancy on an intermittent basis such as vacation trailers and fifth-wheel trailers. A camper is considered an accessory recreational vehicle when it is standing alone. Accessory recreational vehicle also includes vehicles designed for off-road use, such as all-terrain vehicles, dune buggies, and recreational boats.
- **Travel trailer.** A vacation structure or self-propelled vehicle equipped with wheels for street or highway use; intended for human occupancy; equipped with plumbing, sink or toilets; used for vacation and recreational purposes; and not used as a residence. (See ORS 446.003(5), (24).)
- **Truck.** A motor vehicle that is designed primarily for the movement of property or special purpose equipment, or a motor vehicle that is designed to carry more than ten persons. Truck includes vehicles commonly called trucks, pick-ups, delivery vans, buses, motor homes and other similar vehicles. See also, National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3.
- **Light Truck.** Trucks and similar vehicles with single rear axles and single rear wheels.
- **Medium Truck.** Trucks and similar vehicles with single rear axles and dual rear wheels. Truck tractors are in the Heavy Truck category.
- **Heavy Truck.** Trucks, including truck tractors, and similar vehicles with two or more rear axles and all truck tractors and truck trailers.
- **Truck trailer.** Trucks including utility trailer(s).
- **Utility trailer.** A vehicle designed to be pulled by a motor vehicle that is used to carry property, trash, or special equipment and that is 16 feet or less in length. Boat trailers are included as utility trailers. Utility trailers that are longer than 16 feet are considered industrial vehicles and are regulated as heavy trucks.

**Vision Clearance Area.** Those areas near intersections of roadways and motor vehicle access points where a clear field of vision is necessary for traffic safety and to maintain adequate sight distance. See standards in Chapter 3.1.200.

## W

**Waste collection areas.** Waste collection areas include areas set aside or designed to be used for garbage collection and collection of materials for recycling. Waste collection areas include areas occupied by dumpsters and other solid waste receptacles.

**Window.** A transparent or semi-transparent (not more than 50% opaque) glazing on a building facade. For the purpose of this Code, a window may be a display window (e.g., for merchandise,

art, etc.) that is integral to a building design, but a window is not a display box mounted onto the exterior of a building.

**Wireless communication equipment.** Cellular towers, antennae, monopoles, and related facilities used for radio signal transmission and receiving.

**X** *[placeholder]*

## **Y**

**Yard.** The area defined by setbacks (*i.e.*, between the setback line and nearest property line). See Setbacks.

## **Z**

**Zero-lot line house.** See Residential Structure Types.

## Chapter 1.6 — Use Categories

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#### **Residential Use Categories**

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## Introduction to the Use Categories

### 1.6.010 Purpose

This Chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics, as follows:

- A. Categorization.** Uses are assigned to the category whose description most closely describes the nature of the primary use. The "Characteristics" subsection of each use category describes the characteristics of each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses.
- B. Interpretation.** When a use's category is not clearly identifiable, the City of Silverton Community Development Director, through a Type II procedure, determines the applicable use category. The following is considered to determine the appropriate use category the use is in, and whether the activities constitute primary use or accessory use:
- The description of the activity(ies) in relationship to the characteristics of each use category;
  - The relative amount of site or floor space and equipment devoted to the activity;
  - Relative amounts of sales from each activity;
  - The customer type for each activity;
  - The relative number of employees in each activity;
  - Hours of operation;
  - Building and site arrangement;
  - Vehicles used with the activity;
  - The relative number of vehicle trips generated by the activity;
  - Signs;
  - How the use advertises itself; and
  - Whether the activity would function independently of the other activities on the site.
- C. Developments with multiple primary uses.** When all primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a retail bakery and a cafe would be classified in the Retail Sales and Service category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.
- D. Accessory uses.** Accessory uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use. Typical accessory uses are listed as examples with the categories.
- E. Use of examples.** The "Examples" subsection of each use category provides a list of examples of uses that are included but not necessarily limited to each use category. The

names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers, would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

## Residential Use Categories

### 1.6.100 Group Living

- A. Characteristics.** Group Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group will be larger than the average size of a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Generally, Group Living structures have a common eating area for residents. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site. Group Living may include the State definition of residential facility (see Chapter 1.5.300, Definitions).
- B. Accessory Uses.** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
- C. Examples.** Examples include dormitories; fraternities and sororities; monasteries and convents; nursing and convalescent homes; some group homes for the physically and/or mentally disabled; some residential programs for drug and alcohol treatment; and alternative or post incarceration facilities.
- D. Exceptions.**
1. Lodging where tenancy may be arranged for periods less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged for periods less than one month may be classified as a Community Service use such as short-term housing.
  2. Lodging where the residents meet the definition of Household, and where tenancy is arranged on a month-to-month basis, or for a longer period is classified as Household Living.
  3. Facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Detention Facilities category.

### 1.6.110 Household Living

- A. Characteristics.** Household Living is characterized by the residential occupancy of a dwelling unit by a household. Where units are rented, tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Apartment complexes that have accessory services such as food service, dining rooms, and

housekeeping are included as Household Living. Single Room Occupancy (SRO) housing, that do not have totally self contained dwelling units are also included if at least two thirds of the units are rented on a monthly basis. Single Room Occupancy apartments/rooming houses (SROs) may have a common food preparation area, but meals are prepared individually by the residents. In addition, residential care homes are included in the Household Living category. "Residential care home" means any home licensed by or under the authority of the Department of Human Resources as defined in ORS 443.400, a residential home registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.505 to 443.825 which provides residential care for not more than five (5) individuals who need not be related, excluding required staff persons.

**B. Accessory Uses.** Accessory uses commonly found are recreational activities, home gardening, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units/guest houses with kitchen facilities, and bed and breakfast facilities are accessory uses that are subject to additional regulations.

**C. Examples.** Uses include living in houses, duplexes, apartments, condominiums, retirement center apartments, manufactured housing, and other structures with self-contained dwelling units. Examples also include living in Single Room Occupancy apartments/rooming houses (SROs) if the provisions are met regarding length of stay and separate meal preparation.

**D. Exceptions.**

1. Lodging in a dwelling unit or SRO where less than two thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
2. SROs that provide common dining only are classified as Group Living.
3. In certain situations, lodging where tenancy may be arranged for periods less than one month may be classified as a Community Service use, such as short term housing or mass shelter.

## Commercial Use Categories

### 1.6.200 Commercial Outdoor Recreation

- A. Characteristics.** Commercial Outdoor Recreation uses are large, generally commercial uses that provide continuous recreation or entertainment oriented activities. They generally take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting.
- B. Accessory Uses.** Accessory uses may include concessions, restaurants, parking, caretaker's quarters (limited to 800 square feet), and maintenance facilities.
- C. Examples.** Examples include amusement parks, theme parks, golf driving ranges, miniature golf facilities, and marinas.
- D. Exceptions.**
1. Golf courses providing less than 2,000 square feet of commercial use (e.g., clubhouse, restaurant, rental shop, similar use) and not hosting professional or professional/amateur (pro-am) competitions may be classified as Parks and Open Space. See also, subsection 1.6.200.D.2, below.
  2. Uses that draw large numbers of people to periodic events, rather than on a continuous basis, are classified as Major Event Entertainment.

### 1.6.210 Commercial Parking

- A. Characteristics.** Commercial Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking facility.
- B. Accessory Uses.** In a parking structure only, accessory uses may include car washing, and vehicle repair activities.
- C. Examples.** Examples include short- and long-term fee parking facilities, commercial district shared parking lots, commercial shuttle parking, and mixed parking lots (partially for a specific use, partly for rent to others).
- D. Exceptions.**
1. Parking facilities that are accessory to a use, but that charge the public to park for occasional events nearby, are not considered Commercial Parking facilities.
  2. Parking facilities that are accessory to a primary use are not considered Commercial Parking uses, even if the operator leases the facility to the primary use or charges a

fee to the individuals who park in the facility. See Accessory Parking Facilities in Chapter 1.5.300, Definitions.

3. Public transit park-and-ride facilities are classified as Basic Utilities.

#### **1.6.220 Quick Vehicle Servicing**

**A. Characteristics.** Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits in the car before and while the service is performed. The development will include a drive-through facility, the area where the service is performed (See Chapter 1.5.300, Definitions.) Full-serve and mini-serve gas stations are always classified as a primary use (Quick Vehicle Servicing), rather than an accessory use, even when they are in conjunction with other uses.

**B. Accessory Uses.** Accessory uses may include auto repair and tire sales.

**C. Examples.** Examples include full-serve and mini-serve gas stations, unattended card key stations, car washes, and quick lubrication services.

**D. Exceptions.**

1. Truck stops are classified as Industrial Service.
2. Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) that are on the site where the vehicles are kept, are accessory to the use.

#### **1.6.230 Major Event Entertainment**

**A. Characteristics.** Major Event Entertainment uses are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.

**B. Accessory Uses.** Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.

**C. Examples.** Examples include sports arenas, race tracks (auto, horse, dog, etc.), auditoriums, exhibition and meeting areas, outdoor amphitheaters, and fairgrounds.

**D. Exceptions.**

1. Exhibition and meeting areas with less than 10,000 square feet of total event area are classified as Retail Sales and Service.
2. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
3. Theaters, including drive-in theaters, are classified as Retail Sales and Service.

**1.6.235 Educational Services, Commercial**

- A. Characteristics.** Commercial Educational Service uses are characterized by activities conducted in an office setting and generally focusing on serving students with supplemental education, enrichment, and/or tutoring.
- B. Accessory uses.** Accessory uses may include incidental retail (*e.g.*, sale of instructional materials), parking, or other amenities primarily for the use of employees and customers.
- C. Examples.** Examples include tutoring centers, computer classes, after school math and reading centers, and arts and crafts classes.

**1.6.240 Office**

- A. Characteristics.** Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.
- B. Accessory uses.** Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.
- C. Examples.** Examples include professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices and public utility offices; TV and radio studios; medical and dental clinics, and medical and dental labs.
- D. Exceptions.**

1. Offices that are part of and are located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other category.
2. Contractors and others who perform construction or similar services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site.
3. Mobile health screening uses are considered temporary uses.

**1.6.250 Retail Sales and Service**

- A. Characteristics.** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.

**B. Accessory uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.

**C. Examples.** Examples include uses from the four subgroups listed below:

1. Sales-oriented: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
2. Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; tax preparers, accountants, real estate, legal, financial services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.
3. Entertainment-oriented: Restaurants, cafes, delicatessens, taverns, and bars; indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges; theaters, health clubs, gyms, membership clubs, and lodges; hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days.
4. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.

**D. Exceptions.**

1. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
2. The sale of landscape materials, including bark chips and compost not in conjunction with a primary retail use, is classified as Industrial Service.
3. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, and heavy trucks is classified as Industrial Service.
4. Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
5. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop that is classified as Industrial Service.

6. In certain situations, hotels and motels may be classified as a Community Service use, such as short-term housing or mass shelter. See Community Services.
7. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Retail Sales and Service or Agriculture.

**1.6.260 Self-Service Storage**

- A. Characteristics.** Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.
- B. Accessory uses.** Accessory uses may include security and leasing offices. Living quarters for one resident manager per site are allowed. Other living quarters are subject to the regulations for Residential Uses. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Service Storage use. The rental of trucks or equipment is also not considered accessory to a Self-Service Storage use.
- C. Examples.** Examples include single story and multistory facilities that provide individual storage areas for rent. These uses are also called mini warehouses.
- D. Exceptions.** A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

**1.6.270 Vehicle Repair**

- A. Characteristics.** Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. (Different than Quick Vehicle Services category. )
- B. Accessory Uses.** Accessory uses may include offices, sales of parts, and vehicle storage.
- C. Examples.** Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
- D. Exceptions.** Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

## Industrial Use Categories

### 1.6.300 Industrial Service

**A. Characteristics.** Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

**B. Accessory uses.** Accessory uses may include offices, parking, storage, rail spurs, and loading docks.

**C. Examples.** Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire re-treading or recapping; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; dry-docks and the repair or dismantling of ships and barges; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.

**D. Exceptions.**

1. Contractors and others who perform Industrial Services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication, or similar work is not carried on at the site.
2. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

### 1.6.310 Manufacturing and Production

**A. Characteristics.** Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

**B. Accessory uses.** Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, or truck fleets. Living quarters for one caretaker per site are allowed, not to

exceed 800 square feet. Other living quarters are subject to the regulations for Residential Uses.

**C. Examples.** Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; slaughter houses, and meat packing; feed lots and animal dipping; weaving or production of textiles or apparel; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie production facilities; ship and barge building; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; production of prefabricated structures, including mobile homes; and the production of energy.

**D. Exceptions.**

1. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service.
2. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

**1.6.320 Warehouse, Freight Movement, and Distribution**

**A. Characteristics.** Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

**B. Accessory uses.** Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.

**C. Examples.** Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck or other freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.

**D. Exceptions.**

1. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.
2. Mini-warehouses are classified as Self-Service Storage uses.

### 1.6.330 Waste-Related

**A. Characteristics.** Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include uses that receive hazardous wastes from others and are subject to the regulations of OAR 340. 100-110, Hazardous Waste Management.

**B. Accessory Uses.** Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by-products.

**C. Examples.** Examples include sanitary landfills, limited use landfills, waste composting, recycling centers, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, waste sorting and transfer facilities, and hazardous-waste-collection sites.

**D. Exceptions.**

1. Disposal of clean fill, as defined in OAR 340-093-0030, is considered a fill, not a Waste-Related use.
2. Sewer pipes that serve a development are considered a Basic Utility.

### 1.6.340 Wholesale Sales

**A. Characteristics.** Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.

**B. Accessory uses.** Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.

**C. Examples.** Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.

**D. Exceptions.**

1. Firms that engage primarily in sales to the general public are classified as Retail Sales and Service.

### 1.6.3 – Use Categories: Industrial

2. Firms that engage in sales on a membership basis are classified as either Retail Sales and Service or Wholesale Sales, based on a consideration of characteristics of the use.
3. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse, Freight Movement, and Distribution.

## Institutional Use Categories

### 1.6.400      **Basic Utilities**

**A. Characteristics.** Basic Utilities are infrastructure services that need to be located in or near the area where the service is provided. Basic Utility uses generally do not have regular employees at the site. Services may be public or privately provided. All public safety facilities are Basic Utilities.

**B. Accessory uses.** Accessory uses may include parking; control, monitoring, data or transmission equipment; and holding cells within a police station.

**C. Examples.** Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; bus stops or turnarounds, suspended cable transportation systems, transit centers; and public safety facilities, including fire and police stations, and emergency communication broadcast facilities.

#### **D. Exceptions.**

1. Services where people are generally present, other than bus stops or turnarounds, transit centers, and public safety facilities, are classified as Community Services or Offices.
2. Utility offices where employees or customers are generally present are classified as Offices.
3. Bus barns are classified as Warehouse and Freight Movement.
4. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail Lines and Utility Corridors.

### 1.6.410      **Colleges**

**A. Characteristics.** This category includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the State Board of Higher Education or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks, though they may be contained in a single building.

**B. Accessory Uses.** Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and support commercial.

**C. Examples.** Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, computer schools, higher education religious schools, and seminaries.

**D. Exceptions.** Business and trade schools are classified as Retail Sales and Service.

#### 1.6.420 Community Services

**A. Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide mass shelter or short term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.

**B. Accessory uses.** Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; daycare uses; and athletic facilities.

**C. Examples.** Examples include city hall and similar governmental uses, libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short-term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, soup kitchens, and surplus food or clothing distribution centers.

**D. Exceptions.**

1. Private lodges, clubs, and private or commercial athletic or health clubs are classified as Retail Sales and Service. Commercial museums (such as a museum) are in Retail Sales and Service.
2. Parks are in Parks and Open Areas.
3. Uses where tenancy is arranged on a month-to-month basis, or for a longer period are residential, and are classified as Household or Group Living.
4. Public safety facilities are classified as Basic Utilities.

**1.6.430 Daycare - Family Daycare**

- A. Characteristics.** Family daycare use includes care given by a "family daycare" provider as defined by ORS 657A.440 if the care is given to 16 or fewer children at any one time including the children of the provider. Family daycare is care regularly given in the family living quarters of the provider's home, and is regulated as a home occupation.
- B. Accessory Uses.** Accessory uses are the same as for a single family dwelling and include recreation area, play areas, kitchens, dining areas, laundry, and parking as required under applicable state regulations.
- C. Examples.** Examples include child daycare as provided in ORS 657A.440.
- D. Exceptions.** Family daycare use does not include care given by the parents, guardians, or relatives of the children, or care of the same by babysitters.

**1.6.440 Daycare - non-Family Daycare**

- A. Characteristics.** Non-family daycare use includes day or evening care of two or more children outside of the children's homes, for a fee, in commercial districts. Daycare uses also include the daytime care of teenagers or adults who need assistance or supervision.
- B. Accessory Uses.** Accessory uses include offices, play areas, kitchens, laundry, and parking.
- C. Examples.** Examples include preschools, nursery schools, latch key programs, and adult daycare programs.
- D. Exceptions.** Does not include family daycare, which is regulated as a home occupation.

**1.6.450 Medical Centers**

- A. Characteristics.** Medical Centers includes uses providing medical or surgical care to patients and offering overnight care. Medical centers tend to be on multiple blocks or in campus settings.
- B. Accessory uses.** Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing facilities for staff or trainees.
- C. Examples.** Examples include hospitals and medical complexes that include hospitals.
- D. Exceptions.**
  - 1. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Group Living category.

2. Medical clinics that provide care where patients are generally not kept overnight are classified as Office.
3. Urgency medical care clinics are classified as Retail Sales and Service.

#### **1.6.460 Parks, Open Areas and Cemeteries**

- A. Characteristics.** Parks, Open Areas and Cemeteries are uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures.
- B. Accessory uses.** Accessory uses may include club houses, maintenance facilities, concessions, caretaker's quarters (not to exceed 800 square feet), and parking.
- C. Examples.** Examples include parks, golf courses, cemeteries, public squares, plazas, linear parks, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.

#### **1.6.470 Religious Institutions and Places of Worship**

- A. Characteristics.** Religious Institutions are intended to primarily provide meeting areas for religious activities.
- B. Accessory uses.** Accessory uses include Sunday school facilities, parking, caretaker's housing (not to exceed 800 square feet), one transitional housing unit, and group living facilities such as convents. A transitional housing unit is a housing unit for one household where the average length of stay is less than 60 days. Religious schools, when accessory to a religious institution, are different than a school as a primary use.
- C. Examples.** Examples include churches, temples, synagogues, and mosques. See also, Religious Schools included in 1.4.480 Schools.

#### **1.6.480 Schools**

- A. Characteristics.** This category includes public and private schools, secular or religious, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education.
- B. Accessory uses.** Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school daycare.
- C. Examples.** Examples include public and private daytime schools, boarding schools and military academies.

**D. Exceptions.**

1. Preschools are classified as Daycare uses.
2. Business and trade schools are classified as Retail Sales and Service.
3. Religious schools, when accessory to a religious institution or place of worship, are classified as a Religious Institution.

**1.6.490 Jails and Detention Facilities**

- A. Characteristics:** Detention Facilities includes facilities for judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision by sworn officers, except when on approved leave.
- B. Accessory Uses:** Accessory uses includes offices, recreational and health facilities, therapy facilities, maintenance facilities, and hobby and manufacturing activities.
- C. Use Example:** Types of uses include, but are not limited to: prisons, jails, probation centers, and juvenile detention homes.
- D. Exceptions:** Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by sworn officers, are classified as Group or Assisted Living. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also classified as Group or Assisted Living.

## Other Use Categories

### 1.6.500 Agriculture

- A. Characteristics.** Agriculture includes activities that raise, produce or keep plants or animals.
- B. Accessory uses.** Accessory uses include dwellings for proprietors and employees of the use, and animal training.
- C. Examples.** Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.
- D. Exceptions.**
1. Processing of animal or plant products, including milk, and feed lots, are classified as Manufacturing and Production.
  2. Livestock auctions are classified as Wholesale Sales.
  3. Plant nurseries that are oriented to retail sales are classified as Retail Sales and Service.
  4. When kennels are limited to boarding, with no breeding, the City may determine the use category is Agriculture or Retail Sales and Service.

### 1.6.510 Mining

- A. Characteristics.** Mining includes mining or extraction of mineral or aggregate resources from the ground for off-site use.
- B. Accessory uses.** Accessory uses include storage, sorting, stockpiling, or transfer off-site of the mined material
- C. Examples.** Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil, gas, or geothermal drilling.

### 1.6.520 Radio Frequency Transmission Facilities

- A. Characteristics.** Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Towers may be self supporting, guyed, or mounted on poles or buildings.

**B. Accessory Uses.** Accessory use may include transmitter facility buildings.

**C. Examples.** Examples include broadcast towers, communication/cell towers, and point to point microwave towers.

**D. Exceptions.**

1. Receive-only antennae are not included in this category.
2. Radio and television studios are classified in the Office category.
3. Radio Frequency Transmission Facilities that are public safety facilities are classified as Basic Utilities.

### **1.6.530 Rail Lines and Utility Corridors**

**A. Characteristics.** This category includes railroad tracks and lines for the movement of trains. The land may be owned or leased by the railroad. The category also includes public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level.

**B. Examples.** Examples include rail trunk and feeder lines; regional electrical transmission lines; and regional gas and oil pipelines.

**C. Exceptions.**

1. Railroad lead and spur lines for delivery of rail cars to sites or for unloading of rail cars on specific sites are classified as accessory to the primary use of the site.
2. Rail lines and utility corridors that are located within motor vehicle rights-of-way are not included.
3. Railroad yards are classified in the Railroad Yards category.

### **1.6.540 Railroad Yards**

**A. Characteristics.** Railroad yards are areas that contain multiple railroad tracks used for rail car switching, assembling of trains, and transshipment of goods from other transportation modes to or from trains.

**B. Accessory Uses.** Accessory uses include offices, employee facilities, storage areas, railcar maintenance and repair facilities, and parking.

## Chapter 1.7 — Enforcement

### Sections:

- 1.7.100 Provisions of this Code Declared to be Minimum Requirements**
- 1.7.200 Violation of Code Prohibited.**
- 1.7.300 Penalty.**
- 1.7.400 Complaints Regarding Violations.**
- 1.7.500 Inspection and Right of Entry.**
- 1.7.600 Abatement of Violations.**

### **1.7.100 Provisions of this Code Declared to be Minimum Requirements**

- A. Minimum requirements intended.** In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Most restrictive requirements apply.** When the requirements of this Code vary from other provisions of this Code or with other applicable standards, the most restrictive or that imposing the highest standard shall govern.

### **1.7.200 Violation of Code Prohibited**

No person shall erect, construct, alter, demolish, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code, permits, approvals, code standards, applicable conditions of approval, other regulations, or any amendment thereto.

### **1.7.300 Penalty**

In addition to any other remedies set forth in the Silverton Municipal Code, the general penalties and procedures set forth in Section 1.08.010 of the Silverton Municipal Code apply to any and all violations of this Development Code. The City may, at its option, elect to pursue such procedure in lieu or in addition to any other remedy previously set. Violation of any condition or requirement of any land use approval constitutes a civil infraction when such violation does not, in of itself, constitutes a separate violation of the Silverton Municipal Code

### **1.7.400 Complaints Regarding Violations**

All reports or complaints of infractions covered by this article shall be made or referred to an authorized building official and/or code enforcement officer.

**1.7.500 Inspection and Right of Entry**

The purpose of inspections shall be to determine whether there is compliance with the laws, rules, and regulations which are designed for the protection of the health, safety, and welfare of the public. The Community Development Director or his/her designee may make periodic and routine inspections of properties and premises within the corporate limits of the City of Silverton. The Director is also empowered to make such inspections in response to exigent circumstances that would cause a reasonable person to believe that entry or other relevant prompt action was necessary to prevent physical harm or to otherwise address public health safety and welfare conditions or non-compliance with such rules, conditions, requirements, regulations, and laws.

In the event that any authorized officer or employee of the City of Silverton shall be denied access to any property or premises for the purposes of making an inspection provided for in this ordinance, then such officer or employee shall not inspect such premises unless and until he has obtained from the municipal judge of the City of Silverton a search warrant for the inspection of such premises.

A search warrant for inspections can only be issued under the terms of this ordinance when an affidavit has been filed with the City's municipal court showing probable cause for the inspection by stating:

- A. The purpose and extent of the proposed inspection;
- B. The ordinance or ordinances which form the basis for the inspection; and,
- C. Whether it is a routine or periodic inspection, an inspection initiated by complaint, other specific or general information, or observation concerning the property or premises or the area in which it is situated. It shall be unlawful for any person, firm, or corporation to hinder, delay, or obstruct the inspection of premises based on a search warrant issued under the terms of this ordinance.

**1.7.600 Abatement of Violations**

The location, erection, construction, demolition, maintenance, repair, alteration or use of a building or other structure in violation of this ordinance shall be deemed a civil infraction and may be enforced as such.

# Article 2 - Land Use (Zoning) Districts

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## Chapter 2.1 - Organization of Land Use Districts

### Sections:

- 2.1.100 Classification of Land Use Districts**
- 2.1.200 Land Use District Map**
- 2.1.300 Determination of Land Use District Boundaries**

### **2.1.100 Classification of Land Use Districts**

Every parcel, lot, and tract of land within the City of Silverton is designated with a land use (zoning) district. The use of land is limited to the uses allowed by the applicable Comprehensive Plan designation, land use designation and zoning district and/or overlay zone. The applicable districts and overlay zone(s) are determined based on the City of Silverton Zoning Map and the provisions of this Chapter, which shall be consistent with the City of Silverton Comprehensive Plan, as indicated in Table 2.1.100.

**Table 2.1.100**

<b>Comprehensive Plan Designation</b>	<b>Applicable Land Use District(s)</b>
Residential – Single Family	Acreage Residential (AR) Single Family Residential (R-1) Low Density Residential (R-5)
Residential – Multiple Family	Multiple Family Residential (RM-10) Multiple Family Residential (RM-20)
Commercial	Downtown Commercial (DC) Downtown Commercial Fringe (DCF) General Commercial (GC)
Industrial	Industrial Park (IP) Light Industrial (LI) Industrial (I)
Overlay Zones	Flood Plain (/FP) Overlay Hillside Protection (/H) Public Use (/P) Overlay Wetlands and Riparian (/WR) Overlay

### 2.1.200 Land Use District Map

- A. Consistency with Zoning Map.** The boundaries of the land use districts contained within this chapter shall coincide with the boundaries identified on the City's official Zoning Map, retained by the City Recorder. Said map by this reference is made a part of this Development Code. The official zoning map, and any map amendments, shall be maintained by the City.
- B. Applicability.** Each lot, tract, and parcel of land or portion thereof within the land use district boundaries designated on the Official Zoning Map, is classified, zoned and limited to the uses hereinafter specified and defined for the applicable land use district.

### 2.1.300 Determination of Land Use District Boundaries

When amending land use district boundaries, the city's comprehensive plan map is the primary source for determining appropriate boundaries. Where the plan map does not provide sufficient detail or direction, district locations and boundaries shall be guided by the purpose and applicability statements at the beginning of each land use chapter (Chapters 2.2 through 2.8). Where due to the scale, lack of scale, lack of detail or illegibility of the City zoning map, or due to any other reason, there is uncertainty, contradiction or conflict as to the existing or intended location of a district boundary line, the boundary line shall be determined by the Planning Official in accordance with all of the following criteria:

- A. Rights-of-way.** Boundaries indicated as approximately following the center lines of streets, highways, railroad tracks, alleys, irrigation canals, bridges, or other right-of-way shall be construed to follow such center lines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same land use district designation that is applicable to lands abutting the vacated areas. In cases where the right-of-way formerly served as a land use district boundary, the lands within the right-of-way now vacated shall be allocated proportionately among the subject land use districts;
- B. Parcel, lot, tract.** Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries;
- C. Jurisdiction boundary.** Boundaries indicated as approximately following a City or County boundary, or the Urban Growth Boundary, shall be construed as following said boundary; and
- D. Natural features.** Boundaries indicated as approximately following a river, stream, drainage channel, drainage basin, topographic contour or other changeable natural feature not corresponding to any feature listed in subsection A-C, above, shall be construed as following such feature, except that the location may be corrected administratively through a Type II (Code Interpretation) procedure under Chapter 4.8.

## Chapter 2.2 - Residential (R) Districts

### Sections:

- 2.2.100 Residential Districts – Purpose and Applicability**
- 2.2.110 Residential Districts – Allowed Land Uses**
- 2.2.120 Residential Districts – Development Standards**
- 2.2.130 Residential Districts – Setback Yards and Build-To Line: Exceptions, Reverse Frontage Lots, Flag Lots**
- 2.2.140 *Reserved***
- 2.2.150 Residential Districts – Housing Density**
- 2.2.160 Residential Districts – Lot Coverage and Impervious Surfaces**
- 2.2.170 Residential Districts – Building Height: Measurement, Exceptions, RS Step-Down Requirement**
- 2.2.180 Residential Districts – Building Orientation**
- 2.2.190 Residential Districts – Architectural Design Standards**
- 2.2.200 Residential Districts – Special Use Standards**

### **2.2.100 Residential Districts- Purpose and Applicability.**

- A. **Purpose.** The Residential Districts promote the livability, stability and improvement of the City’s neighborhoods. The districts are intended to:
- Promote the orderly development of neighborhoods.
  - Make efficient use of land and public services and implement the Comprehensive Plan.
  - Designate land for the range of housing types and densities needed by the community, including owner-occupied and rental housing.
  - Allow for convenient neighborhood access to parks, schools, places of worship, and other supportive services, compatible with planned residential densities.
  - Provide flexible lot standards that encourage compatibility between land uses, efficiency in site design, and environmental compatibility.
  - Provide for compatible building and site design at an appropriate neighborhood scale; provide standards that are in character with the landforms and desired architectural character of Silverton.
  - Apply the minimum amount of regulation necessary to ensure compatibility with existing residences, schools, parks, transportation facilities, and neighborhood services.
  - Reduce reliance on the automobile for neighborhood travel and provide options for walking, bicycling and transit use.
  - Provide direct and convenient access to schools, parks and neighborhood services.
  - Accommodate acreage residential uses in areas not yet served with urban infrastructure.

**B. Applicability.** The land use districts shall be applied consistently with the policies and land use designations of the City of Silverton Comprehensive Plan text and map. Where the Comprehensive Plan allows for the possible application of more than one land use district (i.e., at the time of annexation or any proposed rezoning), the districts shall be applied appropriately based on the following criteria and consistent with the amendment procedures in Chapter 4.7. Densities may be transferred or adjusted through the Planned Development approval process under Chapter 4.5, provided the overall density on the site conforms with the density range allowed per the comprehensive plan designation. The purpose of this is to provide for exceptional development designs that conserve open spaces and meet other community planning objectives.

1. Single Family Residential (R-1) zone is one of the land use districts that implements the Single Family Residential Comprehensive Plan Land Use Designation. It is intended primarily for household and group living at densities ranging from *2 dwellings per acre to not more than 6 dwellings per acre*. Hillside properties zoned R-1 shall also be subject to the Hillside Protection overlay zone provisions under Chapter 2.6.
2. Low Density Residential (R-5) zone is one of the land use districts that implements the Single Family Residential Comprehensive Plan Land Use Designation. It is intended to accommodate a variety of household and group living uses, including attached and detached dwellings, on small and medium-size lots, at densities ranging from *5 dwellings per acre to not more than 10 dwellings per acre*. The R-5 district is an appropriate transition between R-1 zoning and higher density residential or commercial districts.
3. Multiple Family Residential (RM-10) zone is one of the districts that implements the Multi-Family Comprehensive Plan Land Use Designation. It is intended to accommodate a variety of household and group living uses, including multiple family, attached single family and small-lot detached dwellings, at densities ranging from *10 dwellings per acre to not more than 20 dwellings per acre*. The RM-10 district is an appropriate transition between R zoning and higher density residential or commercial districts.
4. Multiple Family Residential (RM-20) is one of the zones that intended to accommodate household and group living uses, including multifamily and attached single family dwellings, at densities ranging from *20 dwellings per acre to not more than 32 dwellings per acre*. The RM-20 district provides for a variety of higher density residential living options.
5. Acreage Residential (AR) is intended to provide appropriate regulations governing the division and development of lands designated Acreage Residential in the Comprehensive Plan. These are properties which prior to being annexed to the city may have been developed consistent with Marion County’s rural regulations. The district allows the continued use of existing rural residential developments provided they do not exceed the environmental and public service capabilities of the area. It also recognizes that properties designated AR are in transition from rural to urban uses. Certain uses such as farming that may not be permitted on other lands within the city limits may otherwise be allowed on AR lands. It is not intended to be an alternative zoning designation for lands that are already designated to accommodate future urban development at higher densities.

**2.2.110 Residential Districts – Allowed Land Uses**

Table 2.2.110.A identifies the land uses that are allowed in the Residential Districts. The specific land use categories are described and examples of uses are provided in Chapter 1.6. Land uses may not be modified through a Planned Development, except as provided in Chapter 4.5. Table 2.2.110.B specifies the land uses allowed in the Acreage Residential District.

<b>Table 2.2.110.A – Land Uses Allowed in Residential Districts (R-1, R-5, RM-10, RM-20)</b>				
<i>Uses</i>	<i>Status of Use in District</i>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Single Family Residential (R-1)</b>	<b>Low Density Residential (R-5)</b>	<b>Multi Family Residential (RM-10)</b>	<b>Multi Family Residential (RM-20)</b>
<b>Residential Categories</b>				
<b>Household Living</b>				
Single Family (not attached; does not include cottage cluster developments)	P	P	P	P
Accessory Dwelling, per Section 2.2.200	S	S	S	S
Duplex (2 dwellings sharing a common wall on one lot), per Sec. 2.2.200				
- One duplex: corner lot	S	P	P	P
- One duplex: interior non-corner lot	S	P	P	P
- More than one duplex (4+ units) consecutively attached	N	DR	DR	DR
Single Family Attached (2 or more common-wall single family dwellings), each on its own lot, per Section 2.2.200	N	S	S	S

**Key:**

- P = Permitted, subject to land use review
- S = Permitted with standards (Section 2.2.200), except standards may be modified with a Planned Development Overlay
- DR= Design Review required (Chapter 4.2)
- CU = Conditional Use required (Chapter 4.4).
- N = Not permitted

2.2.110 – Residential (R) Land Use Districts – Allowed Uses

<b>Table 2.2.110.A – Land Uses Allowed in Residential Districts (R-1, R-5, RM-10, RM-20)</b>				
<b>Uses</b>	<b>Status of Use in District</b>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Single Family Residential (R-1)</b>	<b>Low Density Residential (R-5)</b>	<b>Multi Family Residential (RM-10)</b>	<b>Multi Family Residential (RM-20)</b>
Cottage Cluster (2-4 single family dwellings on one lot), per Section 2.2.200	N	DR	DR	DR
Manufactured Home on individual lot, per Section 2.2.200, except manufactured home subdivisions	S	S	S	S
Manufactured Home Park, per Chapter 2.2.200				
- Lawfully existing as of [effective date]	N/A	N/A	N/A	N/A
- New manufactured home park	N	DR	DR	N
Multifamily (3 or more dwellings on lot)	N	DR	DR	DR
<b>Group Living</b>				
Group Living (Dormitories, sororities, fraternities)	N	N	CU	CU
Group Care Home, per Section 2.2.200	P	P	P	P
Group Care Facility, per Section 2.2.200	N	N	DR	DR
Group Care Institution, per Section 2.2.200	N	N	DR	DR
<b>Commercial Categories</b>				
Bed and Breakfast Inn	CU+S	CU+S	CU+S	CU+S
Home Occupation, per the standards in Section 2.2.200.	S	S	S	S

**Key:**

- P = Permitted, subject to land use review
- S = Permitted with standards (Section 2.2.200), except standards may be modified with a Planned Development Overlay
- DR= Design Review required (Chapter 4.2)
- CU = Conditional Use required (Chapter 4.4)
- N = Not permitted

2.2.110 – Residential (R) Land Use Districts – Allowed Uses

Table 2.2.110.A – Land Uses Allowed in Residential Districts (R-1, R-5, RM-10, RM-20)				
Uses	Status of Use in District			
Use Categories <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	Single Family Residential (R-1)	Low Density Residential (R-5)	Multi Family Residential (RM-10)	Multi Family Residential (RM-20)
<b>Industrial Categories</b>	N	N	N	N
<b>Institutional Categories</b>				
Basic Utilities	P	P	P	P
Telecommunication facilities and towers	N	N	N	N
Daycare, adult or child <ul style="list-style-type: none"> <li>- Family Daycare (16 or fewer children); subject to state licensing, ORS 657A.</li> <li>- Non-Family Daycare</li> </ul>	P CU	P CU	P CU	P CU
Parks and Open Space <ul style="list-style-type: none"> <li>- outdoor uses, including parking</li> <li>- lighted sports fields and/or buildings exceeding 2,000 square feet</li> </ul>	P CU	P CU	P CU	P CU
Religious Institutions and Houses of Worship <ul style="list-style-type: none"> <li>- Facilities lawfully established as of [effective date]</li> <li>- New facilities</li> </ul>	P CU	P CU	P CU	P CU
Schools	CU	CU	CU	CU

**Key:**

- P = Permitted, subject to land use review
- S = Permitted with standards (Section 2.2.200), except standards may be modified with a Planned Development
- DR= Design Review required (Chapter 4.2)
- CU = Conditional Use required (Chapter 4.4)
- N = Not permitted

2.2.110 – Residential (R) Land Use Districts – Allowed Uses

<b>Table 2.2.110.A – Land Uses Allowed in Residential Districts (R-1, R-5, RM-10, RM-20)</b>				
<b>Uses</b>	<b>Status of Use in District</b>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Single Family Residential (R-1)</b>	<b>Low Density Residential (R-5)</b>	<b>Multi Family Residential (RM-10)</b>	<b>Multi Family Residential (RM-20)</b>
<b>Other Categories</b>				
Accessory Structures (with a primary use) <ul style="list-style-type: none"> <li>- no taller than 22 ft. and no larger than 800 square feet of building footprint</li> <li>- taller than 22 ft. or larger than 800 square feet of building footprint, not to exceed primary structure's floor area</li> </ul> Membrane carports/canopies are not allowed within any required setback	P	P	P	P
	CU	CU	CU	CU
Farm Use, keeping of livestock, except roosters and swine, if greater than 1 acre	P	N	N	N
Farm Use, sale of produce raised on premises	P	N	N	N
Agriculture – Nurseries and similar horticulture (indoor or outdoor),	P	P	P	P
Radio Frequency Transmission Facilities and Telecommunication Towers, excluding amateur radio antennae, when accessory to a permitted use, provided they do not exceed the permitted structure height	N	N	N	N
Temporary Uses (limited to “P” and “CU” uses), per Section 4.9.100.	P/CU	P/CU	P/CU	P/CU
Transportation Facilities (operation, maintenance, preservation, and construction per TSP)	P	P	P	P

**Key:**

- P = Permitted, subject to land use review
- S = Permitted with standards (Section 2.2.200), except standards may be modified with a Planned Development
- DR= Design Review required (Chapter 4.2)
- CU = Conditional Use required (Chapter 4.4)
- N = Not permitted

2.2.110 – Residential (R) Land Use Districts – Allowed Uses

<b>Table 2.2.110.B – Land Uses Allowed in Acreage Residential District (AR)</b>	
<b>Uses</b>	<b>Status of Use</b>
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	
<b>Residential Categories</b>	
<b>Household Living</b>	
Single Family (not attached; does not include cottage cluster developments)	P
Accessory Dwelling, per Section 2.2.200	P
Duplex (2 dwellings sharing a common wall on one lot), per Sec. 2.2.200	N
Single Family Attached (2 or more common-wall single family dwellings), each on its own lot, per Section 2.2.200	N
Cottage Cluster (2-4 single family dwellings on one lot), per Section 2.2.200	N
Manufactured Home on individual lot, per Section 2.2.200, except manufactured home subdivisions	S
Manufactured Home Park, per Chapter 2.2.200	N
Multifamily (3 or more dwellings on lot), except as provided for Cottage Housing	N
<b>Group Living</b>	
Group Care Home, per Section 2.2.200	P
Group Care Facility or Institution, per Section 2.2.200	N

**Key:**

- P = Permitted, subject to land use review
- S = Permitted with standards (Section 2.2.200), except standards may be modified with a Planned Development
- DR = Design Review required (Chapter 4.2)
- CU = Conditional Use required (Chapter 4.4)
- N = Not permitted

2.2.110 – Residential (R) Land Use Districts – Allowed Uses

<b>Table 2.2.110.B – Land Uses Allowed in Acreage Residential District (AR)</b>	
<b>Uses</b>	<b>Status of Use</b>
<b>Use Categories</b> (Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)	
<b>Commercial Categories</b>	
Bed and Breakfast Inn	CU+S
Commercial Use in Conjunction with a Farm Use, involving primarily sales of produce or goods not produced on the premises	CU
Home Occupation, per the standards in Section 2.2.200.	P
Kennels	CU
Other Commercial Uses Not Similar to Those Listed Above	N
<b>Industrial Categories</b>	N
<b>Institutional Categories</b>	
Basic Utilities	P
Telecommunication facilities and towers	N
Community Services	P
Daycare, adult or child <ul style="list-style-type: none"> <li>- Family Daycare (16 or fewer children); subject to state licensing, ORS 657A.</li> <li>- Non-Family Daycare</li> </ul>	P N
Parks and Open Space <ul style="list-style-type: none"> <li>- outdoor uses, including parking</li> <li>- lighted sports fields and/or buildings exceeding 2,000 square feet</li> </ul>	P CU
Religious Institutions and Houses of Worship <ul style="list-style-type: none"> <li>- Facilities lawfully established as of [effective date]</li> <li>- New facilities, not exceeding 20,000 square feet in total floor area</li> </ul>	P CU

2.2.110 – Residential (R) Land Use Districts – Allowed Uses

<b>Table 2.2.110.B – Land Uses Allowed in Acreage Residential District (AR)</b>	
<b>Uses</b>	<b>Status of Use</b>
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	
Schools	CU
<b>Other Categories</b> Accessory Structures (with a primary use) - Meeting required setbacks and height regulations with a building footprint not to exceed the primary structure's footprint Membrane carports/canopies are not allowed within any required setback	P
Farm Use, including livestock and the sale of produce that is raised on the premises; riding academies and public stables	P
Agriculture – Nurseries and similar horticulture (indoor or outdoor), except gardening that is allowed as ancillary to a permitted residential use	P
Mining, and/or excavation that is not accessory to a permitted use with applicable land use approval	N
Radio Frequency Transmission Facilities and Telecommunication Towers, excluding amateur radio antennae, when accessory to a permitted use, provided they do not exceed the permitted structure height	N
Temporary Uses (limited to "P" and "CU" uses), per Section 4.9.100.	P/CU
Transportation Facilities (operation, maintenance, preservation, and construction per TSP)	P

**Key:**

- P = Permitted, subject to land use review
- S = Permitted with standards (Section 2.2.200), except standards may be modified with a Planned Development
- DR= Design Review required (Chapter 4.2)
- CU = Conditional Use required (Chapter 4.4)
- N = Not permitted

**2.2.120 Residential Districts – Development Standards**

The development standards in Table 2.2.120.A apply to all uses, structures, buildings, and development, and major remodels, in the Residential Districts. Table 2.2.120.B specifies development standards for the Acreage Residential District. The standards may be modified with approval of a Planned Development.

<b>Table 2.2.120.A – Development Standards for Residential Districts</b>				
<b>Standard</b>	<b>R-1</b>	<b>R-5</b>	<b>RM-10</b>	<b>RM-20</b>
<b>Density (DU/acre) – Min. and Max.</b>	2–6 du/acre, subject to dev. standards	5-10 du/acre, subject to dev. standards	10–20 du/acre, subject to dev. standards	20–32 du/acre, subject to dev. standards
<b>Minimum Lot Area* (square feet)</b>				
<u>Single Family, not attached, where vehicle access provided from street</u>	7,000 sf interior 8,000 sf corner	5,000 sf	4,000 sf	4,000 sf
<u>Single Family, not attached, where vehicle access provided from alley</u>	6,000 sf interior 7,000 sf corner	4,000 sf	3,000 sf	3,000 sf
<u>Single Family, attached, where vehicle access provided from street</u>	Not permitted	5,000 sf	4,000 sf	4,000 sf
<u>Single Family, attached, where vehicle access provided from alley</u>	Not permitted	4,000 sf	2,200 sf	1,600 sf
<u>Duplex</u>	7,000 sf interior 8,000 sf corner	7,000 sf	6,000 sf	5,000 sf
<u>Multiple-Family or Cottage Cluster</u>	Not permitted	2,000 sf per dwelling unit	2,000 sf per dwelling unit	1,200 sf per dwelling unit
<u>Non-Residential Uses, except tracts for open space and utilities</u>	7,000sf	5,000 sf	4,000 sf	4,000 sf
<p><i>*Lot area is subject to min. and max. density. Sizes may be reduced by 10% through lot size averaging, per Chapter 4.3.115 (Land Divisions) or 4.5.130 (Planned Development). Does not apply to open space and parks.</i></p>				
<b>Minimum Lot Width*</b>				
Where Vehicle Access to be Provided from Street or Flag Lot	50 ft	50 ft	40 ft	40 ft
Where Vehicle Access to be Provided from Alley	50 ft	40 ft	20 ft	16 ft

**2.2.120 – Residential (R) Land Use Districts – Development Standards**

<b>Table 2.2.120.A – Development Standards for Residential Districts</b>				
<b>Standard</b>	<b>R-1</b>	<b>R-5</b>	<b>RM-10</b>	<b>RM-20</b>
<p><i>*Width is measured at the front setback line. For flag lots, width is measured at the front setback line on the “flag” portion of the lot. The minimum width on the “pole” portion of such lots is 20 feet. See also, Section 4.3.115, Flag Lots. All applicable setbacks, lot area, coverage and other standards must be met.</i></p>				
<p><b>Building/Structure Height</b></p> <p>See also, Sec. 2.2.130 Setbacks; 2.2.200.A Accessory Dwellings; 3.1.200, Clear Vision; 3.2.500, Fences and Walls.</p>				
<u>Standard Maximum Height</u>	35 ft	35 ft	35 ft	35 ft
<u>Accessory Structure Height</u>	22 ft	22 ft	22 ft	22 ft
<u>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/wall and sidewalk
Alley	6 ft	6 ft	6 ft	6 ft
<p><i>*Retaining walls taller than 4 feet and fences taller than 6 feet require a building permit.</i></p>				
<b>1. Basic Lot Coverage Standards</b>				
Lot coverage by buildings and structures exceeding 30 inches above grade (foundation plane divided by lot area)	50%	50%	65%	75%
<b>2. Lot Coverage Bonus</b>	<p>Allowable lot coverage by may increase when driveways, rooftops, and/or parking surfaces are designed with approved <i>green building</i> methods such as vegetated swales, stormwater planter boxes, rooftop gardens, or porous paving materials approved through Design Review. Lot coverage may increase by a ratio of one-half (0.5) square foot for every one (1) square foot of city-approved green building area.</p>			
<b>Min. Landscape Area (% site area), as required under Chapter 3.2</b>				
<i>Additional usable open space area may be required for multifamily projects, per Section 2.2.200.</i>	All areas not covered by structures and pavement; not less than 10% of site	All areas not covered by structures and pavement; not less than 12% of site	All areas not covered by structures and pavement; not less than 10% of site	All areas not covered by structures and pavement; not less than 8% of site

2.2.120 – Residential (R) Land Use Districts – Development Standards

<b>Table 2.2.120.A – Development Standards for Residential Districts</b>				
<b>Standard</b>	<b>R-1</b>	<b>R-5</b>	<b>RM-10</b>	<b>RM-20</b>
<p><b>Minimum Setbacks (feet):</b>                      See also, Sections 2.2.130 Setback Yards; 3.1.200, Clear Vision, and 3.2.500, Fences and Walls.</p> <p><b>Front/Street Setback</b></p> <p><u>Primary Structure</u> 15 ft</p> <p><u>Garages and Carport Entries</u> 20 ft</p> <p><u>Accessory Structure</u> 20 ft</p> <p><u>Front Porch, Balcony, Portico, Patio/Garden Wall and similar architectural elements that are less than 50% enclosed</u> 12 ft from right of way line, provided the structure does not conflict with vision clearance at intersections, utilities or easements</p>				
<p><b>Note:</b> Other standards may preclude building at a minimum setback. Be sure to avoid utilities, easements, and clear vision areas. See also, special setback for planned street improvements under Chapter 3.4.</p>				
<p><b>Side Setbacks</b></p> <p><u>One Story Structures</u> 5 ft</p> <p><u>Two Story Structures</u> 7 ft</p> <p><u>Accessory Structure,</u> 5 ft</p> <p><b>Exceptions:</b></p> <p><u>Alley minimum setback</u> 5 ft</p> <p><u>Common Walls when allowed</u> 0 ft</p>				

2.2.120 – Residential (R) Land Use Districts – Development Standards

<b>Table 2.2.120.A – Development Standards for Residential Districts</b>				
<b>Standard</b>	<b>R-1</b>	<b>R-5</b>	<b>RM-10</b>	<b>RM-20</b>
<b><i>Rear Setbacks</i></b>				
<u>One Story Structure</u>		20 ft		
<u>Two Story Structure</u>		20 ft		
<u>Accessory Structures</u>		5 ft		
<u>Porches, decks and similar structures</u>		May encroach into rear yard setback 10 ft		
<b><i>Exceptions:</i></b>				
<u>Alley minimum setback</u>		5 ft		
<u>Common Walls when allowed</u>		0 ft		
Special Setback for Planned Street Improvements in Residential Districts	The City may require a minimum setback of up to 50 feet measured from the street center line to any structure, when a structure abuts a street containing less than the standard right-of-way for the subject street classification. Street classification and required right-of-way width are as indicated by the City of Silverton Transportation System Plan.			
<b><i>Note: Other standards may preclude building at a minimum setback. Be sure to avoid utilities, easements, and clear vision areas. See also, special setback for planned street improvements under Chapter 3.4.</i></b>				

2.2.120 – Residential (R) Land Use Districts – Development Standards

<b>Table 2.2.120.B – Development Standards for Acreage Residential Districts</b>	
<b>Standard</b>	<b>AR</b>
<b>Density (DU/acre) – Maximum</b>	No new lots will be allowed to be created through the subdivision or partition process until such time as sanitary sewer is provided to serve the proposed lot, and it can be shown that a need for additional residential lots cannot be met by additional lands elsewhere inside the urban growth boundary. (Ord. 03-118 § 1, 2003; Ord. 02-102 § 1, 2002)
<b>Minimum Lot Area (square feet)</b>	N/A
<b>Maximum Building/Structure Height</b> <ul style="list-style-type: none"> <li>- Dwellings</li> <li>- Farm-related structures on farm parcels</li> <li>- Other structures</li> </ul>	35 ft None 35 ft, except as otherwise approved with a conditional use
<b>Minimum Setbacks for New Single Family Dwellings</b> <ul style="list-style-type: none"> <li>- Rear Yard</li> <li>- Side Yard</li> <li>- Front Yard</li> </ul>	50 ft 25 ft 50 ft
<b>Minimum Setbacks for Accessory Structures and Other Nonresidential Structures</b> <ul style="list-style-type: none"> <li>- Rear Yard</li> <li>- Side Yard</li> <li>- Front Yard</li> </ul>	10 ft 10 ft 20 ft
<b>Exemptions</b> <p>Properties which are designated AR shall be exempt from the following City regulations due to the rural character and uses allowed in the AR district</p>	<p>SMC 13.36.020 Privies, cesspools and septic tank prohibitions                      SMC 8.04.070 Barbed wire and electric fence prohibitions                      SMC 8.04.090 Hazardous containers and conditions                      SMC 8.04.100 Attractive nuisances                      SMC 8.04.110 Noxious vegetation                      SMC 8.04.140 Noise disturbances                      SMC 9.16.010 Discharging guns or other weapons prohibition</p> <p>*Except that the owner shall be responsible for complying with all applicable county, state and federal rules and regulations pertaining to the above topics.</p>

**2.2.130 Residential Districts – Setback Yards: Exceptions, Reverse Frontage Lots and Flag Lots**

**A. Residential Yard Setbacks - Purpose**

Residential setback yards provide space for private yards and building separation for fire protection/security, building maintenance, sunlight and air circulation. The setback yard standards contained in Table 2.2.120 are also intended to promote human-scale design and traffic calming by diminishing the visual presence of garages along the street and encouraging the use of pedestrian amenities, such as extra-wide sidewalks and street furnishings in multiple family developments and in residential-commercial projects. The standards also encourage the orientation of buildings to provide street visibility for public safety and neighborhood security.

**B. Setback Yards– Exceptions**

Eaves, chimneys, bay windows, overhangs, and similar architectural features may encroach into a side yard setback by not more than 36 inches, provided that a setback of not less than thirty-six (36) inches is preserved, all applicable building and fire codes are met, and the clear vision standards in Section 3.1.200 are met. Porches, decks and similar structures not exceeding thirty (30) inches in height are not subject to setback provisions. Porches, decks and similar structures exceeding thirty (30) inches in height may encroach into the rear setback no more than ten (10) feet and may encroach into the front yard as provided in Table 2.2.120. Walls and fences built on property lines are subject to the height standards in Table 2.2.120 and the provisions of Sections 3.1.200, Vision Clearance, and 3.2.500, Fences and Walls.

**C. Setback Yards – Reverse Frontage Lots**

Buildings on reverse-frontage lots (through lots) shall be required to meet the street yard setback on both streets; a rear yard setback is not required. Reverse frontage lots are subject to the fence height and setback requirements in Section 2.2.120 and the landscape buffer requirements in Chapter 3.2.300.

**D. Setback Yards – Flag Lots**

Where flag lots are allowed, the front yard of the flag lot shall conform to one of the following, as designated by the approval body:

- Option 1. Adjacent to the street from which access is taken, or
- Option 2. Adjacent to the flag pole from which access is taken.

The applicant for a building permit may request either Option 1 or Option 2, except as otherwise prescribed by conditions of a partition or subdivision approval, and provided adequate setbacks and privacy screening or fencing are provided. The City may impose such conditions of approval as provided under Section 4.3.115.

**2.2.140**      *Reserved***2.2.150**      **Residential Districts – Housing Density**

**A. Residential Density Standard.** To ensure efficient use of buildable lands and to provide for a range of needed housing in conformance with the Comprehensive Plan, all new developments in the Residential Districts shall conform to the minimum and maximum densities prescribed in Table 2.2.120, except as provided below in subsections 1-3:

1. Residential care homes/facilities/institutions, senior housing, including assisted living, accessory dwellings, and developments in areas with significant natural resources or physical constraints (e.g., wetlands, unstable soils, steep slopes, etc.) are exempt from the minimum density standard.
2. The density standards may be averaged over more than one development phase when approved through a Planned Development. Duplex lots used to comply with the density standard shall be so designated on the final subdivision plat and through deed restrictions on the subject lots.
3. Partitions and construction of single-family homes on lots exceeding 20,000 square feet, except within the Hillside Protection Overlay District, shall be planned so that infill development can occur in the future and such development can occur in accordance with other adopted plans (e.g. City of Silverton Transportation System Plan) and the minimum lot size and other dimensional standards of the district. See also, Chapter 4.3.110.C, Future Re-division Plan. Densities may be transferred or adjusted through the Planned Development approval process under Chapter 4.5, to provide for exceptional development designs that conserve open spaces and meet other community planning objectives.

**B. Residential Density Calculation.**

1. Minimum and maximum housing densities are calculated by multiplying the total parcel or lot area by the applicable density range. Properties must be developed within the minimum and maximum range. Some properties may not be capable of accommodating development at maximum densities. Properties that cannot meet maximum density standards may consider transferring density and modifying allowable lot sizes and/or housing types through a Planned Development process. Typical constraints include street right-of-way requirements, parcel configuration, or the presence of natural features or physical constraints.
2. Areas reserved for flag lot access (flag poles) are not counted for the purpose of calculating minimum lot area.
3. Housing density calculations resulting in fractions of dwelling units shall be rounded to the nearest whole number.

**2.2.160 Residential Districts – Lot Coverage and Impervious Surfaces**

- A. Lot Coverage.** The maximum allowable lot coverage shall be as provided in Table 2.2.120. Lot coverage by buildings is calculated as the percentage of a lot or parcel covered by buildings and structures exceeding thirty (30) inches above grade, including enclosed and unenclosed structures (as defined by the foundation plane).
- B. Impervious Surfaces.** Impervious surface shall not exceed fifty (50) percent of the required setback yards. Impervious surfaces are calculated as the percentage of a lot or parcel covered by building foundations, patios, decking, asphalt, concrete, gravel, and similar surfaces, except where such surfaces allow stormwater infiltration and are approved by the City for such purpose. Impervious area does not include planted areas, porous non-plant ground covers (e.g., mulch) and landscape areas under eaves.

**2.2.170 Residential Districts – Building Height: Measurement and Exceptions**

Building heights shall conform to the standards in Table 2.2.120, and subsections A-C, below:

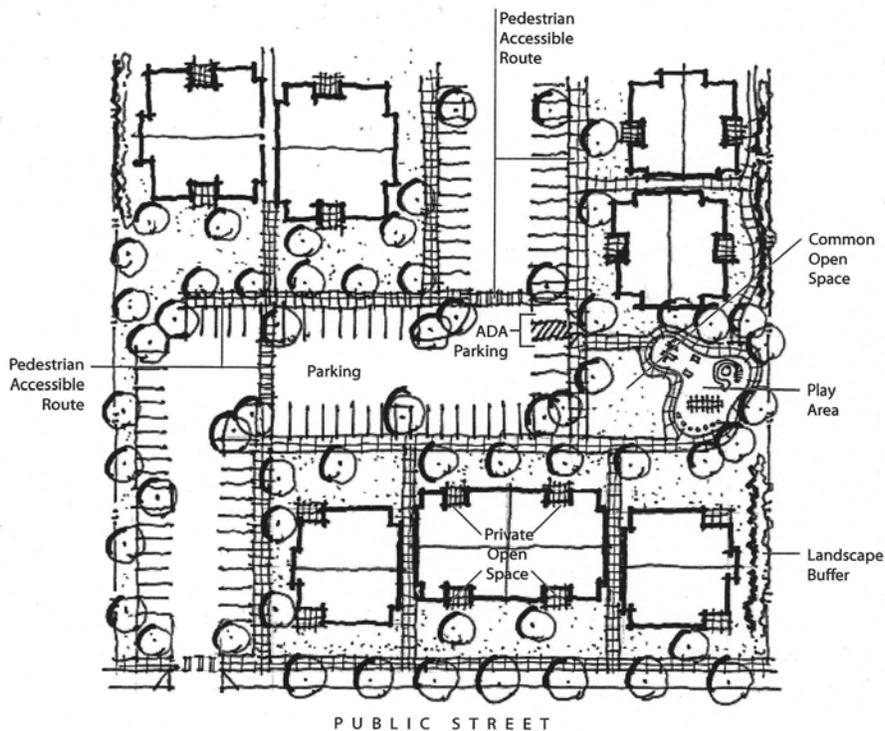
- A. Building Height Measurement.** The vertical distance from the grade plane to the average height of a pitched (gable or hip) roof, or the top of a mansard or flat roof including the parapet walls.
- B. Exclusions from Maximum Building Height Standards.** Rooftop structures, including, towers, spires, steeples and other structures when built according to section 1509 of the International Building Code may extend 20 ft. past the roof height requirement when approved by the Planning Commission and Fire Dept.
- C. Sloped Lots (Hillside Overlay District).** The maximum allowable height on a sloping lot (12 percent or greater slope averaged from front to rear property line) shall be 35 feet.

**2.2.180 Residential Districts – Building Orientation**

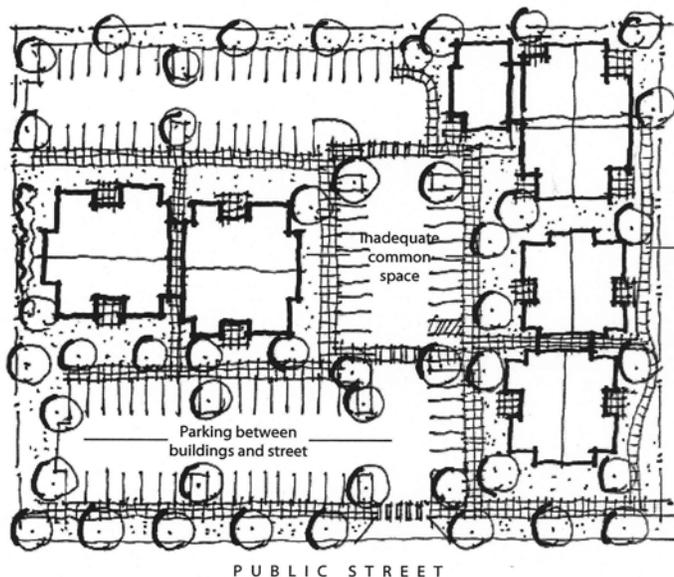
- A. Purpose.** The following standards are intended to orient buildings close to streets to promote pedestrian-oriented development where walking is encouraged. Placing residences and other buildings close to the street also encourages neighborhood crime prevention, natural surveillance or security, and safety by having more “eyes-on-the-street.”
- B. Applicability.** Section 2.2.180 applies to all new primary structures.
- C. Building orientation standards.** All primary structures shall conform to the following:
  - 1. Except as provided below, all primary structures have at least one primary entrance (i.e., dwelling entrance, lobby entrance, or breezeway/courtyard entrance serving a cluster of dwellings) facing an adjacent street, or if on a side elevation, not more than thirty (30) feet from a street sidewalk. See Figures 2.2.180.C(1);

Figure 2.2.180.C(1) – Residential District Building Orientation

Acceptable



Not Acceptable



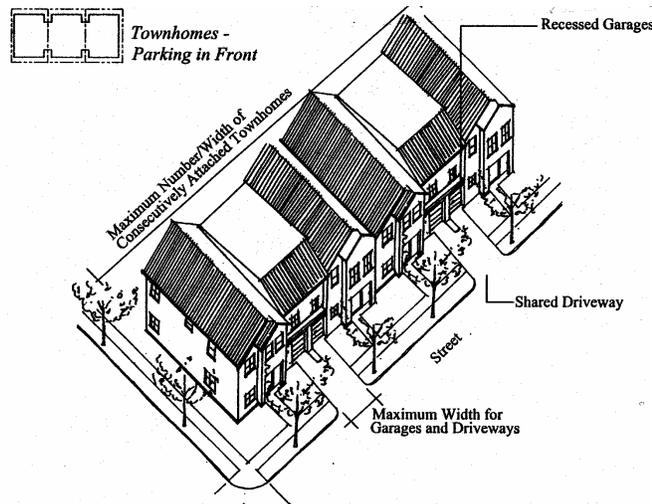
2. Except as allowed for single family detached dwellings, or as provided below, off-street parking, driveways, and other vehicle areas shall not be placed between buildings and the street(s) to which they are oriented, as per subsection 1 and Figure 2.2.180C(1). Off-street parking and driveways may be placed between buildings and streets where the

**2.2.170-180 – Residential (R) Land Use Districts – Height Measurement and Exceptions; Building Orientation**

approval body finds that one of the following exemptions (a-e) applies, and allowing the exemption will not adversely affect pedestrian access, safety or convenience:

- a. Schools, group care facilities, and public uses may have one drive aisle with parking, including ADA accessible spaces, located between the street and the primary building entrance, provided that the building’s primary entrance is connected to an adjacent street by a pedestrian walkway; in such case, the driveway/parking area shall contain a clearly defined pedestrian crosswalk as specified in Section 3.1.300. The intent of this exception is to allow limited use of driveways for drop-off or loading zones where the functional requirements of the use require such facilities;
- b. Attached single family housing developments (townhomes) with street-facing garages may have not more than one driveway access located between the street and the primary building entrance for every two dwelling units, provided the access meets the following criteria, as generally shown in Figure 2.2.180C(2):
  - 1. The maximum number consecutively attached townhomes with garages facing the same street is six (6) (three driveways);
  - 2. Where two abutting townhomes have street-facing garages, they shall share one driveway access that does not exceed 24 feet in width where it crosses the sidewalk and intersects the street. The intent of this standard is to minimize sidewalk interruptions and maximize the space available for on-street parking;
  - 3. The townhomes’ primary entrances shall be connected to an adjacent sidewalk via pedestrian walkway of not less than three (3) feet in width; such walkway may adjoin the driveway described in subsection (b)(1) to minimize paving;
  - 4. Street-facing garages shall be setback at least 20 feet from the street property line; where a building is placed less than 20 feet from the street property line, the 20-foot garage setback may be accomplished by recessing the garage behind the front building elevation.

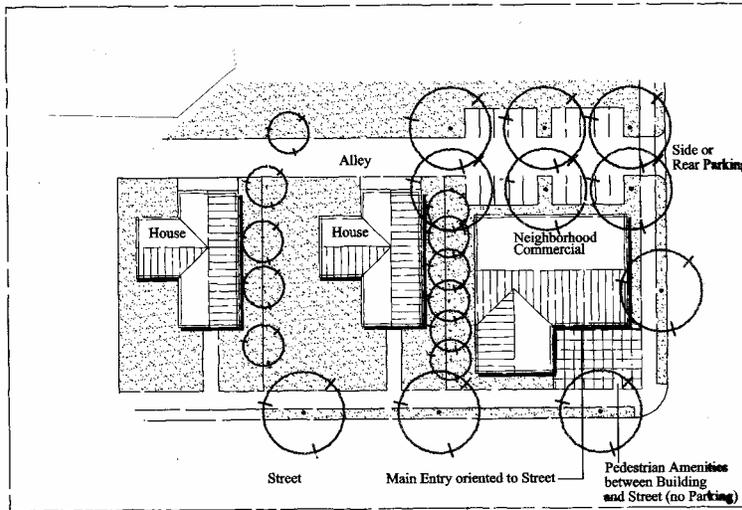
**Figure 2.2.180.C(2) – Townhome Building Orientation**



**2.2.170-180 – Residential (R) Land Use Districts – Height Measurement and Exceptions; Building Orientation**

- c. Parking may be placed between a building and an adjacent street where the street is a designated arterial street under the Silverton Transportation System Plan, and the approval body finds that such orientation provides greater pedestrian accessibility, comfort and/or safety than would otherwise be provided.
- d. 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 common green, open space, plaza, or courtyard. When oriented in this way, the primary entrance(s) and green, plaza, or courtyard shall be connected to the street by a pedestrian walkway meeting the standards in Section 3.1.300. See also, Figure 2.2.180.C.(1)
- e. Where live-work or other commercial uses are allowed, any off-street parking shall be located behind or to the side of such building(s) and screened from abutting properties in accordance with Chapter 3.2. [Figure 2.2.180.C(3)] Off-street parking shall not be located between any building and any street.

**Figure 2.2.180.C(3) – Commercial Orientation in a Residential District**

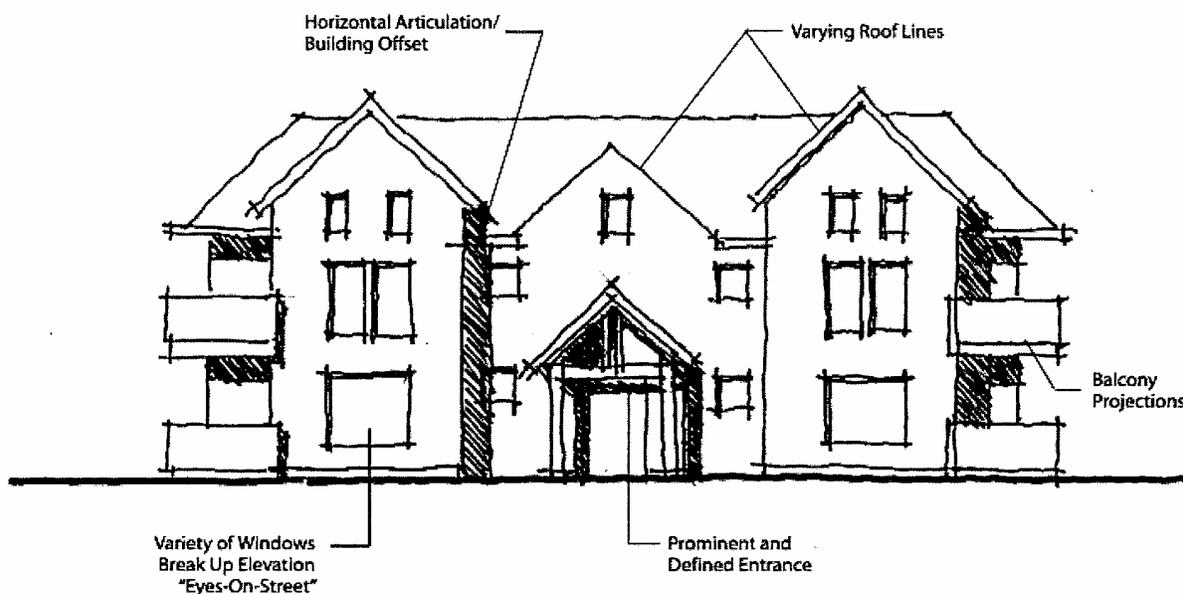


## 2.2.190 Residential Districts – Architectural Design Standards

- A. Purpose.** The purpose of Section 2.2.190 is to promote the public health, safety, and welfare by requiring at least a minimum level of design on every building and varied building elevations in large developments. The design standards are also intended to promote architectural compatibility and harmony within Silverton’s existing residential neighborhoods as infill development occurs. The standards support context-appropriate, pedestrian-scale design and crime prevention by providing street visibility from residential structures, while affording flexibility to use a variety of building styles.
- B. Applicability.** Section 2.2.190 applies to all new primary residential structures and accessory dwellings. It does not apply to remodels of, or additions to, existing single family dwellings or designated historic structures. The standards and criteria in Section 2.2.190 are applied through the Land Use Review or Design Review procedure (Chapter 4.2), as applicable, prior to building permit review. The provisions under Section 2.2.190.C may be adjusted through the Design Performance Option in Section 4.2.510.
- C. Standards.** All projects that are subject to Section 2.2.190 shall meet all of the standards in subsections 1-5 below, except as modified through Section 4.2.510 Design Performance Option. The graphics provided with each standard are intended to show examples of how the standards can be met and should not be interpreted as requiring a specific architectural feature or style. Other building styles and designs can be used to meet the standards when the approval body finds they are consistent with the text. An architectural feature, as shown below may be used to comply with more than one standard.
1. **Building Length.** The continuous horizontal distance, as measured from end-wall to end-wall, of individual buildings shall not exceed 88 feet in the R-1, R-5, and RM-10 districts and 120 feet in the RM-20 district.
  2. **Articulation.** All buildings shall incorporate design features such as varying roof lines, offsets, balconies, projections (e.g., overhangs, porches, or similar features), recessed or covered entrances, window reveals, change in materials or textures [e.g., stone or faux stone, brick, wood or concrete-wood (shakes versus lap or board and batten siding, etc.)], or similar elements to break up large expanses of uninterrupted building surfaces or blank walls. Along the horizontal and vertical face of a structure, and on all building stories, such elements shall occur at least once every 20 feet, and each floor shall contain at least two elements, as generally shown in the figures in this Section.
    - a. Recess (e.g., deck, patio, courtyard, entrance or similar feature) with a minimum depth of 4 feet;
    - b. Extension (e.g., floor area, deck, patio, entrance, overhang, or similar feature) projecting a minimum of 2 feet and running horizontally for a minimum length of 4 feet; and/or
    - c. Offsets or breaks in roof elevation of 2 feet or greater in height;

- d. Change in materials, where one material is the predominant material on all elevations (e.g., where wood lap siding is the predominant material, brick, stone or faux stone could be selected for wainscoting or column accents; and wood or wood-appearance shingles could be used as accents on gable ends; etc.).

**Figure 2.2.190C(4) - Building Length and Articulation (Multi-family Housing Example)**



3. Eyes on the Street. All building elevations visible from a street-right-of way shall provide prominent defined entrances, and a combination of windows, doors, porches, balconies, and terraces. A minimum of forty (40) percent of front (*i.e.*, street-facing) elevations, and a minimum of thirty (30) percent of side and rear building elevations, as a percentage of surface area and horizontal plane (lineal feet), shall meet this standard. Windows used to meet this standard shall be proportionately sized and evenly distributed, as generally shown in the figures above. The standard applies to each full and partial building story.
4. Garage. A garage or carport meeting the parking requirements, whether attached or detached, shall be required for all new single family homes.

5. Detailing and Design Variety. All buildings shall provide detailed design on all street-facing walls (i.e., those oriented 45 degrees or less from street lot line). Detailed design shall be provided by using at least five (5) of the architectural features in items “a” through “u,” below, as is appropriate for the proposed building type and style. The applicant may select the desired elements. It is not within the approval body’s authority to prescribe specific elements except when the project is being reviewed as part of a Planned Development or Conditional Use request, or it is subject to the Design Performance Option under Section 4.2.510 (item “v”), only in these cases may the approval body require specific design elements or features, consistent with the purpose in Section 2.2.190.A.

- a. Dormers
- b. Gables (roof pitch minimum of 4:12)
- c. Recessed entries
- d. Covered porch entries or portico
- e. Cupolas or towers
- f. Pillars or posts
- g. Eaves (minimum 6-inch projection)
- h. Off-sets in building face or roof (minimum 16 inches)
- i. Window trim (minimum 2 inches wide)
- j. Bay windows
- k. Balconies
- l. Decorative patterns on exterior finish (*e.g.*, scales/shingles, wainscoting, ornamentation, and similar features)
- m. Decorative cornice or pediment (*e.g.*, for flat roofs)
- n. Decorative shingles and molding on gable end
- o. Gable end truss
- p. Recessed garage
- q. Decorative accent (brick, stone, rock, etc.) on front façade
- r. Projected entries
- s. Window detail (mullions or other)
- t. Pitched roof, min 4:12
- u. Shutters
- v. An alternative feature providing visual relief, similar to options a.-v., as approved through the Design Performance Option under Section 4.2.510.

Figure 2.2.190.C(5) - Examples of Architectural Elements (illustrative only)

Example 1

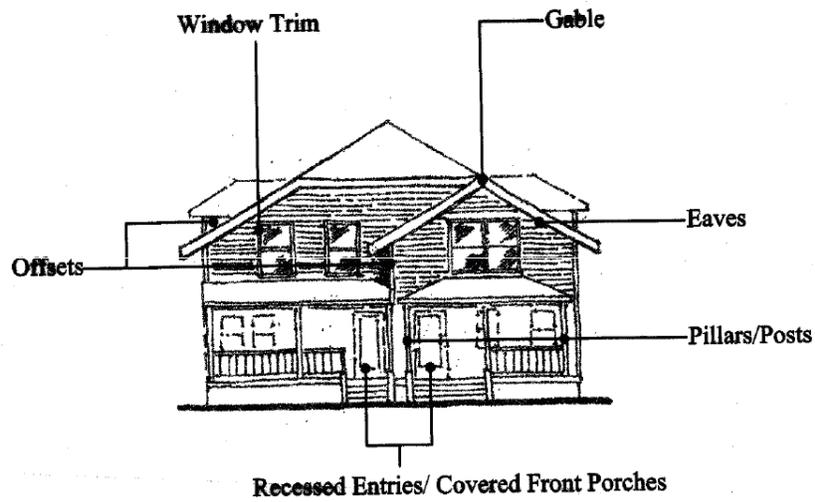
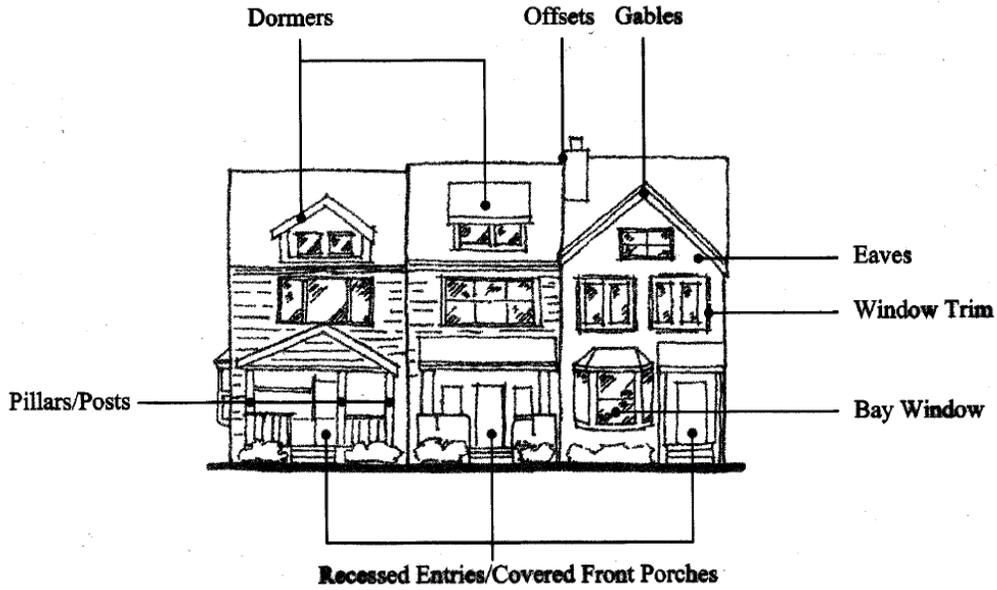


Figure 2.2.190.C(6) - Examples of Architectural Elements (illustrative only)

Example 2



Example 3



## 2.2.200 Residential Districts – Special Use Standards

Section 2.2.200 provides standards for specific land uses and building types, as identified in Table 2.2.110, that control the scale and compatibility of those uses within the Residential districts. The standards in Section 2.2.200 supplement (are in addition to and do not replace) the standards in Sections 2.2.100 through 2.2.190, and applicable building codes. This Section applies to the following uses and building types, as specified in subsections A-J:

- Accessory Dwelling (2.2.200.A)
- Attached Single Family (Townhouses) and Attached Duplexes (2.2.200.B)
- Duplex Corner in RL District (2.2.200.C)
- Bed and Breakfast Inns (2.2.200.D)
- Cottage Cluster (2.2.200.E)
- Group Living (Residential Care Homes and Facilities) (2.2.200.F)
- Home Occupations (2.2.200.G)
- Manufactured Homes on Individual Lots (2.2.200.H)
- Manufactured/Mobile Home Parks (2.2.200.I)
- Multiple Family Housing (2.2.200.J)

**A. Accessory dwelling (attached, separate cottage, or above detached garage).** Accessory dwellings shall conform to all of the following standards:

1. Floor Area. Accessory dwellings shall not exceed 800 square feet of floor area if detached from the primary dwelling, or 40% of the primary unit, whichever is less. The unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house;
2. Exempt from Density. Accessory dwellings are exempt from the housing density standards of the Residential districts, due to their small size and low occupancy levels;
3. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code;
4. Owner-Occupied. The primary residence or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a member of his or her immediate family as a resident care-taker of one of the units and manager of the other unit;
5. One Unit. A maximum of one accessory dwelling unit is allowed per lot;
6. Development Standards. The dwelling shall conform to the lot standards in Table 2.2.120, except as modified below:
  - a. The height of a detached accessory dwelling (*i.e.*, separate cottage) shall not exceed twenty-two (22) feet.
  - b. 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.

## 2.2.200 – Residential (R) Land Use Districts – Special Use Standards: Accessory Dwellings

- c. The approval body may require a landscape hedge or fence be installed on the property line separating a detached accessory dwelling from an abutting single family dwelling, unless the applicant and the owner of the abutting single family dwelling agree in writing not to install the hedge or fence.
- d. In order to maintain a consistent architectural character, similar building materials, architectural design and colors shall be used so that the accessory dwelling blends with the general appearance of the primary dwelling.
- e. A parcel containing a primary dwelling unit and an accessory dwelling shall provide a minimum of two (2) off-street parking spaces.

**B. Attached Single Family (Townhouses) and Two or More Duplexes Attached.** Attached housing with three or more dwellings, and attached duplex housing (two or more consecutively attached duplexes), shall conform to the standards in sections 1-2, below, which are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. Alley Access Required for Subdivisions Containing Townhomes or Duplexes. Subdivisions, or blocks within subdivisions, containing more than six (6) consecutively attached single family dwellings, or four (4) or more attached duplexes (8+ dwelling units), shall provide vehicle access to all such lots and units from an alley or parking court, as described in Chapter 3.1.200. Alley(s) and parking court(s) shall be created at the time of subdivision approval, and may be contained in private tracts or, if approved by the City, in public right-of-way, in accordance with Chapter 3.4.100, Transportation Standards, and Chapter 4.3, Land Divisions.
2. Common Areas. Any common areas (*e.g.*, landscaping, private tracts, common driveways, private alleys, building exteriors, and/or similar common areas) shall be owned and maintained by a homeowners association or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

**C. Duplex in R-1 District.** Duplexes are allowed in the R-1 district, subject to the following standards which are intended to respect the single family character of the R-1 district:

1. Floor Area. Total floor area for both dwellings shall not exceed forty (40) percent of lot area. For example, the maximum floor area (excluding garage space) allowed on an 8,000 square foot lot is 3,200 square feet.
2. Driveway Access. On corner lots, each dwelling shall strive to have its primary entrance and garage opening, if any, oriented to a different street, meeting Public Works intersection distance standards. Where vehicular access cannot be taken from two different streets, the approval body may require a shared driveway providing access to both dwellings. On interior lots, shared driveways are preferred and may be required by the review body.
3. Maximum Number of Units. Duplex lots shall not account for more than 20% of the dwellings approved or constructed in a subdivision.

**D. Bed and Breakfast Inns.** Where Bed and Breakfast Inns 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 a household already occupying the structure as a residence.
2. Maximum Size. In the R-1 and R-5 zones, four (4) bedrooms for guests, and a maximum of eight (8) guests are permitted per night; in the RM-10, RM-20 and DCF zones, twelve (12) bedrooms are allowed for guests, with a maximum of twenty-four (24) guests per night.
3. Length of Stay. Maximum length of stay is 28 days per guest; anything longer is classified as a hotel or commercial lodging. The Bed and Breakfast shall maintain a guest registry.
4. Employees. Up to two (2) non-resident employees. There is no limit on resident employees.
5. Food Service. May be provided only to overnight guests of the business.
6. Owner-Occupied. Shall be owner-occupied.
7. Signs. Signs shall require a sign permit approved by the City of Silverton, and not exceed a total of four (4) square feet of surface area on all sides.
8. Other Permit or Licensing Requirements. The owner of a bed and breakfast use shall be responsible for obtaining and complying with all other applicable permit and/or licensing requirements.

**E. Cottage Cluster.** Where a lot is developed with two or more detached dwellings, the development shall conform to the following standards which are intended to provide light, air, and open space for the occupants:

1. Vehicular Access. The furthestmost distance from all dwellings to the closest abutting public street shall be no more than 150 feet, or an approved fire apparatus lane may be required to serve the development.
2. Central Green. The dwellings shall abut a central open space or green of not less than 400 square feet per dwelling (1,600 square feet for 4 dwellings). The green shall provide benches and other amenities for residents and have a minimum width of 20 feet, except where additional building separation is required under applicable building codes. A homeowners or condominium association shall be responsible for ongoing maintenance of the green and enforcement of any shared parking.
3. Parking. Two parking spaces are required for each dwelling, plus one space for each four units. The parking spaces for all dwellings shall be oriented away from the green. Parking may be provided in parking bays, garages or carports, attached or detached from the cottages. When provided in a parking lot, parking spaces shall be screened from abutting properties and walkways shall be provided, as specified under Chapter 3.2.300.
4. Design Review. Design Review shall be required for new cottage developments, including conversion of existing single family homes to cottage development, to ensure conformance with parking, landscaping, architectural review, and other code requirements.

**F. Group Living (Residential Care Homes, Residential Care Facilities, and Residential Care Institutions).** Group living includes a variety of residential living arrangements (see Chapter 1.6.100. A). Residential care provides lodging, care, treatment, or training for children and/or adults and is licensed by the State of Oregon. Residential care may provide residential care alone, or in conjunction with treatment and/or training, for 6 or fewer individuals (“homes”) or for 7 to 15 individuals (“facilities”), or for 16 or more individuals (“institutions”), who need not be related. Staff persons required to meet State licensing requirements are not counted in the number of facility residents and need not be related to each other or the residents. Residential care homes and facilities consistent with ORS 197.660-.670, and institutions consistent with ORS 443.400-443.455, shall comply with the following standards:

1. Licensing. All residential care homes, facilities, and institutions shall be duly licensed by the State of Oregon.
2. Parking. Parking in accordance with Chapter 3.3.
3. Design Review. Design Review shall be required for new structures to be used as residential care facilities or institutions, to ensure compliance with the licensing, parking, and other requirements of this Code.

**G. Home Occupations.** The purpose of this Section is to encourage those who are engaged in small commercial ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses:

1. Home Occupations meeting the standards in subsection 2, below, are allowed outright, provided the owner has obtained and is in compliance with all applicable permit and licensing requirements, and all other uses and structures on the subject property are in conformance with all applicable city codes and requirements.
2. Standards for Home Occupations.
  - a. The use is carried on only by members of the family residing on the premises and not more than one outside employee or volunteer who does not exceed 40 hours per week.
  - b. The Home Occupation shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, vibration, smoke, dust odors, heat or glare resulting from the operation noticeable at or beyond the property line, fire hazards, or electronic, electrical or electromagnetic interference. In a residential zone noise associated with the home occupation of more than 55 dba at the lot line is prohibited.
  - c. The home occupation shall be conducted entirely within the dwelling or any attached garage or within an unattached enclosed accessory building.
  - d. In residential zones, no structural alterations shall be made to the dwelling that would be inconsistent with future use of the building exclusively as a dwelling.
  - e. No alteration to or use of the premises shall be made such as to reduce the number of required on-site parking spaces.
  - f. In residential zones there shall be no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a dwelling.
  - g. There is no visible outside storage of materials other than plant materials.
  - h. The use does not adversely affect the residential character of the neighborhood, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
  - i. There is not excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.
  - j. All visits by suppliers or customers shall occur between the hours of 7 a.m. and 7 p.m.

## 2.2.200 – Residential (R) Land Use Districts – Special Use Standards: Home Occupations

- k. Construction businesses may be allowed when vehicles are screened by a sight-obscuring fence, wall or hedge or vehicles are parked in a building. All repairs and storage of materials shall occur within a building. There shall not be more than two vehicles associated with the home occupation parked on the premises at one time.
- l. Where a home occupation involves deliveries one off-street loading space shall be provided. If visits by customers occur, two additional off-street parking spaces shall be provided if the street along the lot frontage does not provide paved area for at least two parallel parking spaces within 100 feet of the residence. During normal loading/unloading or customer parking periods, the off-street loading and parking shall be reserved exclusively for that use.
- m. The residence shall not be used as headquarters or main office for assembly or dispatch of employees to other locations.
- n. The rental of separate living quarters within a single family residence is limited to not more than one bedroom which does not contain separate cooking facilities and which has a maximum occupancy of two persons.
- o. Home occupations conducted as a for-profit business shall obtain business licenses in accordance with Silverton Municipal Code Chapter 5.24.

### 3. Prohibited Home Occupation Uses.

- a. Auto body repair and painting.
- b. Ongoing mechanical repair conducted outside of an entirely enclosed building.
- c. Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations which involve toxic or flammable materials which in the judgment of the Fire Chief of the Silverton Fire District poses a dangerous risk to the residence, its occupants, and/or surrounding properties.
- d. Junk and salvage operations.
- e. Storage and/or sale of fireworks in quantities judged by the Fire Chief of the Silverton Fire District to be dangerous.

### 4. Enforcement.

- a. Complaints regarding home occupations may be initiated by the City of Silverton or the public. Complaints must be related to noncompliance with the standards listed above.
- b. The Community Development Director shall make a determination of whether the alleged violation of the home occupation provisions has occurred. The determination will result in allowing the use to continue as it exists, ordered termination, or brought into compliance with the home occupation standards.

## 2.2.200 – Residential (R) Land Use Districts – Special Use Standards: Home Occupations

- c. If a notice of termination or an order to bring the use into compliance is given, the respondent shall be provided a reasonable time to cure or remedy the alleged infraction after the notice is given. The time allowed shall not be less than 24 hours, nor more than thirty (30) days. Where there is an extreme hardship, additional time may be granted to the respondent. Notwithstanding the remedial time period specified above, if the Community Development Director determines that the alleged infraction presents an immediate danger to the public health, safety or welfare, or that any continuance of the violation would allow the respondent to profit from the violation or would otherwise be offensive to the public at large, the Director may require immediate remedial actions.
- d. If the Community Development Director is unable to serve a notice of infraction on the respondent or, if after such service the respondent refuses or is unable to remedy the infraction, the City may proceed to remedy the infraction as provided in Section 15.08.790 of the Silverton Municipal Code.

**H. Manufactured Homes on Individual Lots.** Manufactured homes are permitted on individual lots, subject to all of the following design standards. Exception: The following standards do not apply to units that were lawfully placed within the City prior to the effective date of this Code.

1. Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet;
2. Roof. The manufactured home shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees);
3. Residential Building Materials. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (*e.g.*, horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing);
4. Garages and Carports. A garage or carport shall be provided and be constructed of materials like those used on the house;
5. Thermal Envelope. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets current energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer certification shall not be required;
6. Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, unless greater height is required as a result of the Floodplain Overlay provisions (Chapter 2.5) and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home;
7. Foundation Skirt. The foundation area of the manufactured home shall be fully skirted with a decay resistant material;
8. Prohibited. The manufactured home shall not be located in a designated historic district.

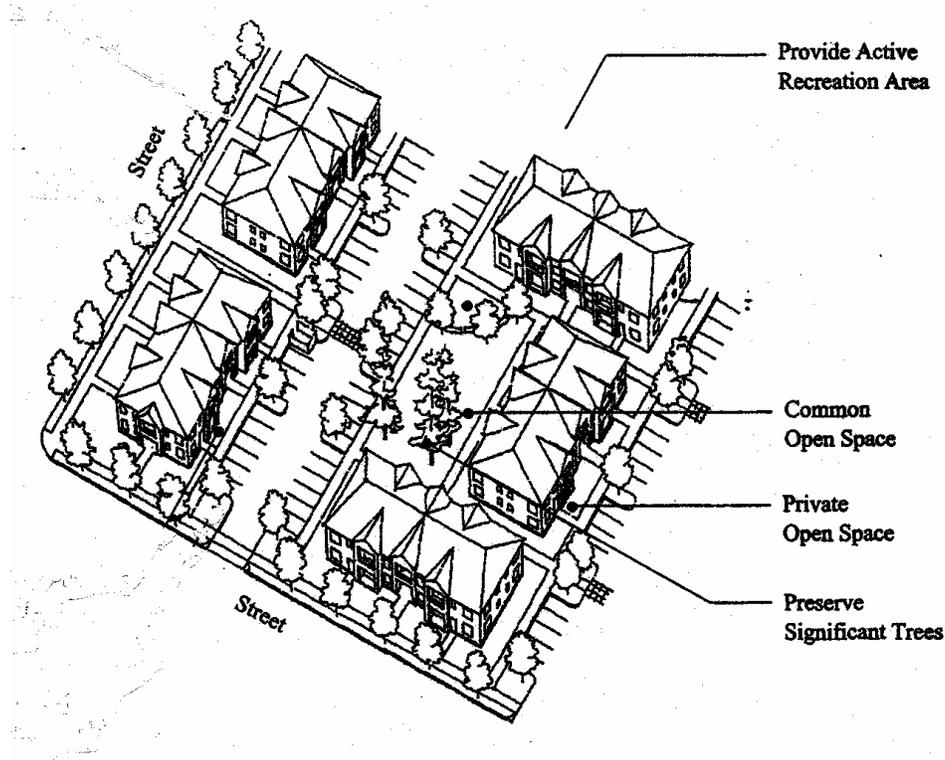
**I. Manufactured/Mobile Home Parks.** Manufactured/mobile home parks (not including recreational vehicles) are permitted on parcels of one (1) acre or larger, subject to compliance with subsections 1-5, below:

1. Permitted uses: Single family residences, manufactured home park manager’s office, home occupations, and accessory structures that are necessary for the operation and maintenance of the manufactured dwelling park (*e.g.*, landscape maintenance).
2. Space. The minimum size pad or space for each dwelling is 2,500 square feet, provided that the overall density of the park does not exceed 12 units per acre. Each space shall be at least 30 feet wide and 40 feet long, in accordance with ORS 446.100(c).
3. Setbacks and Dwelling Separation. The minimum setback between park structures and abutting properties is 5 feet. The minimum setback between park structures and public street right-of-way is 15 feet. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than 5 feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than 6 feet to any other structure or dwelling, except that a double carport or garage may be built which serves 2 dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least 3 feet.
4. Perimeter Landscaping. When manufactured dwellings are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a landscape buffer between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.
5. Dwelling Design (for parks smaller than 3 acres). Manufactured dwellings in parks smaller than 3 acres shall meet the following design standards, consistent with ORS 197.314(6):
  - a. The manufactured dwelling shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees); and
  - b. The manufactured dwelling shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (*e.g.*, horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing);
  - c. Exception: Subsections a-b, above, do not apply to manufactured dwellings that existed within the City prior to the effective date of this ordinance.

**J. Multiple Family Housing.** Where multi-family housing is allowed, it shall conform to all of the following standards, which are intended to promote livability for residents and compatibility with adjacent uses. Figure 2.2.200.H provides a conceptual illustration of the requirements listed below.

1. Building Design and Separation. The architectural design standards under Section 2.2.190 apply. In addition, when more than one multi-family building is built on a site, the buildings shall be separated from one another by landscaped courtyard that is not less than twenty (20) feet wide, unless the buildings are arranged end to end; in such case building separation may be reduced to ten (10) feet provided no doorway or entry opens into the space between the buildings and applicable building codes are met.
2. Common Usable Open Space. Multiple family developments shall incorporate not less than fifteen (15) percent common usable open space. Common usable open space shall be provided in accordance with all of the following criteria:
  - a. The site area is defined as the lot or parcel on which the development to be located, after subtracting any required dedication of street right-of-way and other land for public purposes (*e.g.*, public park or school grounds, etc.);
  - b. In meeting the common usable open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (*e.g.*, trees preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar usable open space amenities for residents.
  - c. Historic buildings or landmarks within the project that are open to the public may count toward meeting the common open space requirements when approved by the Planning Commission.
  - d. All common open space areas shall have an average width that is not less than twenty (20) feet and an average length that is not less than twenty (20) feet;
  - e. The common open space requirement may be waived for a project that dedicates and improves a new public neighborhood park or playground of not less than ¼-acre;
3. Private open space. Private open spaces shall be required for all ground-floor dwellings, and not less than fifty (50) percent of all upper-story dwellings. Private open space shall be a patio, deck or other improved surface of not less than forty eight (48) square feet.

Figure 2.2.200H – Examples of Multiple Family Open Space



4. Trash receptacles. Adequate solid waste storage and recycling facilities shall be provided. Trash receptacles shall be oriented away from building entrances, setback at least ten (10) feet from any public right-of-way and adjacent residences and shall be screened with an evergreen hedge or solid fence or wall of not less than six (6) feet in height. Receptacles must be accessible to trash pick-up trucks.

## Chapter 2.3 — Commercial Districts

### Sections:

- 2.3.100 Commercial Districts – Purpose and Applicability
- 2.3.110 Commercial Districts – Allowed Land Uses
- 2.3.120 Commercial Districts – Development Standards
- 2.3.130 Commercial Districts – Zero Setbacks and Build-To Line
- 2.3.140 Commercial Districts – Lot Coverage and Impervious Surface
- 2.3.150 Commercial Districts – Building Orientation and Commercial Block Layout
- 2.3.160 Commercial Districts – Special Use Standards
- 2.3.170 Commercial Districts – Pedestrian Amenities
- 2.3.180 General Commercial Design Standards
- 2.3.190 *Reserved*
- 2.3.200 Downtown Commercial Design Standards
- 2.3.210 Downtown Commercial Fringe Design Standards

### 2.3.100 Commercial Districts – Purpose and Applicability

**A. Purpose.** Chapter 2.3 provides three distinct commercial zones covering Silverton’s downtown commercial, downtown commercial fringe, and general commercial areas. The districts are intended to:

- Maintain and enhance Silverton’s small-town character and historic resources;
- Promote efficient use of land and urban services;
- Create a mixture of land uses that encourages employment and housing options in close proximity to one another;
- Provide formal and informal community gathering places and opportunities for socialization (*i.e.*, along an active street front);
- Encourage pedestrian-oriented development in all commercial areas;
- Provide connections to and appropriate transitions between residential areas and commercial areas;
- Apply land use and design standards to automobile-oriented and automobile-dependent uses that promote pedestrian safety, aesthetics, and economic development;
- Provide for visitor accommodations and tourist amenities;
- Reinforce downtown Silverton as the historic heart of the community.
  - Downtown Commercial District – The Downtown Commercial District is one of the zoning districts that implement the Commercial Comprehensive Plan designation. The purpose of the Downtown Commercial District is to preserve and enhance Silverton’s downtown as the historic heart of the community. The DC District is intended as Silverton’s center of vital retail activity, services, entertainment, mixed use, civic buildings and public spaces. The historic character of the downtown, together with its pedestrian-oriented architecture, streets and public spaces, define the district.
  - Downtown Commercial Fringe – The Downtown Commercial Fringe District is one of the zoning districts that implement the Commercial Comprehensive Plan designation. The purpose of the Downtown Commercial Fringe District is to provide a transition between the DC District and adjacent neighborhoods and

commercial areas. The DCF District is intended as a mixed use area, where commercial, residential and mixed use buildings co-exist and complement the downtown. Architecture reflecting the historic character of the area, and pedestrian oriented streetscapes, define the DCF District.

- General Commercial – The Downtown Commercial District is one of the zoning districts that implement the Commercial Comprehensive Plan designation. The purpose of the General Commercial District is to provide for a wide variety of commercial and mixed uses. Design standards and options in the GC District are intended to ensure that buildings are appropriately oriented to streets and pedestrian facilities are provided in commercial developments. The GC District is Silverton’s location for larger format retailing, except where Planned Development overlays dictate otherwise.

**B. Applicability.** Commercial zoning districts shall be applied consistent with the land use designations on the City of Silverton Comprehensive Plan. The format of this section includes standards that apply to all commercial districts that are titled “Commercial Districts”. Standards that relate to a specific commercial district (DC, DCF and GC) are listed specifically under that district heading. Developments have an option to modify code standards through a Type III Procedure by following the Design Review Performance Option per section 4.2.510.

**2.3.110 Commercial Districts – Allowed Land Uses**

Table 2.3.110 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are described and uses are defined in Chapter 1.5 and 1.6.

<b>Table 2.3.110 – Uses Permitted in Commercial Districts</b>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Downtown Commercial (DC)</b>	<b>General Commercial (GC)</b>	<b>Downtown Commercial Fringe (DCF)</b>
<b>Residential Categories</b>			
All Residential Uses (Household Living and Group Living) allowed, if: <ul style="list-style-type: none"> <li>- Lawfully existing as of September 1, 2006 (Section 2.3.160.D), 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 (not above commercial use), or</li> <li>- New dwelling(s) built in conjunction with a permitted commercial use, including caretaker dwellings (residential use allowed <i>above</i> ground floor commercial only)</li> </ul> <p><i>Group Living Uses shall conform to the provisions in Section 2.2.200.</i></p>	S	S	S
	P	P	P
	N	CU	P
	P	P	P
<b>Commercial Categories</b>			
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 2.3.160.A	CU+S	CU+S	CU+S
Bed and Breakfast Inn, per Section 2.2.200	S	S	S

**Key:**

- P = Permitted, subject to land use review or design review (Chapter 4.2) Other uses may be allowed with a Planned Dev.
- S = Permitted with standards (Section 2.3.160). Other uses may be allowed with a Planned Dev.
- CU = Conditional Use required (Chapter 4.4). Other uses may be allowed with a Planned Dev.
- N = Not permitted

2.3.110 – Commercial (C) Land Use Districts – Allowed Uses

Table 2.3.110 – Uses Permitted in Commercial Districts			
Use Categories <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	Downtown Commercial (DC)	General Commercial (GC)	Downtown Commercial Fringe (DCF)
Educational Services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, Major Event	CU	CU	N
Mobile Food Vendor, per Section 2.3.160.B	S	S	S
Offices	P	P	P
Outdoor Recreation, Commercial	CU	CU	CU
Parking Lot (when not an accessory use)	CU	CU	CU
Quick Vehicle Servicing or Vehicle Repair. (See also Drive-Up/Drive-In/Drive-Through Uses, per Section 2.3.160)			
- fully enclosed (e.g., garage)	CU	P	N
- not enclosed	N	CU	N
Retail Sales and Service (See also Drive- Up Uses, per Section 2.3.160)			
- Fully enclosed (e.g., garage)	P	P	P
- Not enclosed (other than accessory uses)	N	N	N
- Eating establishments as an accessory use, enclosed in same building with primary use	P	P	P
- Eating establishment not enclosed, per Section 2.3.160.C	S	S	S
Self-Service Storage	N	CU	N

2.3.110 – Commercial (C) Land Use Districts – Allowed Uses

Table 2.3.110 – Uses Permitted in Commercial Districts			
Use Categories <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	Downtown Commercial (DC)	General Commercial (GC)	Downtown Commercial Fringe (DCF)
<b>Industrial Categories</b>			
Industrial Service (See also Drive-Up Uses)			
- fully enclosed (e.g., office)	N	P	CU
- not enclosed	N	CU	N
Manufacturing and Production			
- fully enclosed	CU	P	CU
- not enclosed	N	CU	N
Warehouse and Freight Movement	N	CU	N
Waste-Related	N	N	N
Wholesale Sales			
- fully enclosed	N	P	CU
- not enclosed	N	CU	N
<b>Institutional Categories</b>			
Basic Utilities	P	P	P
Cemeteries, Mausoleums, Crematoriums, Funeral Services	CU	CU	CU
Colleges	P	P	P
Community Service	CU	CU	CU
Daycare, adult or child day care; does not include Family Daycare (16 or fewer children) under ORS 657A.250	CU	CU	CU
Parks and Open Space	P	P	P

**Key:**

- P = Permitted, subject to land use review or design review (Chapter 4.2). Other uses may be allowed with a Planned Dev.
- S = Permitted with standards (Section 2.3.160). Other uses may be allowed with a Planned Dev.
- CU = Conditional Use required (Chapter 4.4). Other uses may be allowed with a Planned Dev.
- N = Not permitted

2.3.110 – Commercial (C) Land Use Districts – Allowed Uses

<b>Table 2.3.110 – Uses Permitted in Commercial Districts</b>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Downtown Commercial (DC)</b>	<b>General Commercial (GC)</b>	<b>Downtown Commercial Fringe (DCF)</b>
Religious Institutions and Houses of Worship, <ul style="list-style-type: none"> <li>- lawfully existing as of <i>[effective date]</i></li> <li>- new</li> </ul>	P CU	P CU	P CU
Schools <ul style="list-style-type: none"> <li>- lawfully existing as of <i>[effective date]</i></li> <li>- new</li> </ul>	P CU	P CU	P CU
<b>Other Categories</b>			
Accessory Structures (with a primary permitted use)	P	P	P
Agriculture – Animals	N	N	N
Agriculture – Nurseries and similar horticulture (See also, Wholesale and Retail Uses)	CU	CU	N
Historic Building Alterations, per Chapter 3.5	S	S	S
Mining	N	N	N
Radio Frequency Transmission Facilities and Telecommunication Towers and Antennae, except those allowed as ancillary to a primary permitted use	N	CU	N
Rail Lines and Utility Corridors, except existing facilities on non-zoned RR properties are permitted.	CU	CU	CU
Temporary Uses (limited to “P” and “CU” uses), per Section 4.9.100.	P/CU	P/CU	P/CU
Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City’s Transportation System Plan)	P	P	P

**2.3.120 Commercial Districts – Development Standards**

The development standards in Table 2.3.120 apply to all new structures, buildings, and development, and major remodels, in the Commercial Districts. In addition to meeting the following standards, project proposals must be reviewed through Design Review.

<b>Table 2.3.120 – Development Standards for Commercial Districts</b>			
<b>Standard</b>	<b>DC</b>	<b>GC</b>	<b>DCF</b>
<b>Minimum Lot Area* (square feet)</b> *Development must conform to lot width, depth, yard setback and coverage standards.	Not limited	Not limited	1,600 sf
<b>Minimum Lot Width</b> <b>Minimum Lot Depth</b>	Not limited Not limited	Not limited Not limited	20 ft 80 ft
<b>Building/Structure Height and Footprint</b>  <u>Maximum Height</u>	55 ft	45 ft	35 ft
Maximum Building Footprint with a single user	45,000	45,000	45,000
<u>Fences and Walls – Maximum Height at Street Right-of-Way. See also, Sections 3.1.200, Vision Clearance; and 3.2.500, Fences and Walls)</u>	42 inches	42 inches	42 inches
<b>Impervious Surface (Maximum)</b>	100%	90%	90%
<b>Min. Landscape Area (Minimum)</b> Landscape area may include plant areas and some non-plant/hardscape areas, as allowed under Section 3.2.300.D.	0%	10%	10%

<b>Table 2.3.120 – Development Standards for Commercial Districts</b>			
<b>Standard</b>	<b>DC</b>	<b>GC</b>	<b>DCF</b>
<p><b>Minimum Setbacks:</b> (See also, Section 2.3.150.E, Design Standards for Properties Adjacent to North 1<sup>st</sup>, North Water and C Streets; and Section 2.3.160.A, Drive-Up Facilities.)</p>	Per Building Code	Per Building Code	Per Building Code, except 5 ft side yard and 10 ft rear yard (minimum) when abutting Residential district
<p><b>Build-To Line (feet)*:</b> (See also, Section 2.3.150.E, Design Standards for Properties Adjacent to North 1<sup>st</sup>, North Water and C Streets; and Section 2.3.160.A, Drive-Up Facilities.)</p> <p><u>New Buildings Only:</u> At least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except where a greater setback is required for a Planned Street Improvement, then the build-to line increases proportionately.</p> <p>The build-to line may also be increased through Design Review when pedestrian amenities are provided between a primary building entrance and the street right-of-way. (See also, Sections 2.3.170 and 2.3.180.)</p> <p><u>Inadequate Right-of- Way:</u> On streets with inadequate right-of-way, the primary building entrance shall be built not farther from the intended street right-of-way. These streets include, but are not limited to, Lane, McClaine, 3<sup>rd</sup>, and Park between 2<sup>nd</sup> &amp; 3<sup>rd</sup>.</p>	0 ft	0-20 ft (per Section 2.3.150.E)	5-20 ft
<p><b>*Additional street setbacks beyond those required by Section 2.3.120 may apply, as required by the City of Silverton Transportation System Plan (TSP), or the TSP of other road authority(ies), for the purpose of maintaining a clear area for planned future street improvements.</b></p>			

**2.3.130 Commercial Districts – Zero Setbacks and Build-To Line**

**A. Zero Setbacks and Build-To Line – Purpose; Fire Code; and Clear Vision.**

The setbacks and build-to lines, as provided in Table 2.3.120, are intended to encourage pedestrian-oriented development, while providing more flexibility in site design than what is possible with large setbacks. With buildings placed close to the street, a development affords good access for emergency service providers in the case of a fire or other emergency. Where no minimum setback is required, all structures and buildings shall conform to the vision clearance standards in Chapter 3.1 and the applicable fire and building codes (*e.g.*, for attached structures, fire walls, and related requirements).

**B. Setback Yards – Reverse Frontage Lots**

Buildings on reverse-frontage lots (through lots), or lots that front onto more than one street, shall be required to meet the build-to line standard on only one street. The approval body may require that the build-to line apply to the highest order street. Reverse frontage lots are subject to the fence height and setback requirements in Section 2.3.120 and the landscape buffer requirements in Chapter 3.2.

**2.3.140 Commercial Districts – Lot Coverage and Impervious Surfaces**

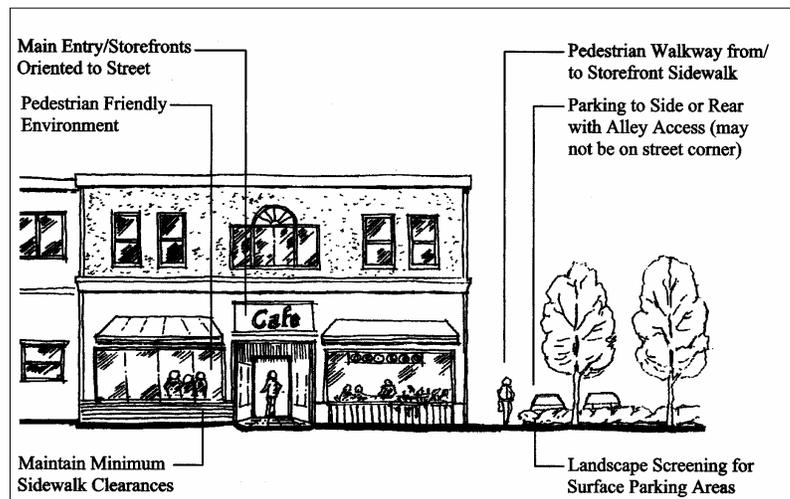
Impervious surfaces are regulated under Table 2.3.120. Lot coverage is not limited provided that impervious surface limitations are met.

**2.3.150 Commercial Districts – Building Orientation and Commercial Block Layout**

**A. Purpose.** Section 2.3.150 orients buildings close to streets to promote pedestrian-oriented development where walking is encouraged, and to discourage automobile-dominated development. Placing commercial storefronts and other buildings close to the street also encourages crime prevention, natural surveillance or security, and safety by having more “eyes-on-the-street.”

**B. Applicability.** Section 2.3.150 applies to all new buildings and major remodels that are subject to Design Review.

**Figure 2.150.C(1) – Building Orientation**

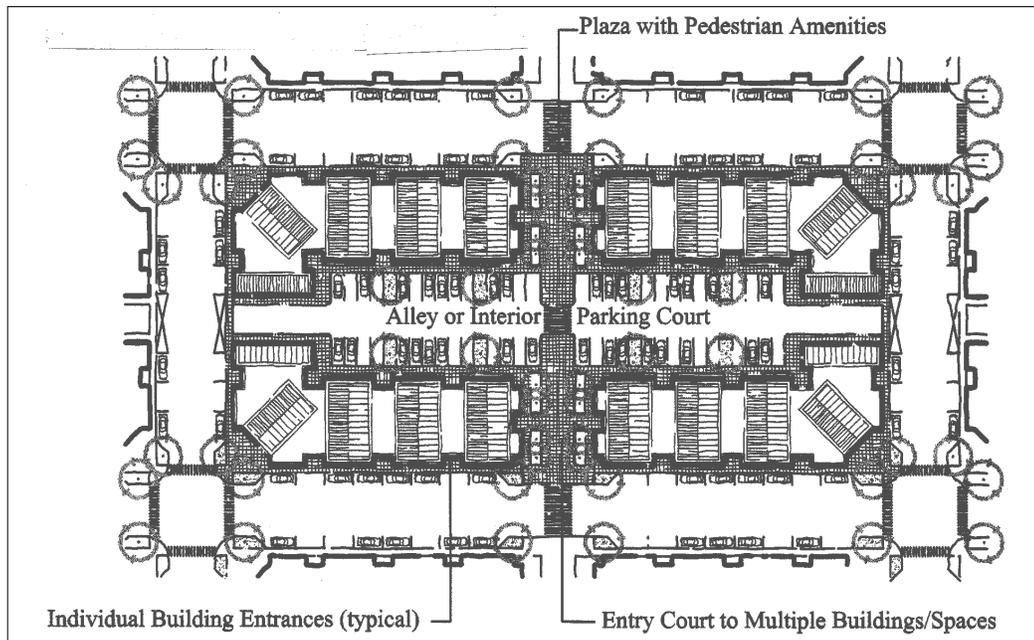


**C. Building orientation standards.** Developments subject to this Section shall have their buildings oriented to a street, as generally shown in Figure 2.3.150.C(1). All of the following criteria must be met:

**2.3.130-150 – Commercial (C) Land Use Districts – Lot and Orientation Standards**

1. Compliance with the setback and build-to line standards in Section 2.3.130, where applicable. The build-to line may be setback to provide additional space for pedestrian amenities between a building and its adjoining street. In the DC zone, the maximum setback is 5 feet;
2. Except as provided in subsections 2.3.150.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 District, except to provide pedestrian amenities; a walkway shall connect the primary entrance to the sidewalk. In the DCF zones, 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. In the DC and DCF District, 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 2.3.150.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 2.3.150.C(2) – Building Orientation With Internal Parking**



4. In the GC District, 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,

### 2.3.130-150 – Commercial (C) Land Use Districts – Lot and Orientation Standards

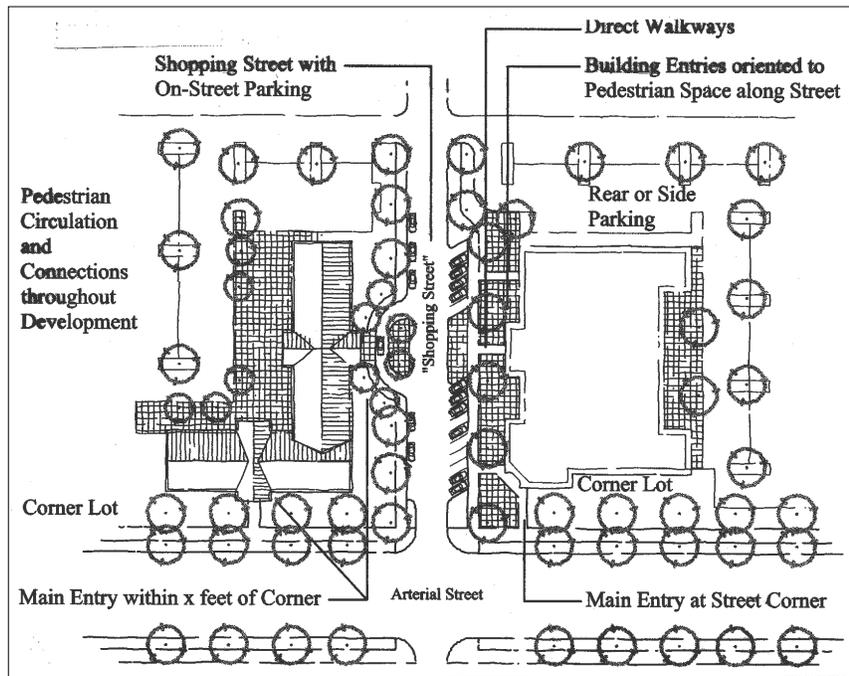
based on the distance from the street sidewalk to the building entrance, projected vehicle traffic volumes, and available pedestrian walkways;

- 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.

**D. Block Layout (Pedestrian-Orientation) Standard.** Developments containing more than one building, including commercial subdivisions with outlying commercial pads, shall meet all of the following standards:

1. The site shall be configured into blocks having frontage onto streets, interior parking courts (as generally shown in Figure 2.3.150.C(2), above), or shopping streets (as generally shown in Figure 2.3.150.C(3), below). All parking courts and shopping streets shall contain on-street parking bays (parallel or angled parking), street- or plaza-facing building entrances and sidewalks with street trees, pedestrian lighting and furnishings (benches and trash receptacles) where appropriate;
2. In the GC district, blocks shall not exceed 400 feet in length, and shall have a perimeter not exceeding 1,400 feet. Pedestrian walkways inside buildings are not counted as block edges. In the DC and DCF districts, blocks shall not generally exceed 250 feet in length and 160 feet in width, in keeping with the historic block pattern in the downtown.;
3. Pedestrian pathways shall connect the street right-of-way to building entrances and the interior parking courts between buildings to ensure reasonably safe, direct, and convenient access to building entrances and off-street parking;

Figure 2.3.150.C(3) – Shopping Street Example



**E. Properties Adjacent to North 1<sup>st</sup>, North Water and C Streets.** This section applies only to properties designated GC. For properties in the DC and DCF district, the standards of 2.3.150 (A-D) apply. A wide variety of site conditions exist along North 1<sup>st</sup>, North Water and C Streets, making it difficult to apply uniform design standards to the properties designated General Commercial. Some buildings are placed right up to the highway, while others are setback behind parking. Therefore, the site layout should be designed to accomplish the following objectives:

- Improve safety for all modes of transportation
- Better integrate land use and transportation planning
- Protect and enhance aesthetic values
- Promote human scale development that is compatible with Silverton’s small town character

**F. Site Design in Commercial Districts**

In determining the specific access, circulation, building orientation, and street frontage standards that apply to a particular project, the applicant, in consultation with the Community Development Director, shall select from the following prototypes:

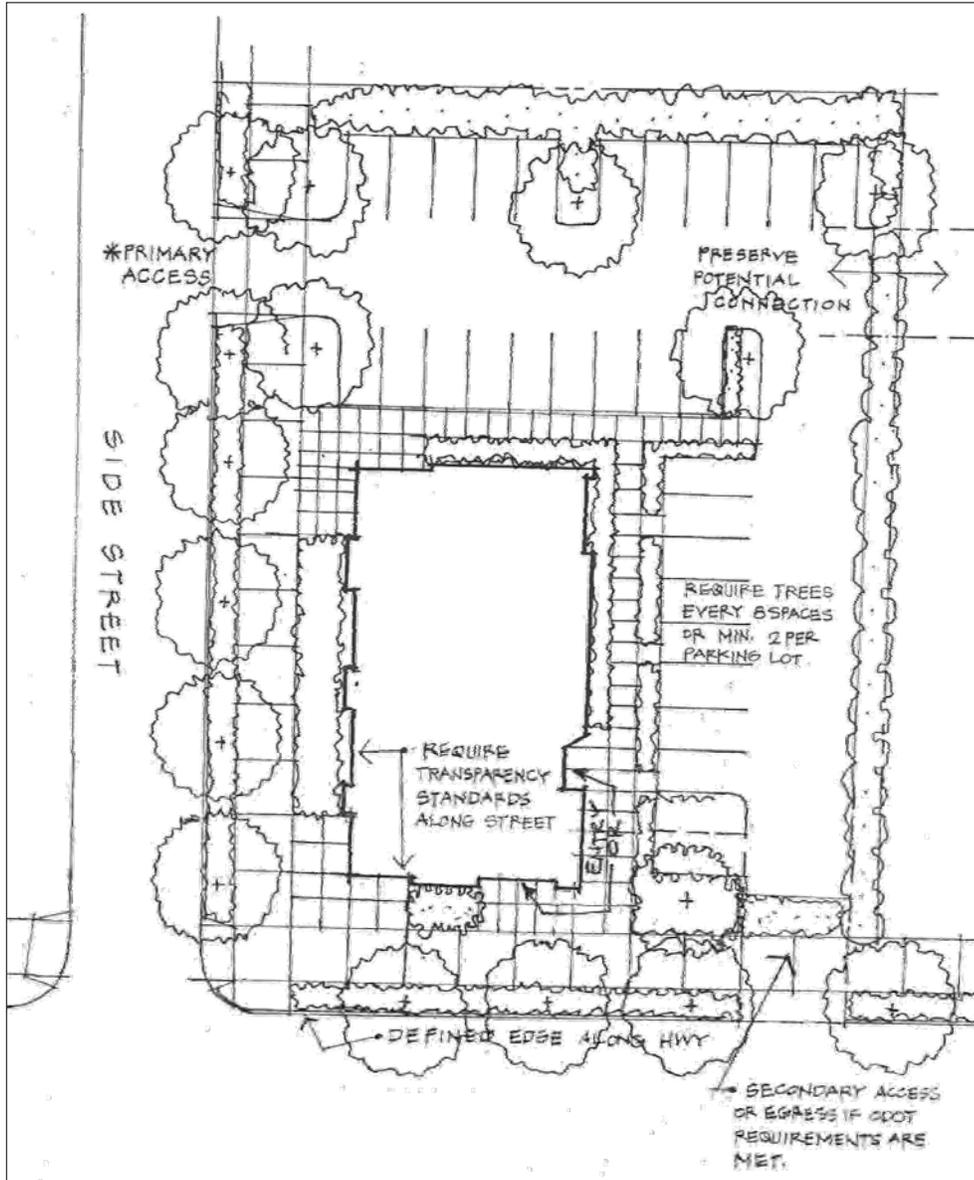
<b>Table 2.3.150F– Site Design in Commercial Districts</b>			
<b>Site Design Performance Standards (see pages that follow)</b>	<b>Downtown Commercial (DC)</b>	<b>General Commercial (GC)</b>	<b>Downtown Commercial Fringe (DCF)</b>
1. Corner property	P	P	P
2. Front entrance at street	P	P	P
3. Building at street with side entrance	N	P	N
4. Building setback with side entrance	N	S	N
5. Parking in front with joint access and shared driveway	N	S	N
6. Parking in front without joint access or shared driveway	N	S	N
7. Property with grade change; retaining wall between sidewalk and building	S	S	S

**Key:**

- P = Permitted, subject to land use or design review (Chapter 4.2)
- S= Subject to Community Development Director approval (see criteria under each standard)
- N = Not permitted

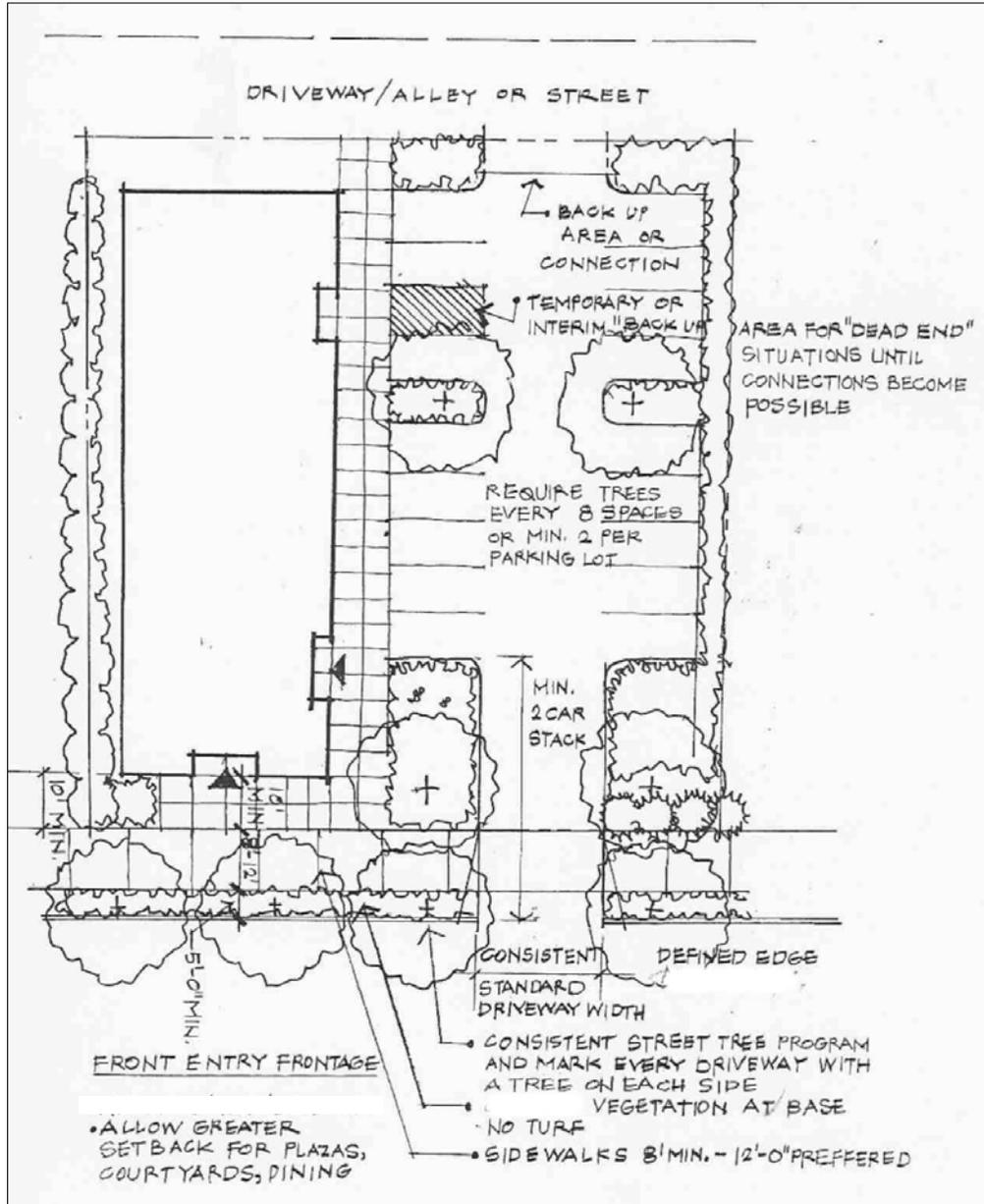
1. **Corner Property (Performance Standard #1)**

On corner properties buildings shall be oriented to the corner, with vehicle access provided from a side street. Primary building entrances shall be located within 20 feet of a street and the building shall meet transparency and weather protection standards along all street-facing elevations. If the primary building entrance is more than 20 feet from the sidewalk, then a 10-foot landscape buffer or civic space is required between the building and sidewalk.



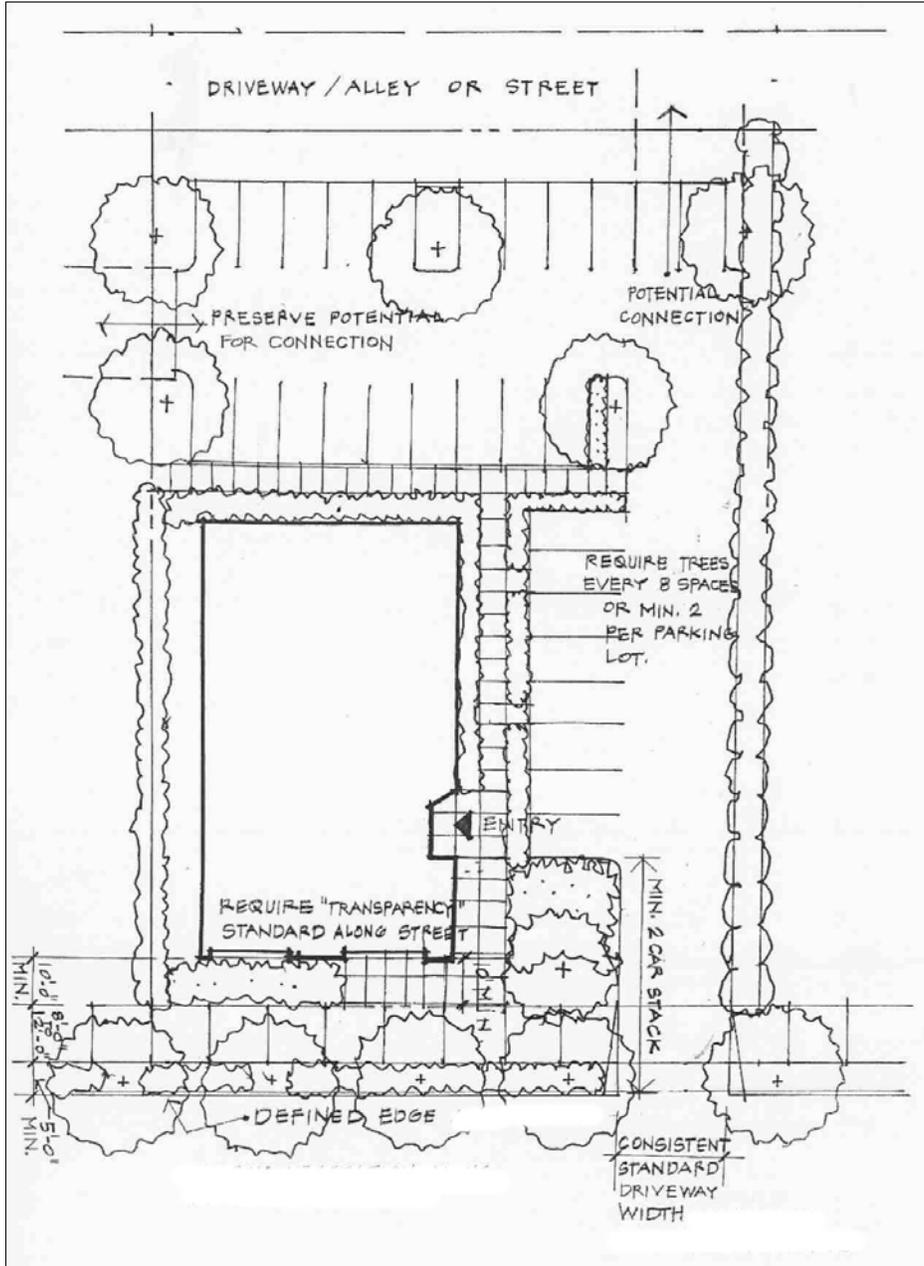
**2. Front Entrance at Street (Performance Standard #2)**

On non-corner parcels, the building shall be oriented to the street and have a primary entrance placed at street edge or within 20 feet of edge; this distance may be increased only where a civic space abuts the sidewalk and primary building entrance and no parking is allowed between the building and highway. The building shall meet weather protection and transparency standards along all street-facing elevations.



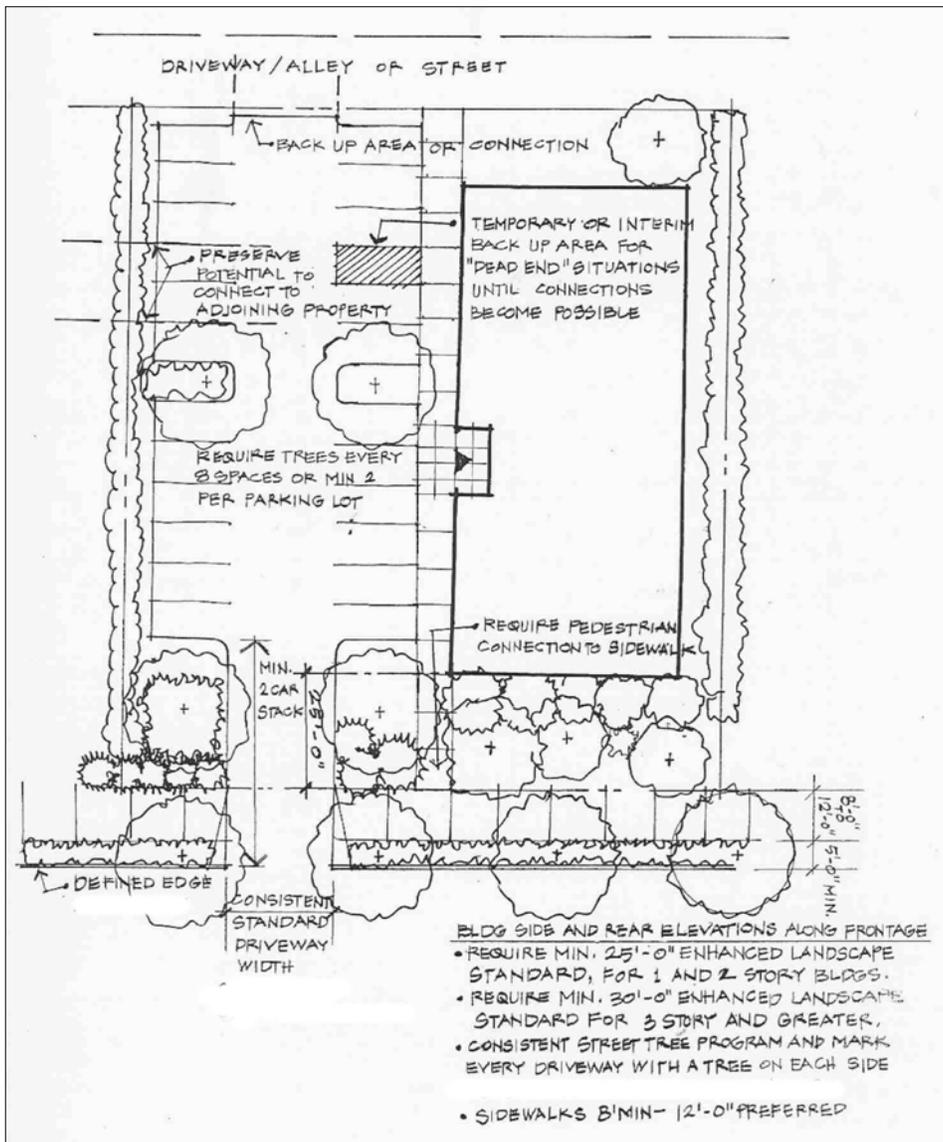
**3. Building at Street with Side Entrance (Performance Standard #3):**

Where the Community Development Director determines that a building may have its primary entrance placed on a side elevation not facing a street, a primary building entrance shall be placed within forty (40) feet of a street right-of-way and a pedestrian pathway shall connect the entrance directly to the right-of-way. There shall be no parking located between the building and the subject street. The building shall meet weather protection and transparency standards on all street-facing elevations.



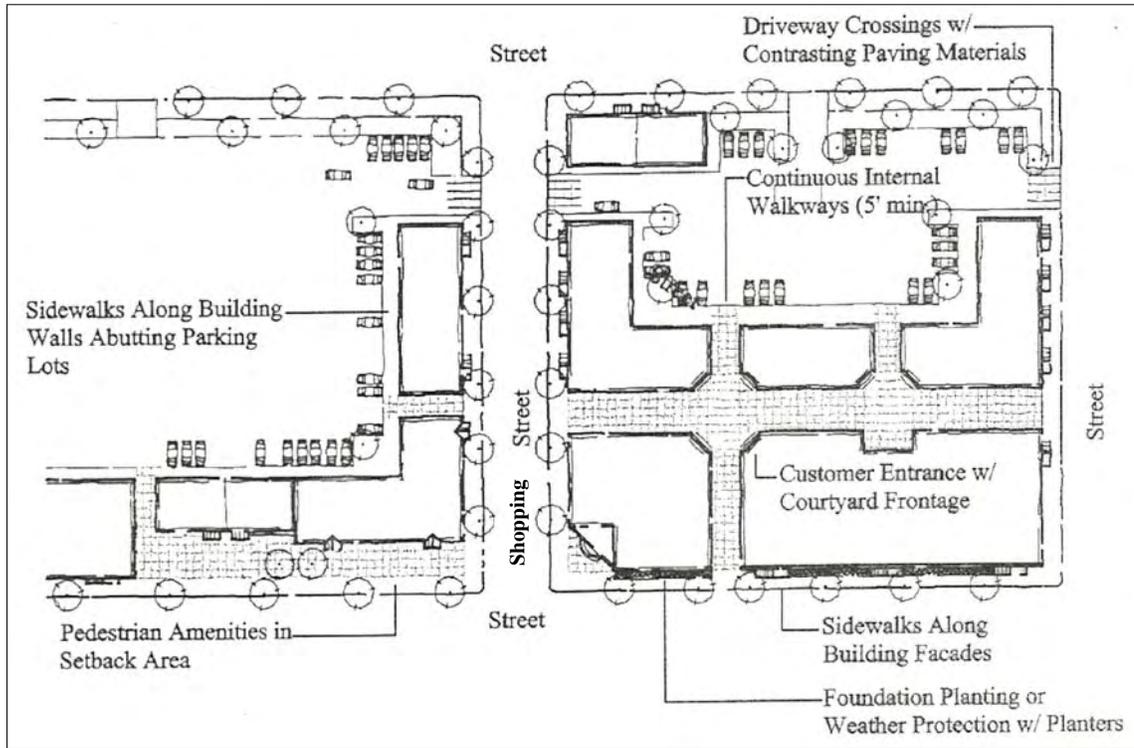
**4. Building Setback with Side Entrance (Performance Standard #4):**

Where the Community Development Director determines that a building may be oriented to an internal parking area and it may have its primary entrance placed on a side elevation, the following standards shall apply: All street-facing elevations and elevations on which a primary building entrance is placed shall meet the transparency and weather protection requirements of this chapter. There shall be no parking placed between the building and subject street; buildings with primary entrances more than forty (40) feet from the highway edge need not meet weather protection and transparency standard along the street frontage provided that a landscape buffer of twenty- to thirty (20-30) feet in width shall be required. Plantings shall create horizontal and vertical screening of any large wall not meeting the transparency standard of this chapter in the GC and DCF only.

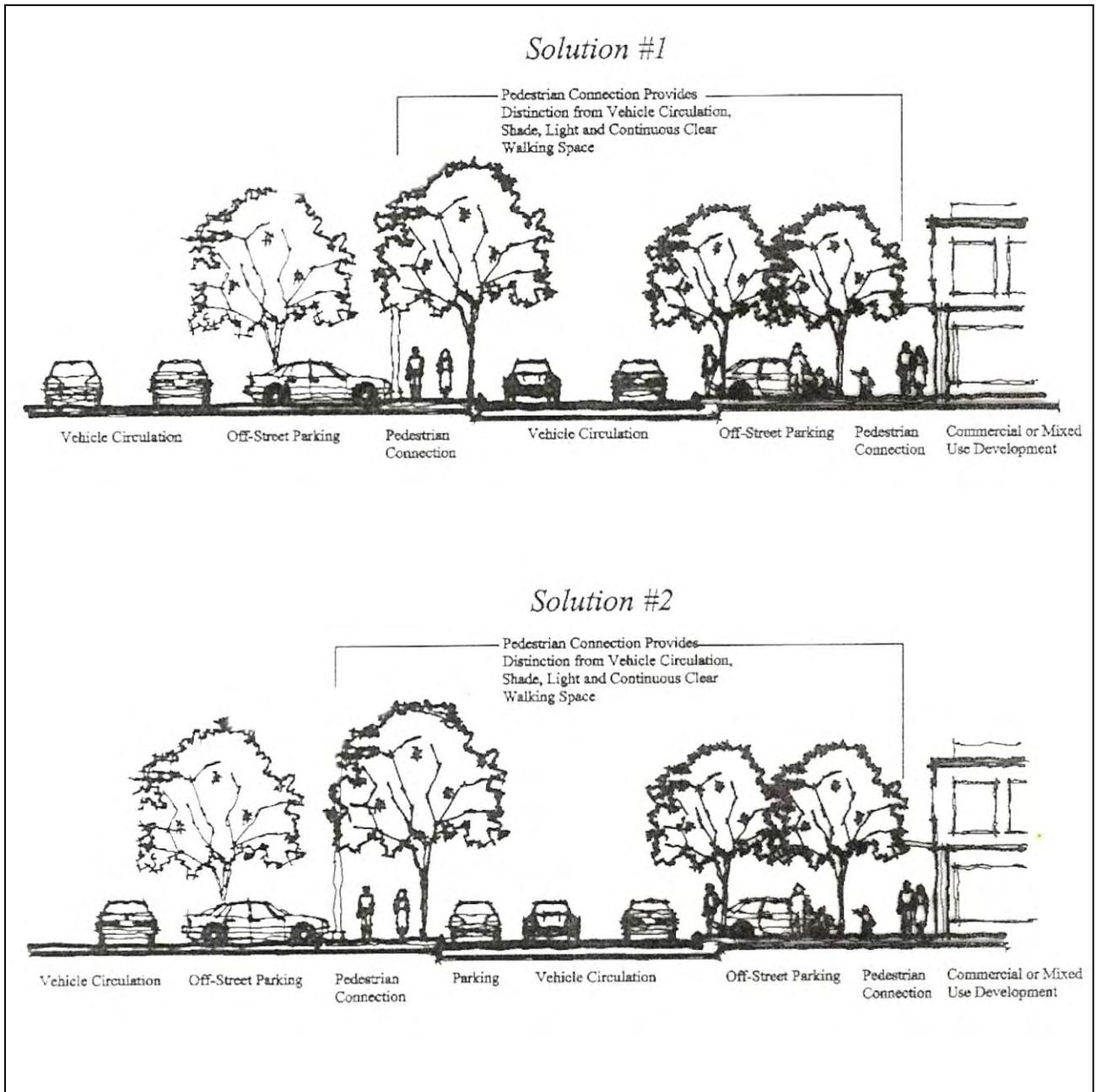


**5. Parking in Front (Performance Standard #5)**

Where the Community Development Director finds that multiple buildings and/or building pads should be set back from the street behind surface parking and oriented to internal driveways instead of streets, such driveways shall be designed as “shopping streets.” Shopping streets shall contain, at a minimum, on-street parking, sidewalks/walkways with raised curbs, street trees and pedestrian lighting, as generally shown below. Such buildings may have their primary entrance(s) placed along the shopping street instead of a public street; in such cases, primary building entrances shall be within ten (10) feet of a walkway (8-foot minimum width), except where a civic space (e.g., plaza or outdoor seating area) is provided the setback may be increased accordingly. Surface parking shall be setback and screened from the street behind a twenty (20) foot minimum landscape buffer. Buildings shall meet the weather protection and transparency standards of this chapter along all shopping streets.

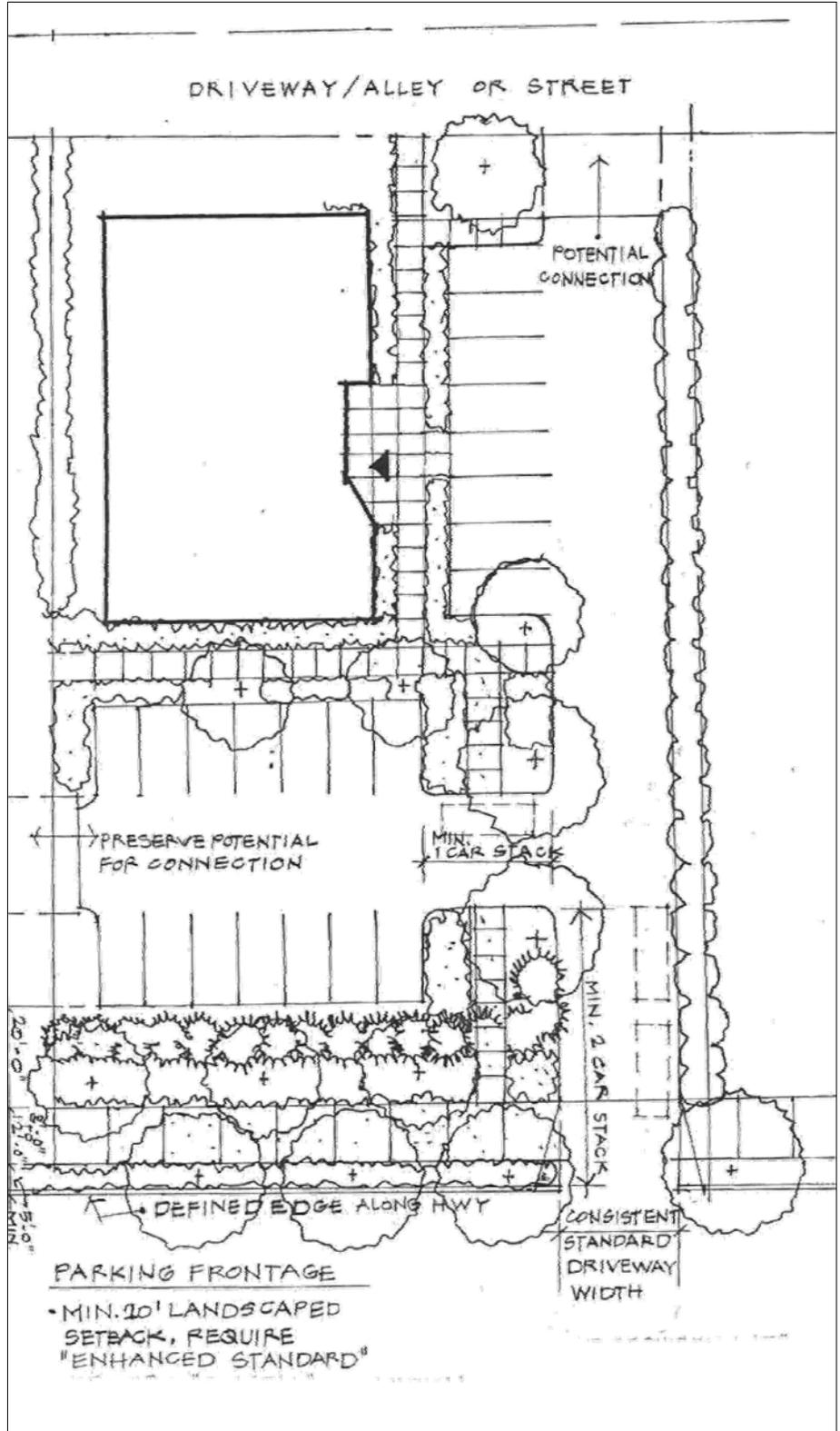


2.3.130-150 – Commercial (C) Land Use Districts – Lot and Orientation Standards



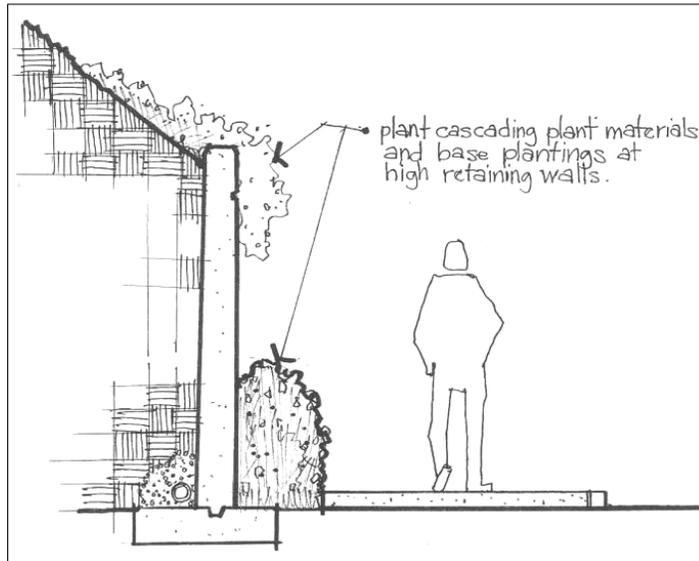
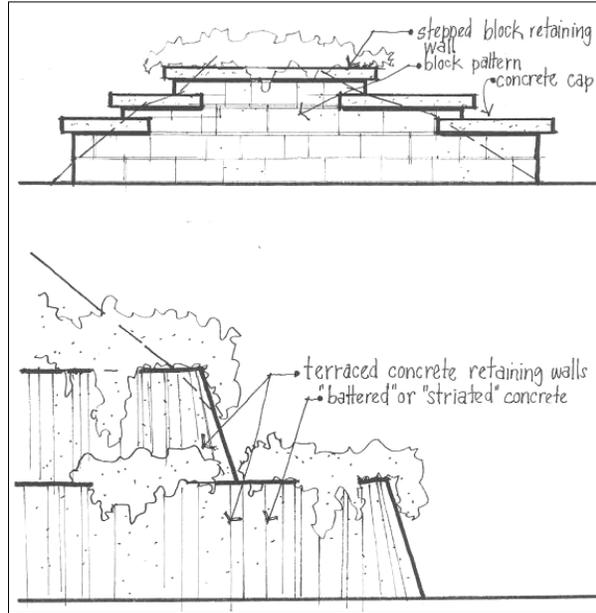
**6. Parking in Front without Shopping Street (Performance Standard #6):**

Where the Community Development Director finds that it is necessary to place surface parking between a building's primary entrance and the street, and it is not possible to develop an internal shopping street as described above, e.g., due to the small size of a property, its configuration, or other physical site constraints, then the following standards shall apply: All surface parking and internal drives shall be setback at least twenty (20) feet from the street behind a landscape buffer; adequate vehicle queuing distances shall be provided between the street and all parking areas, subject to design review; a six (6) foot minimum width walkway shall connect the primary building entrance to a public sidewalk with four (4) foot minimum width planter strips placed between such walkways and abutting driveways; raised or textured paving with ADA wheelchair accessible ramps shall be provided at all pedestrian crossings of vehicle areas; and provisions shall be made for potential future driveway extensions as adjacent properties or develop or street connections can be made.



7. Property with Grade Change (Performance Standard #7):

Where retaining walls are required adjacent to a public right of way, they shall incorporate rusticated concrete block, natural stone, or striated or battered concrete with a natural stone color. Applications for design review shall include proposed retaining wall detail drawings.



### 2.3.160 Commercial Districts – Special Use Standards

This section provides special use standards for those uses so designated in Table 2.3.110.

**A. Drive-Up/Drive-In/Drive-Through Uses and Facilities.** When drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, and protect pedestrian comfort and safety.

1. Access to the drive-up/drive-through facility shall be from an alley, interior accessway, (e.g., parking area) driveway, and/or private or public street when the other alternatives are not practicable. When access is provided from a public or private street the drive-up/drive-in/drive-through facility shall be located on the site such that vehicles waiting to access the drive-up/drive-in/drive-through facility are not blocking the free flow of travel on the street nor is the street being used to accommodate vehicles waiting to use the facility.
2. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) are located within 20 feet of a street and shall not be oriented to a street corner. (Walk-up only teller machines and kiosks may be oriented to a street or placed adjacent to a street corner);
3. Drive-up/in queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way; and
4. The minimum spacing of drive-up, drive-in, and drive-through facilities receiving access onto the same street is 400 linear feet along that street's block face (same side of street).
5. For restaurants, at least one designated parking space immediately beyond the service window, or other satisfactory methods, to allow customers requiring excessive waiting time to receive their food while parked.
6. Commercial establishments providing drive-up window facilities that do not provide for walk-in customer service (i.e., not allowing transactions within the structure) shall provide for safe, convenient and readily accessible exterior walk-up window service. At least two parking spaces shall be provided allowing convenient access to the walk-up service window.
7. The design of vehicle stacking areas shall allow customers' vehicles to leave the stacking line for emergency reasons.
8. On-site parking for walk-in customers shall be designed to be readily accessible to all public entrances to the building and to provide safe, convenient access.
9. Establishments having drive-up window facilities shall have sufficient stacking area to ensure that public right-of-way and driveways are not obstructed as determined by the Director of Public Works.
10. The communication sound system shall not exceed a measurement of 55 decibels at the

adjoining property line.

**B. Mobile Food Vendors.** Where mobile food vendors are allowed, they shall conform to all of the following standards, which are intended to protect the public health, safety and welfare. The owner shall submit a site plan drawn to scale with supporting written information to the Director demonstrating compliance with all of the following criteria. A mobile food vendor shall not commence operations until the City has issued approval in writing.

1. “Mobile Food Vendor” for the purposes of this section means any kiosk, shed, shelter, trailer, vehicle, wagon, or other similar device which is used for the purpose of preparing, processing, or converting food for immediate consumption as a drive-in, drive-through, curb, or walk-up service that remains in or on any one site or tax lot for less than 72 hours. Food vendors exceeding a 72-hour occupancy must have prior approval as a temporary use under Chapter 4.9.
2. The use shall be limited to the preparation and/or sale of food and beverages.
3. The use shall not be conducted within public rights-of-way unless a special permit is issued by the City for this purpose.
4. The use shall be conducted on private property only with the written consent of the property owner.
5. Business operations shall be conducted between the hours of 7:00 a.m. and 10:00 p.m.
6. The use shall conform to all setback standards, vision clearance requirements and other standards of the district in which it is located.
7. The use shall not block driveways, entrances or parking aisles, or be placed in a landscape planter required by this code
8. Signs associated with the use shall be limited to six (6) square feet, total surface area of all sign faces including menu boards.
9. A trash receptacle shall be located within 10 feet of the use, which shall be maintained by the owner or operator of the mobile food vendor.
10. The combined floor area of the use, including all enclosed structures and decks, shall not exceed 128 square feet.
11. The operator of the use shall possess valid County certification of compliance with health and sanitation standards as applicable.
12. A City Transient Merchant Permit is required pursuant to Chapter 5.14 of the Silverton Municipal Code.
13. Mobile food vendors not otherwise approved as a temporary use must be moved off-premises and lawfully stored within 72 hours of being placed on the premises.

**C. Outdoor Seating Areas within the Public Right-of-Way.** Where outdoor seating areas are desired by restaurants or other business establishments they must comply with the following procedures and criteria:

### 2.3.160 – Commercial (C) Land Use Districts – Special Use Standards

1. Submit a written request to the Community Development Department identifying the area involved, a site plan of the area, a description of the operating characteristics of the proposed use or other pertinent information.
2. Accompanying the written request shall be a completed City of Silverton application to occupy the right-of-way and the associated review fee.
3. The Community Development Director within 45 days of receipt will review the application and make a final decision
4. In some cases the request may be forwarded to the City Council for final approval.
5. Approval may be given provided the Community Development Director or City Council determine there will be no negative impact to the public, the right-of-way or near-by businesses or property owners.
6. Compliance with other applicable provisions of the City’s Municipal Code, including permits for using the public right-of-way where sidewalk cafes are allowed.
7. Design review approval where the outdoor eating area includes seating for more than eight (8) patrons.
8. Where adjacent or abutting a residential use and/or zoning district, the outdoor eating area shall only be allowed between the hours of 8:00 a.m. and 10:00 p.m.
9. The outdoor eating area shall contain a trash receptacle within 10 feet of the use, which shall be maintained by the owner or operator of the restaurant.
10. At least 4 feet of open passageway is maintained on the sidewalk.

#### **D. Special Status for Single Family Residences in Commercial and Industrial Districts**

Notwithstanding the restrictions of any other provisions of the Silverton Municipal Code, all single-family dwellings built before September 1, 2006, on commercial or industrially zoned properties are considered as pre-existing conforming uses. If any building on these properties is substantially destroyed, as defined in Chapter 5.2, it may be rebuilt to the same size as existed when it was destroyed, subject to the regulations of any applicable overlay district. If preexisting single-family residence is converted to a permitted commercial, office or industrial use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of the applicable zoning district. New dwellings may be established only in accordance with the provisions in the applicable zoning district.

### 2.3.170 Commercial Districts – Pedestrian Amenities

**A. Purpose and Applicability.** Section 2.3.170 provides standards for pedestrian amenities when pedestrian amenities are required as part of new developments and major remodels, and when pedestrian amenities are provided to meet the requirements of other code sections. Pedestrian amenities serve as informal gathering places for socializing, resting, and enjoyment along street frontages, and they support the community’s public safety and transportation objectives through natural surveillance and walkability.

**B. Standards.** All new developments and major remodels in the GC and DC zones shall provide one (1) or more of the “pedestrian amenities” as generally illustrated in Figure

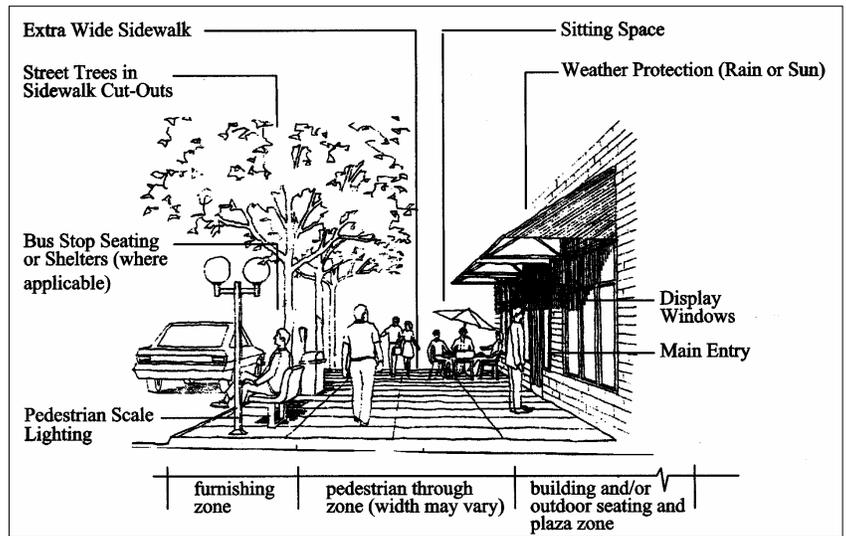
**2.3.170 – Commercial (C) Land Use Districts – Pedestrian Amenities**

2.3.170.B. Pedestrian amenities may be provided within a street furnishing zone, building frontage zone, or plaza, or within the pedestrian through zone, as shown in Figure 2.3.170.B, provided that applicable minimum clearance and ADA standards are met. Use of the public right-of-way requires approval by the roadway authority.

New developments and major remodels in the **GC** zone may use the elements listed below to fulfill this standard.

1. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance with a minimum width of five (5) feet;
2. Sitting space (*i.e.*, dining area, benches, garden wall or ledges between the building entrance and sidewalk) with a minimum of 16 inches in height and 30 inches in width;
3. Public art that incorporates seating (*e.g.*, fountain, sculpture).
4. Transit amenity, such as bus shelter, per the standards of the transit service provider, as applicable.
5. Decorative sidewalk paving.
6. Planters.
7. Covered entryway with seating.

**Figure 2.3.170 B – Examples of Pedestrian Amenities**



New developments and major remodels in the **DC** zone may use the following amenities and streetscape elements identified in the Downtown Master Plan to fulfill this standard including.

1. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance with a minimum width of five (5) feet;
2. Sitting space (*i.e.*, dining area, benches, garden wall or ledges between the building entrance and sidewalk) with a minimum of 16 inches in height and 30 inches in width;
3. Public art that incorporates seating (*e.g.*, fountain, sculpture).
4. Transit amenity, such as bus shelter, per the standards of the transit service provider, as applicable.
5. Preferred streetscape furnishings where applicable including, street lamp, bike rack, street bench, crosswalk, bollard, trashcan, kiosk, tree grate and curb extension.

### 2.3.180 General Commercial District Design Standards

**A. Purpose.** Section 2.3.180 promotes the public health, safety, and welfare by requiring at least a minimum level of design on every building in the General Commercial District. Design is important to identifying Silverton as a unique place with successful commercial 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 2.3.180 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 2.3.150 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 2.3.120;
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 commercial buildings;
3. Roof elevation is compatible with adjacent commercial buildings (roof pitch, shape, height step-down);

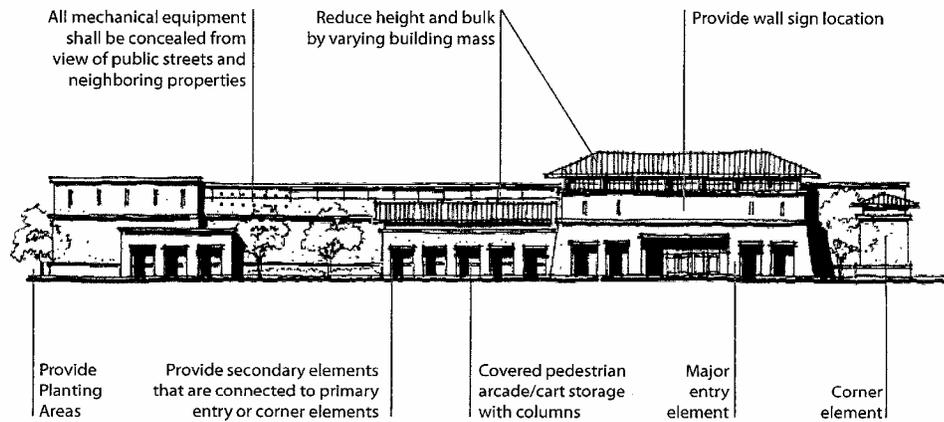
4. There is continuity in the rhythm of windows and doors on the proposed building(s);
5. The relationship of buildings to public spaces, such as streets, plazas, other areas, and public parking, including on-street parking, is strengthened by the proposed building(s);
6. The materials, colors, and architectural 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 1-8, below, are met. Alternatively, the applicant may propose different design elements as provided under Section 4.2.510, Design Performance Option. Figure 2.3.180E contrasts examples of building elevations that are consistent/inconsistent with human scale criteria.

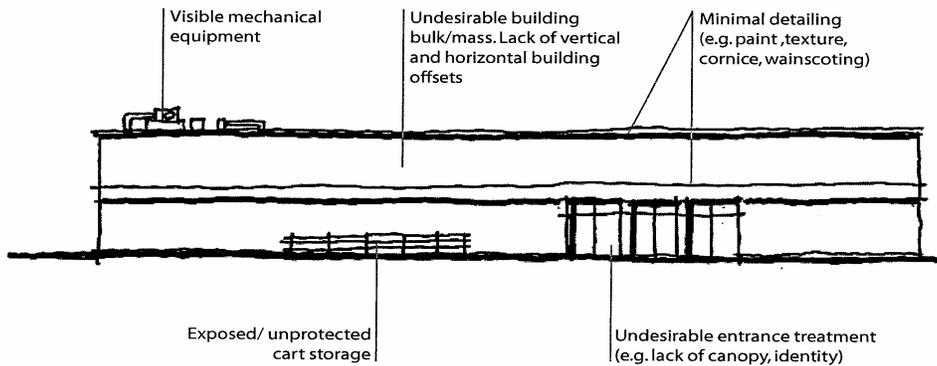
1. Regularly spaced and similarly-shaped windows are provided on all building stories;
2. Ground floor retail spaces have tall ceilings (*i.e.*, 12-16 feet) with display windows on the ground-floor;
3. Display windows are trimmed, recessed, or otherwise defined by wainscoting, sills, water tables, or 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 2.3.180.C.

**Figure 2.3.180.E – Design Elements on Large Commercial Buildings in GC District**



**Large Commercial Massing - Acceptable**



**Large Commercial Massing - Unacceptable**

2.3.190 *Reserved*

2.3.200 **Downtown Commercial District Design Standards**

- A. Purpose.** Section 2.3.200 promotes the historic storefront nature of the Downtown Commercial area. Design is important to identifying Silverton as a unique place with successful commercial areas. The design standards are intended to:
- Encourage architecture that is consistent with the historic character of downtown 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 public access by orienting buildings and their entrances to the street or to civic spaces abutting the street.
- B. Applicability.** The following standards are applied through Design Review prior to building permit review. An applicant is required to demonstrate compliance with all applicable district standards, design review criteria and historic review criteria, if applicable. Remodels of, or additions to, or modifications of, structures within the National Register Historic District Boundary are also subject to the requirements under Chapter 3.5. The provisions of Section 2.3.200 may be adjusted through the Design Performance Option in Section 4.2.510 through a Type III procedure.
- C. Area Defined.** The Downtown Commercial Area comprises the Central Business District and all of the National Historical District, and some contiguous areas which are not within the National Historic District. See Figure 2.3.200.1.



**Figure 2.3.200.1 – Map of Downtown Commercial**

**D. Standards.** Standards for new construction shall require builders to conform to the architectural form of Silverton’s historic period (1890’s – 1940s). As such, new construction shall conform to the following standards listed below. Throughout the standards, reference is made to Silverton’s historic period, the 1890’s – 1940’s, and, to buildings which display characteristics of that period. The following list of buildings is provided as a reference guide to those buildings which display characteristics intended by the standards. The list is a guide only – other buildings may be used to demonstrate the required elements and/or the basis for visual compatibility.

**Examples of historic storefront buildings for determining compatibility with standards:**

- a. Wolfe Building: 201 E Main St



- b. Silver Falls Bank: 217 E Main St



c. Larsen & Flynn Building: 100 S Water St



d. Silver Grill: 206 E Main St



e. Hartman Building: 210 S Water St



f. Silverton Masonic Building: 101-110 S Water St



**2.3.200.2 Site Development.**

- a. Building fronts and entrances shall be oriented toward the street.
- b. Building facades shall be set at the property edge along the sidewalk. A setback of up to 5 feet is permitted when occupied by pedestrian amenities (e.g. plaza, outdoor seating.)
- c. Buildings shall promote public viewing of the creek by the construction of decks or balconies adjacent to Silver Creek. This shall include a continuation of a deck or walk within a public access easement. The deck/creek walk shall be a minimum of 5 feet in width.

**2.3.200.3 Building Scale.**

- a. The overall size and proportion of new structures shall be compatible with the scale of buildings constructed during the historic period (1890's-1940's). This standard may be met by either designing the building's size and proportions to be similar to comparable historic structures in the downtown, or, by the design of the façade so that it breaks a larger mass into smaller proportions that are similar to comparable historic structures.
- b. The relationship between the height and width of the main facade of the building shall be visibly compatible with adjoining or nearby buildings of the historic period or style. As with (a) above, this standard may be met through either similar height and width, or, through design elements that provide visual continuity with the height and width of adjoining or nearby buildings of the historic period.

**2.3.200.4 Building Height**

- a. The facade height of all buildings shall be two to four stories and not more than 55 feet in maximum height.

**2.3.200.5 Building Width**

- a. All new buildings shall maximize lot frontage as much as is practicable.
- b. New buildings whose street frontage is more than 45 feet wide shall be designed to convey a sense of division through the use of pilasters, windows and door openings, recessed entries, off-sets or other architectural details.

**2.3.200.6 Storefronts**

- a. Primary entrances shall be oriented to the street. Corner buildings shall have corner entrances, or shall provide at least one entrance within 20 feet of the street corner or corner plaza.
- b. The upper windows of multi-story buildings shall use multi-pane double-hung sash windows or the equivalent style.
- c. The relationship between solid walls and window and door openings on the main façade shall be visually compatible with adjoining or nearby structures from the historic period or style.
- d. The relationship of width and height of window and door openings shall be visually compatible with adjoining or nearby buildings from the historic period or style.
- e. Blank walls, walls without window or door openings, are not permitted along public streets.

- f. Windows and doorways shall not be covered over with paper, boards, or cardboard except during times of construction or remodeling and shall be limited to a period of 120 days unless an extension is otherwise granted by the City Manager.
- g. Doors shall match the materials, design, and character of the display window framing.
- h. Architectural features such as awnings, windows, cornices, etc. shall be provided at the second floor to differentiate the storefront from the upper levels of the building, to add visual interest, and to allow the storefront to function as the base for the rest of the building.

**2.3.200.7 Facade Materials and Texture**

- a. The materials and texture of the facade shall be compatible with those on buildings constructed during the historic period.
- b. Permitted exterior facade materials include: brick, cast iron, relatively narrow horizontal wood siding, and stucco. Plywood siding, T-111, and vertical board and batten are prohibited.
- c. Exposed concrete block facades facing the street are not allowed. Split-face or scored-face block may be used in small quantities for foundations or other non-dominate features.
- d. All main facade materials shall be painted (except brick for which painting is optional).
- e. Metal siding shall not be used as a building material on the facade facing a street.

**2.3.200.8 Roofs**

- a. Main facade roofs (lower than a 6:12 pitch) shall be concealed behind a square or stepped parapet.
- b. All HVAC systems located on top of a roof shall be located and/or screened so that they are not visible from the street. Dish style antennas shall be located and/or screened so that they are not visible from the street. All screening material shall be natural and shall be compatible with the facade of the front of the building.
- c. New roofs on existing buildings, or on additions to existing buildings, shall match the pitch and form of the original roof.
- d. Shed roofs are permitted on one-story rear additions.
- e. Back-lit or internally illuminated roofs are prohibited.

**2.3.200.9 Awnings and Canopies**

- a. Awnings shall extend out from the building front to cover at least two-thirds of the sidewalk unless it is shown that such a distance will interfere with existing trees, poles, etc., to provide pedestrian protection from the elements.
- b. Awnings shall be flat or sloping. Awnings shall be made of metal, wood, canvas or similar materials. Rounded bubble or plastic awnings are prohibited. Fully glazed awnings are not permitted.
- c. Awnings shall fit within the window bays (either above the main glass or the transom light) so as not to obscure or distract from significant architectural features.
- d. The color of the awning shall be compatible with its attached building.

- e. Awnings shall not be internally illuminated. However, lighting which is intended to provide illumination to the sidewalk and signage is permitted.
- f. Awnings shall be a minimum of 8 feet above the sidewalk.

**2.3.200.10 Color**

- a. The painting of brick walls is permitted.
- b. Subtle or subdued tones commonly used during the historic period shall be used. Bright or neon colors are prohibited.
- c. Different colors shall be used to accentuate and highlight trim, windows, and other building features.

**2.3.200.11 Signs/Murals**

Refer to Silverton Sign Code for specific sign regulations.

In the DC and DCF districts:

- a. Murals are allowed on the side walls of buildings facing the interior of blocks and blank side walls of non-historic buildings.
- b. Murals are not permitted on the main facade of either modern or historic buildings.
- c. Existing murals shall not be altered without a conditional use.

**2.3.200.12 Site Design**

- a. Landscaping shall not obliterate street and sidewalk views of signage or architectural features on historic buildings.
- b. The area of Downtown bounded North and South between High Street and Lewis Street and bounded East and West by Water street and First Street shall provide alternative landscape features in lieu of street trees to include one of the following for every 30 feet of frontage; plazas, planter boxes, hanging baskets, decorative sidewalk treatments or benches.
- c. For these areas not included in section ‘b’ above there shall be one street tree for every 30 to 50 feet of frontage, depending on the crown width of the tree, chosen from the street tree list, is permitted on that portion of the development paralleling the street, unless it is determined that street trees will interfere with ingress/ egress, utility lines or other factors would prevent a tree from growing to healthy maturity. Tree species and size to be consistent with the approved City of Silverton Street Tree List.
- d. Container plants shall be provided if the property can not provide any other form of landscaping. Otherwise low-water deciduous trees, shrubs, and flowering plants shall be used.

**2.3.200.13 Designated Creek Protection**

- a. Creek protection to maintain water quality and wild animal habitat shall be incorporated in the overall design of a project.
- b. Native riparian plant materials shall be planted adjacent to the creek to enhance creek habitat, consistent with state and federal guidelines.

**2.3.200.14 Parking**

- a. Parking areas shall not be located between the front of the building and the street.
- b. Parking areas with more than 10 spaces shall be divided by landscaped areas or walkways, or by a building or group of buildings.
- c. Parking lot landscaping shall consist of a minimum of 10% of the total parking area. The landscaping in parking areas is in addition to that required to meet other standards or percentages of required landscaping. A minimum of one tree for every 10 parking spaces shall be provided.
- d. “Knee walls” are required to screen street side parking lots. “Knee walls” shall not exceed 3 feet in height and shall be constructed with masonry. A combination of walls and landscaping may be approved if they provide an effective buffer and low-level screen of the parking area.
- e. Parking lot orientation shall comply with requirements within Section 2.3.150.

**2.3.200.15 Residential Development**

- a. Development which includes second and third story residences is compatible with historic design and use patterns and shall be allowed when other standards are met.

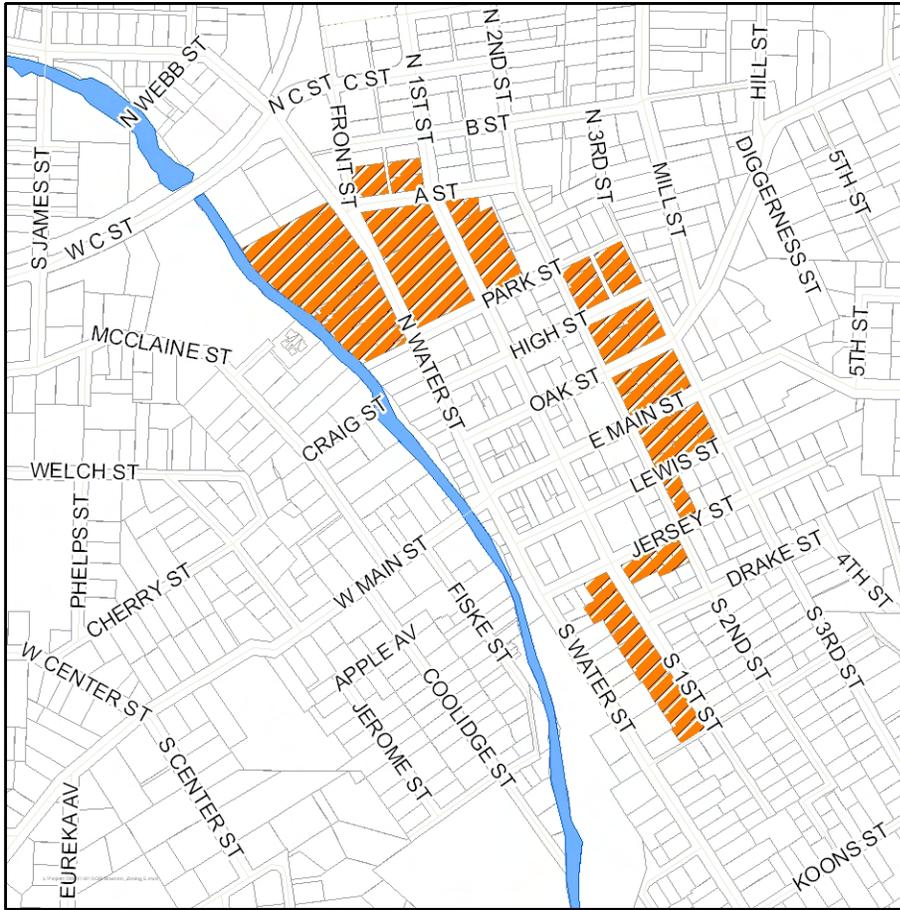
**2.3.210 Downtown Commercial Fringe District Design Standards**

**A. Purpose.** Section 2.3.210 promotes the historic residential nature of the Downtown Commercial Fringe area. Design is important to identifying Silverton as a unique place with successful commercial areas. The design standards are intended to:

- Encourage architecture that is consistent with the historic residential character of downtown 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.
- Balance rhythm and continuity – encourage creativity in the design of building elevations, rooflines and façade elements.

**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 2.3.210 may be adjusted through the Design Performance Option in Section 4.2.510.

**C. Area Defined.** The “Downtown Commercial Fringe” includes four sub-sections that surround the Downtown Commercial District. See Figure 2.3.210.1 C.



**Figure 2.3.210.1 C Map of Downtown Commercial Fringe**

**D. Standards.** Standards for new construction shall require builders to conform to the residential form of the historic period (1890's-1940's) or the surrounding buildings. As such, new construction shall conform to the following standards. The following list of buildings is provided as a reference guide to those buildings which display characteristics intended by the standards. The list is a guide only – other buildings may be used to demonstrate the required elements and/or the basis for visual compatibility.

**Examples of historic homes converted to commercial use for determining compatibility with standards:**

a. Water Street Inn: 421 N Water St



b. Heron Graphics: 417 N Water St



c. Medical Data Solutions: 411 N Water St



d. Patrick Doyle House: 429 N Water St



e. Adams House: 729 S Water St



**2.3.210.2 Site Orientation**

- a. The primary building façade shall face the street.
- b. Buildings shall promote public viewing of the creek by the construction of decks or balconies adjacent to Silver Creek. This shall include a continuation of the 5’ wide creek walk or trail with a public easement.
- c. The setbacks in the DCF zone are 5-20 feet.
- e. All sign locations shall be identified and shown on the plan submitted for review. Proposed sign locations and dimensions of signs shall comply with the Silverton Sign Code.

**2.3.210.3 Site Design**

- a. Landscaping (trees, shrubs, planters, etc.) shall not obliterate street and sidewalk views of signage or architectural features on historic buildings.
- b. Landscaping shall be continuously maintained by the property owner.
- c. Existing healthy trees on the site shall be preserved.
- d. One street tree shall be provided for every 30 to 50 feet of frontage, depending on the crown width of the tree, chosen from the street tree list, shall be placed on that portion of the development paralleling the street. Where the size of the project dictates an interior street layout, a similar streetscape with street trees is required. Tree species and size to be consistent with the approved City of Silverton Street Tree List.
- e. Low-water use trees, shrubs, and flowering plants shall be used or an irrigation system shall be installed.

**2.3.210.4 Building Scale and Height**

- a. Buildings shall be constructed to a maximum height of 35’. Roof style shall be architecturally compatible with the surrounding developments

**2.3.210.5 Building Width**

- a. All new building widths shall be consistent with adjacent properties.

**2.3.210.6 Roofs**

- a. Backlit or illuminated roofs are prohibited.
- b. All HVAC systems located on top of a roof shall be located and/or screened so that they are not visible from the street. Dish style antennas shall be located and/or screened so that they are not visible from the street. All screening material shall be compatible with the facade of the front of the building.
- c. Roof lines should be visually compatible with the existing historic buildings in the same district. Peaked and pitched roofs are preferred in the DCF district. Refer to 2.3.210.D for examples of residential historic buildings in the DCF.

**2.3.210.7 Facade Materials/Textures**

- a. Generally, the materials and texture of the facade shall be compatible with those on buildings constructed during the designated Historic Period.
- b. Permitted exterior facade materials include: relatively narrow horizontal wood siding, wood shingles, stucco facing and durable materials such as brick, stone and concrete.
- c. Exposed concrete block and plywood material are not allowed. Split-face or textured concrete may be used on the façade facing a street.
- d. All main facade materials shall be painted, except for durable materials such as brick, stone or concrete block which shall be sealed or otherwise appropriately treated.
- e. Metal shall not be used as a building material on the building facade facing any street. This requirement shall not include certain types of uses such as gas station canopies, historically sensitive awnings or ornamentation.

**2.3.210.8 Color**

- a. Bright primary colors shall be prohibited. Subtle or subdued tones shall be used.

**2.3.210.9 Parking**

- a. Parking areas shall not be located between the front of the building and the street.
- b. Parking lot landscaping shall consist of a minimum of 10% of the total parking area. The landscaping in parking areas is in addition to that required to meet other standards or percentages of required landscaping. A minimum of one tree for every 10 parking spaces shall be provided.
- c. Parking lots shall comply with requirements within Section 3.3.

**2.3.210.10 Designated Creek Protection**

- a. Properties which abut Silver Creek shall include creek protection to maintain water quality and wild animal habitat in the overall design of a project.

- b. Properties which abut Silver Creek shall include native riparian plant materials landscaping to be planted adjacent to the creek to enhance creek habitat.

**2.3.210.11 Landscaping**

- a. Landscaping shall be designed so that vegetation covers a minimum of 50% of the required landscaped area within one year of installation and 90% coverage occurring within 5 years.
- b. Landscaping design shall include a variety of deciduous and evergreen trees and shrubs and flowering plant species well adapted to the local climate.
- c. During site preparation existing healthy trees shall be saved where practicable.
- d. Landscaping shall consist of a minimum of 10% of the total site.
- e. All landscaping shall be continuously maintained by the property owner. Failed plantings shall be replaced in the next appropriate planting season but no later than within one year of the initial planting.

## Chapter 2.4 — Industrial (I) Districts

### Sections:

- 2.4.100 Industrial Districts – Purpose**
- 2.4.110 Industrial Districts – Allowed Uses**
- 2.4.120 Industrial Districts – Setback Yards and Buffering**
- 2.4.130 Industrial Districts – Lot Coverage**
- 2.4.140 Industrial Districts – Site Layout and Design**
- 2.4.150 Industrial Districts – Building and Structure Height**
- 2.4.160 Industrial Districts – Performance Standards**

### **2.4.100 Industrial Districts – Purpose**

Chapter 2.4 accommodates a range of industrial land uses. The district is intended to provide for land use compatibility while providing a high-quality environment for businesses and employees. This chapter is also intended to provide suitable locations for heavy industrial uses (*e.g.*, raw materials processing; and manufacturing, assembly, packaging or distribution of heavy or large goods) that would not otherwise be compatible in other districts. Chapter 2.4 guides the orderly development of industrial areas based on the following objectives:

- Provide for efficient use of land and public services;
- Provide appropriately zoned land with a range of parcel sizes for industry;
- Provide transportation options for employees and customers;
- Locate business services close to major employment centers;
- Ensure compatibility between industrial uses and nearby commercial and residential areas;
- Provide appropriate design standards to accommodate a range of industrial users;
- Provide attractive locations for business to locate; and
- Accommodate mixed-use employment development.

## 2.4.110 Industrial District – Allowed Uses

Table 2.4.110 identifies the land uses that are allowed in the Industrial Districts. The specific land use categories are described and uses are defined in Chapter 1.5 and 1.6.

<b>Uses</b>	<b>Status of Use in District</b>		
	<b>Industrial (I)</b>	<b>Light Industrial (LI)</b>	<b>Industrial Park (IP)</b>
<b>Use Categories</b> (Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)			
<b>Residential Categories</b>			
<b>Household Living</b>			
Residential Uses (Household Living and Group Living) not allowed, except as follows: <ul style="list-style-type: none"> <li>- lawfully existing before September 1, 2006, per Section 2.3.160.D; or</li> <li>- caretaker dwelling (accessory to a primary permitted use)</li> </ul> <i>Group Living Uses shall conform to the provisions in Section 2.2.200.</i>	S  P	S  P	S  P
<b>Commercial Categories</b>			
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, similar uses/facilities) <ul style="list-style-type: none"> <li>- accessory to a primary permitted use</li> <li>- not accessory to a permitted use</li> </ul>	P  CU	CU  CU	CU  N
Bed and Breakfast Inn	N	N	N
Educational Services, not a school	N	CU	CU
Entertainment, Major Event	N	N	N
Mobile Food Vendor, per Section 2.3.160.B	S	S	S
Offices	CU	P	P
Outdoor Recreation, Commercial	N	N	N
Parking Lot, when not an accessory use	CU	CU	CU
Quick Vehicle Servicing or Vehicle Repair	CU	CU	CU

2.4.110 – Industrial (I) Districts – Allowed Uses

<b>Uses</b>	<b>Status of Use in District</b>		
	<b>Industrial (I)</b>	<b>Light Industrial (LI)</b>	<b>Industrial Park (IP)</b>
<b>Use Categories</b> (Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)			
Retail Sales and Service, <ul style="list-style-type: none"> <li>- accessory to a primary permitted use</li> <li>- not accessory to a primary permitted use, limited to 30,000 square feet gross floor area (Section 2.4.140)</li> </ul>	P N	P S	P S
Indoor Sports Facility-No Square Footage Limit	CU	CU	CU
Self-Service Storage <ul style="list-style-type: none"> <li>- enclosed</li> <li>- unenclosed (any portion)</li> </ul>	P P	P CU	P N
<b>Industrial Categories</b>			
Industrial Service <ul style="list-style-type: none"> <li>- fully enclosed (e.g., office)</li> <li>- not enclosed</li> </ul>	P P	P CU	P N
Manufacturing and Production <ul style="list-style-type: none"> <li>- fully enclosed</li> <li>- not enclosed</li> </ul>	P CU	P N	P N
Warehouse and Freight Movement	CU	CU	CU
Waste-Related	CU	CU	N
Wholesale Sales, per Section 2.4.140 <ul style="list-style-type: none"> <li>- fully enclosed</li> <li>- not enclosed</li> </ul>	N CU	S CU+S	S CU+S

**Key:**

P = Permitted, subject to land use review or design review (Chapter 4.2)

S = Permitted with standards (Section 2.4.140). Standards may be modified with a Planned Development

CU = Conditional Use required (Chapter 4.4)

N = Not permitted

2.4.110 – Industrial (I) Districts – Allowed Uses

<b>Uses</b>	<b>Status of Use in District</b>		
	<b>Industrial (I)</b>	<b>Light Industrial (LI)</b>	<b>Industrial Park (IP)</b>
<b>Use Categories</b> (Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)			
<b>Institutional Categories</b>			
Basic Utilities	P	P	P
Colleges, including Vocational Schools	CU	P	P
Community Service	CU	P	P
Daycare, adult or child day care	N	N	N
Parks and Open Space	P	P	P
Religious Institutions and Houses of Worship, - lawfully existing as of [effective date] - new	P N	P N	P N
Schools	N	CU	CU
<b>Other Categories</b>			
Accessory Structures (with a primary use)	P	P	P
Agriculture – Animals	N	N	N
Agriculture – Nurseries and similar horticulture (See also, Wholesale and Retail Uses)	P	CU	N
Mining	N	N	N
Radio Frequency Transmission Facilities - within height limit of district - exceeds height limit (free-standing or building-mounted facilities)	P CU	P CU	P CU
Rail Lines and Utility Corridors	CU	CU	CU

**Key:**

P = Permitted, subject to land use review or design review (Chapter 4.2).

S = Permitted with standards (Section 2.4.140). Standards may be modified with a Planned Development

CU = Conditional Use required (Chapter 4.4).

N = Not permitted

2.4.110 – Industrial (I) Districts – Allowed Uses

<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Industrial (I)</b>	<b>Light Industrial (LI)</b>	<b>Industrial Park (IP)</b>
Temporary Uses (limited to “P” and “CU” uses), per Section 4.9.100.	P/CU	P/CU	P/CU
Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City’s Transportation System Plan)	P	P	P

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**Key:**

- P = Permitted, subject to land use review or design review (Chapter 4.2).
- S = Permitted with standards (Section 2.4.140). Standards may be modified with a Planned Development
- CU = Conditional Use required (Chapter 4.4).
- N = Not permitted

## 2.4.120 Industrial Districts – Setback Yards and Buffering

**A. Purpose.** Setback yards and buffers provide separation between industrial and non-industrial uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation.

**B. Applicability.** The setback yard and buffer standards in subsections 2.4.120.C-F are minimum standards that apply to buildings, accessory structures, parking areas, mechanical equipment, and other development (but not buffers as required under subsection F). In granting a Conditional Use, the approval body may increase the standard yards and/or buffers consistent with the criteria in Chapter 4.4. The approval body may also decrease the standard yards and/or buffers through the CU process, provided that all applicable building and fire safety codes are met.

### **C. Front and Street Yard Setbacks.**

1. Industrial (I) District: Minimum of 20 feet
2. Light Industrial (LI) District: Minimum of 10 feet
3. Industrial Park (IP) District: Minimum of 10 feet

### **D. Rear Yard Setbacks.**

A minimum of 10 feet is required, except where common wall buildings with 0-setback are allowed through Design Review (Fire Codes must be met); and where abutting a Residential District, a minimum of 30 feet is required.

**E. Side Yard Setbacks.** There are no required side-yard setbacks, except a minimum of 30 feet is required when an Industrial Districts (I or LI) abuts a Residential District.

### **F. Buffering Other Yard Requirements.**

1. Buffering. The approval body may require landscaping, fences, walls or other buffering that exceed the landscaping standards in Chapter 3.2 when it finds through Design Review (Chapter 4.2), Conditional Use review (Chapter 4.4), and/or Planned Development review (Chapter 4.5), as applicable, that more or different buffering is necessary to mitigate adverse noise, light, glare, and/or aesthetic impacts to adjacent properties.
2. Pedestrian Access. The approval body may require the construction of pedestrian access ways through required buffers to ensure pedestrian connections within large developments, between multiple development phases, or connecting to public sidewalks, walkways, or multi-use pathways. Access way design shall conform to Section 3.1.300.

### 2.4.130 Industrial Districts – Lot Coverage

- A. **Industrial (I) District:** Maximum lot coverage, 90 percent; maximum area of impervious surfaces, 90 percent.
- B. **Light Industrial (LI) District:** Maximum lot coverage, 85 percent; maximum area of impervious surfaces, 85 percent.
- C. **Industrial Park (IP) District:** Maximum lot coverage, 85 percent; maximum area of impervious surfaces, 85 percent.

### 2.4.140 Industrial Districts – Site Layout and Design

A. **Development Compatibility.** Industrial uses and developments shall be oriented on the site to minimize adverse impacts (*e.g.*, noise, glare, smoke, dust, exhaust, vibration, etc.) and to provide compatibility with adjacent uses to the extent practicable. The following standards shall apply to all development in the Industrial Districts:

1. Mechanical equipment, lights, emissions, shipping/receiving areas, and other components of an industrial use that are outside enclosed buildings, shall be located away from residential areas, schools, parks and other non-industrial areas to the maximum extent practicable; and
2. The City may require a landscape buffer, or other visual or sound barrier (fence, wall, landscaping, or combination thereof), to mitigate adverse impacts that cannot be avoided, as provided in Section 2.4.120.

B. **Large-Scale Commercial Development.** Where commercial, retail or wholesale use is allowed (LI or IP districts), it shall meet the following standards:

1. Gross floor area used for commercial, retail or wholesale shall be limited to 30,000 square feet.
2. The architectural standards in Section 2.3.180 must be met on the subject commercial, retail or wholesale building(s), as applicable; and
3. Developments containing more than one building, including commercial or industrial subdivisions containing outlying commercial pads, shall meet the commercial block layout and building orientation standards for the General Commercial District contained in Chapter 2.3 Commercial Districts.

### C. Landscape Area

1. Industrial (I) District: Minimum area: 10 percent.
2. Light Industrial (LI) District: Minimum area: 15 percent.
3. Industrial Park (IP) District: Minimum area: 15 percent.

**2.4.150 Industrial Districts – Building and Structure Height**

- A. Height: The maximum allowable height of buildings and structures in the Industrial Districts is 45 feet, except that taller buildings and structures are allowed when approved as part of a Conditional Use, provided the minimum setback for such structures abutting a residential district shall be increased by one (1) foot for every foot of structure height exceeding 45 feet.
- B. Design Standards:
1. Building frontages shall have offsets, jogs, or other distinctive changes in the texture, color size of the façade.
  2. Metal shall not be the predominant building material on the façade facing a street.

**2.4.160 Industrial Districts – Performance Standards**

- A. **Industrial (I) District.** In this industrial district no land or structure shall be used or occupied unless there is continuing compliance with the following standards:
1. Air Pollution Control. The discharge into the air of solids, liquids or gases which are detrimental to the public health, safety, or welfare by causing injury to human, plant or animal life or to property is prohibited in this industrial district.
  2. Air Quality Standards.
    - A. The emission of odors in such quantities as to be readily perceptible at any point beyond the property line or district boundary if closer to the source is prohibited.
    - B. Toxic gases in a measurable quantity shall not be discharged into the air.
  3. Heat, Glare and Light. All operations and facilities producing heat, glare or light, including exterior lighting shall be so directed or shielded by walls, fences, evergreen plantings, that such heat, glare or light is not reflected or directed onto adjacent properties or streets.
  4. Noise. No noise or sound in an I District shall be of a nature which will constitute a nuisance and all uses in the I District within 150 feet of an IP District shall not exceed the limits prescribed for the IP District.
  5. Sewage. Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the City of Silverton.
  6. Vibration. No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at or beyond the property line for the use concerned.

**B. Limited Industrial (LI) District.** In this industrial district no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

1. Air Pollution Control. The discharge into the air of solids, liquids or gases which are detrimental to the public health, safety, or welfare by causing injury to human, plant or animal life or to property is prohibited in this industrial district.
2. Air Quality Standards.
  - A. The emission of odors in such quantities as to be readily perceptible at any point beyond the property line or district boundary if closer to the source is prohibited.
  - B. Toxic gases in a measurable quantity shall not be discharged into the air.
3. Heat, Glare and Light. All operations and facilities producing heat, glare or light, including exterior lighting shall be so directed or shielded by walls, fences, evergreen plantings, that such heat, glare or light is not reflected or directed onto adjacent properties or streets.
4. Noise. No noise or sound in an LI District shall be of a nature which will constitute a nuisance and all uses in the LI District within 150 feet of an IP District shall not exceed the limits prescribed for the IP District.
5. Sewage. Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the City of Silverton.
6. Vibration. No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at or beyond the property line for the use concerned.

**C. Industrial Park (IP) District.** In this industrial district no land or structure shall be used or occupied unless there is continued compliance with the following standards:

1. Air Pollution Control. The discharge into the air of solids, liquids or gases which are detrimental to the public health, safety, or welfare by causing injury to human, plant or animal life or to property is prohibited in this industrial district.
2. Air Quality Standards.
  - A. The emission of odors in such quantities as to be readily perceptible at any point beyond the property line or district boundary if closer to the source is prohibited.
  - B. Toxic gases in a measurable quantity shall not be discharged into the air.
3. Heat, Glare and Light.
  - A. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building and shall not be discernible at or beyond the property line.
  - B. Exterior lighting shall be directed away from and not reflect on adjacent properties.

4. Noise.

A. Noise shall be muffled and shall not be objectionable due to intermittence, beat frequency, or shrillness and shall not exceed the following intensity in relation to sound frequency as adjusted below when applicable:

Octave Band	Maximum Permitted Sound Level Decibels	
	Hours 10 p.m. – 7 a.m.	Hours 7 a.m. – 10 p.m.
Frequency in cycles per second		
0 to 74	69	74
75 to 149	54	59
150 to 299	47	52
300 to 599	41	46
600 to 1,199	37	42
1,200 to 2,399	34	39
2,400 to 4,799	31	36
4,800 and above	28	33

B. If the noise is not smooth and continuous the following corrections shall be added to or subtracted from the above limits:

Type of Operation or Character of Noise	Correction in Decibels
a. When in each one hour period the noise source operates less than a total of (use only one factor):	
12 minutes	add 5
3 minutes	add 10
30 seconds	add 15
b. Noise of an impulsive character (such as hammering, etc.)	less 5
c. Noise of periodic character (such as humming, screech, etc.)	less 5

C. Noise made by devices which are maintained and utilized solely to serve as warning devices is excluded from these regulations.

D. Noise created by highway vehicles, trains, watercraft, and aircraft is excluded from these regulations.

## 2.4.150-160 – Industrial (I) Districts – Building Height and Design, Performance Standards

### E. Measurements.

1. Sound levels shall be measured with a sound level meter and octave band analyzer approved by the planning commission based on specifications of the American Standards Association.
  2. Measurements shall be made from at least three points along the property line or along a non-industrial district boundary when such boundary is closer to the source than the property line.
  3. Measurements for alleged violations shall be made on at least three nonconsecutive days.
5. Sewage. Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the City of Silverton.
6. Vibration. No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at or beyond the property line for the use concerned.

## Chapter 2.5 – Flood Plain Overlay

### Sections:

- 2.5.100 Purpose**
- 2.5.110 Development to Which These Regulations Apply**
- 2.5.120 Lands to Which These Regulations Apply**
- 2.5.130 Floodplain Variances**
- 2.5.140 Definitions**
- 2.5.150 State and Federal Approval**
- 2.5.160 Floodway Restrictions**
- 2.5.170 Alteration of the Flood Carrying Capacity of a Watercourse Prohibited**
- 2.5.180 General Information Requirements**
- 2.5.190 Land Division and Planned Development Standards**
- 2.5.200 Manufactured Home Parks**
- 2.5.210 Building Standards**
- 2.5.220 Procedure**
- 2.5.230 Flood Hazard Reduction Standards**
- 2.5.240 Accessory buildings in floodplain districts that represent a minimal investment are exempt from the standards of 2.5.210 and 2.5.220**
- 2.5.250 Recreation Vehicles in Floodplain Districts**
- 2.5.260 Warning and Disclaimer of Liability**
- 2.5.270 Storage of Material and Equipment.**

### **2.5.100 Purpose**

It is the purpose of these regulations to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

### **2.5.110 Development to Which These Regulations Apply**

“Development”, as defined in Article 1, includes, but is not limited to, residential and non-residential construction, manufactured housing, and land divisions. Excavation and fill (grading) is specifically excluded from the definition of development as used in this section. Grading is regulated by Section 2.6.180.

### **2.5.120 Lands to Which These Regulations Apply**

These regulations shall apply to all areas within the City of Silverton that are subject to inundation from a 100-year flood. These areas are depicted on federal Flood Insurance Rate Maps (FIRMs) and Floodway Maps by the letter A, AE, or AO.

These areas have been identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study for Marion County dated January 19, 2000 (Panels 243, 244, 382, and 400 of 1150). In addition, the City Council may adopt by resolution more current studies or boundary information approved by the Federal Emergency Management Agency (FEMA).

Precise floodplain district boundaries may be difficult to determine from the maps referred to above due to their large scale and lack of site specific studies. In such instances, the Community Development Director may apply FEMA base flood elevations to topographic maps or site surveys in order to determine actual boundaries. In the absence of FEMA base flood elevations, the Director shall reasonably utilize other sources of floodplain and floodway data to determine base flood elevations and boundaries. However, when elevation data is not available through FEMA or another authoritative source and the development consists of 4 or more lots, 4 or more structures, or 4 or more acres, the applicant shall generate and have certified by a registered engineer the base flood elevation. Any decision of the Community Development Director regarding a determination of a base flood elevation or interpretation of a district boundary may be appealed in accordance with Section 4.8 of this Code.

The Flood Insurance Study and FIRM panels for the City of Silverton are maintained in the Community Development office. The Community Development office also maintains for public inspection all records pertaining to the provision of this ordinance, including elevation and flood-proofing certificates.

### **2.5.130 Floodplain Variances**

Variances from the terms of this section shall be granted only, when because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this section deprives such property of privileges enjoyed by other property in vicinity and under identical zoning classifications. There will be no variance given to the standards for development in the floodway. Variances from the floodplain management regulations of this section shall be reviewed as a Type II procedure and shall be approved if the review body finds that all of the following criteria have been met:

- A. The applicant can show good and sufficient cause; and
- B. Failure to grant the variance would result in exceptional, non-financial hardship to the applicant; and
- C. Issuance of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
- D. The variance is the minimum necessary, considering the flood hazard, to afford relief; and in addition, variances from the required lowest floor elevation may be granted if the review body find that the request meets the following criterion as well as those criteria listed above:
  - 1. The parcel is one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.

Upon issuance of the variance, the Community Development Director will notify the applicant in writing that the issuance of a variance to construct a structure below the base flood level will

result in increased premium rates for flood insurance, and such construction below the base flood level increases risks to life and property.

### 2.5.140 Definitions

As used in this code the following words and phrases shall have the following meanings:

**Base Flood or 100-year Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. Map designation always includes the letter “A” (e.g. A, AE, AO).

**Federal Emergency Management Agency (FEMA):** The federal agency charged with implementing the National Flood Insurance Program. FEMA provides floodplain maps to the City of Silverton.

**Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Fringe:** Those areas outside the floodway but within the 100-year floodplain. Zone designations on Flood Insurance Rate Maps include A, AE, and AO. Note Floodway Relationships diagram Fig. 6-3.

**Flood Insurance Rate Map (FIRM):** The official map on which FEMA has delineated both the areas of special flood hazards and the insurance risk premium zones.

**Floodplain:** The combined area of the floodway and the flood fringe.

**Flood-proofing:** Any combination of structural or nonstructural provisions, changes or adjustments to structures, land or waterway for the reduction or elimination of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents during a 100-year flood.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than one foot. These areas are identified on the Floodway maps issued by FEMA. Note Floodway Relationships diagram in Figure 6-3.

**Lowest Floor:** The lowest floor of the lowest enclosed habitable area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in any area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable design requirements of this ordinance found in Section 2.5.210.

**Permanent Foundation:** A natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistance and strength.

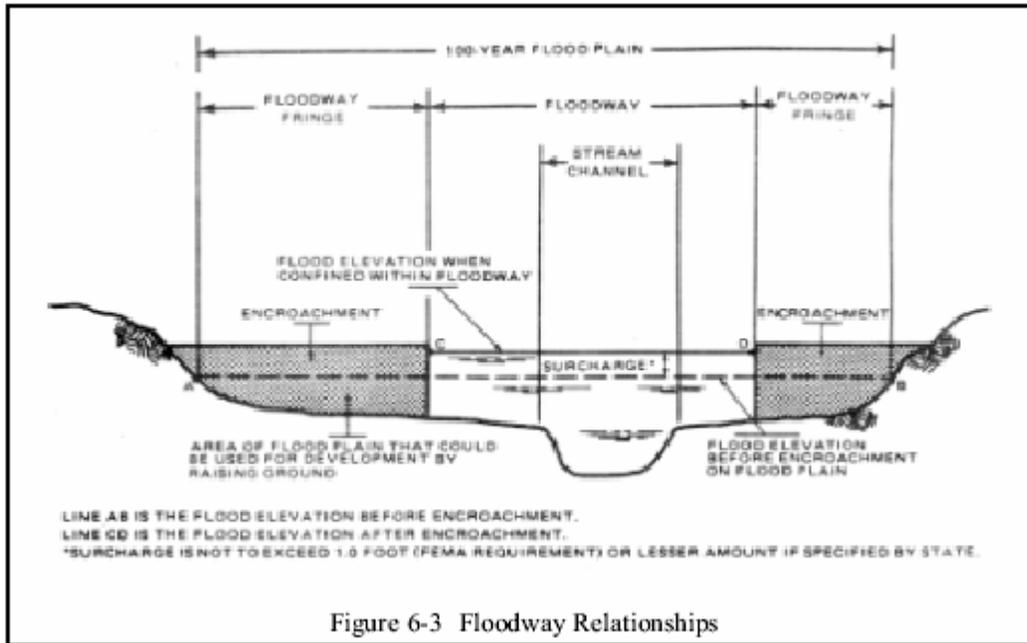
**Special Flood Hazard Area:** Areas subject to inundation during the occurrence of the 100-year flood.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damaged would equal or exceed 50 percent of the market value or the structure before the damage occurred.

**Substantial Improvement:** For the purposes of this section, and notwithstanding the provisions for nonconforming use and development pursuant to Section 5.2, any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a structure identified on the City’s adopted Historic Inventory, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

**Watercourse:** Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.



### 2.5.150 State and Federal Approval.

City approval of any development within the floodplain is conditioned upon receipt of any required state or federal permits. Required state and federal permits include but are not limited to:

- A. Permits and associated wetland development regulations administered by the Oregon Department of State Lands.
- B. Permits administered by the U.S. Army Corps of Engineers.
- C. All discharge permits covered by the U.S. Environmental Protection Agency and Oregon Department of Environmental Quality.

### 2.5.160 Floodway Restrictions

No development is allowed in any floodway except where the review body finds that the development will not result in any increase in flood levels during the occurrence of the 100- year flood. Such finding shall be based upon applicant-supplied evidence certified by a registered professional engineer and upon documentation that one of the following three criteria has been met:

- A. The development does not involve the construction of permanent or habitable structures.
- B. The development is a public or private park or recreational use or municipal utility use.
- C. The development is a water-dependent structure such as a dock, pier, bridge, or floating marina.

If a floodway boundary is not designated on an official FEMA map available to the City, the floodway boundary can be estimated from available data. Proposed development along such estimated floodway boundary shall not result in an increase of the base flood level greater than one foot as certified by a registered professional engineer.

**2.5.170 Alteration of the Flood Carrying Capacity of a Watercourse Prohibited**

No development shall diminish the flood carrying capacity of a watercourse. Subject to the foregoing regulation, no person shall alter or relocate a watercourse, without submittal of a Land Use Review application per Section 4.2. The City shall provide a minimum 30-day prior written notice to any adjacent community, and the Natural Hazards Mitigation Office of the Department of Land Conservation and Development. Maintenance of the altered watercourse shall be provided so that the flood carrying capacity is not diminished over time.

**2.5.180 General Information Requirements**

In addition to the information required in other sections of this code, the application for any development proposed in the floodplain district must include the following information:

- A. Elevations of the original contours.
- B. Final elevations of proposed fills and excavations.
- C. Base flood (100-year flood) elevations of the site.
- D. Location of any designated floodway and base flood boundary.
- E. Location of any designated wetlands and/or wildlife habitat (if applicable).
- F. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures (if applicable).
- G. Which a watercourse will be altered or relocated as a result of proposed development (if applicable).
- H. If floodproofing is required, the proposed description and elevation of floodproofing.

**2.5.190 Land Division and Planned Development Standards**

Land divisions and planned developments in the floodplain district shall be reviewed by the Planning Commission as a part of the land use planning process.

Notwithstanding other provisions of this code, all land division and planned development applications which propose actual development within a floodplain district shall be processed under the Type III process. An application to develop property which has floodplain on it, but where no development is proposed in that floodplain, will be processed as otherwise required in this Code. In the case of a land division, “no actual development” means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development. For example, as a public drainage right-of-way.

In addition to the general review criteria for land divisions and planned developments in Article 4, applications which propose actual development within the floodplain district shall also be subject to the following standards:

- A. All land division proposals shall be consistent with the need to minimize flood damage.
- B. All land division proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All land division proposals shall have adequate drainage provided to reduce exposure to flood damage.
- D. Any lot created for development purposes must have adequate area created outside of the floodway to maintain a buildable site area meeting the minimum requirements of this Code.
- E. Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.
- F. All land divisions or planned developments in the floodplain district shall show the location of the 100-year flood contour line followed by the date the flood elevation was established. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the recorded map or plat shall read as follows: “Development of property within the 100-year floodplain as most currently established by the Federal Emergency Management Agency or City of Silverton may be restricted and subject to special regulations by the City.”

**2.5.200 Manufactured Home Parks**

Manufactured home parks and manufactured home subdivisions proposed in the floodplain district shall be reviewed by the Planning Commission. Notwithstanding other provisions of this code, all manufactured home park and subdivision applications which propose actual development within the floodplain district shall be processed under a Type III process. An application to develop property which has floodplain on it, but where no development is proposed in that floodplain, will be processed as otherwise required in this Code. In the case of a land division, “no actual development” means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development. For example, as a public drainage right-of-way. In addition to the general review criteria applicable to manufactured home parks, applications which propose actual development within the floodplain district shall include an evacuation plan indicating alternate vehicular access and escape routes. In addition, the standards listed in Section 2.5.210 also apply to the placement of manufactured homes within a floodplain.

**2.5.210 Building Standards**

Applications for building permits in the floodplain district shall be reviewed by the Building Official pursuant to locally adopted state building codes. In addition to building code criteria, all development in the floodplain district, except that exempted in Section 2.5.230, shall be subject to the following building standards:

- A. The lowest floor, including basement, of any proposed structure (including manufactured homes and non-residential structures) shall be placed at least three (3) feet above the 100-year flood as determined by the latest Federal Insurance Study.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- D. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- E. All manufactured homes shall be on an adequately anchored, permanent foundation and be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over-the-top or frame ties to ground anchors (reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for additional details).
- F. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement and shall be installed or constructed using materials, methods, and practices that minimize flood damage.

- G. All new and replacement public water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- H. All new and replacement public sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood water. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- I. Property owners or developers shall file with the City a certificate whose format is acceptable to FEMA. This certificate must be approved by the Building Official, and prepared by a registered surveyor or professional engineer, architect or surveyor, and maintained for public inspection. The certificate must contain:
  - 1. The actual elevation (in relation to mean sea level) of the lowest floor including basement;
  - 2. The elevation of any floodproofing; and
  - 3. Whether or not the structure contains a basement.
- J. If flood-proofing methods are required as per Section 2.5.210(B), the property owners or developers shall file with the City certification by a registered professional engineer or architect that the floodproofing methods meet or exceed FEMA standards.

**2.5.220 Procedure**

A registered Oregon Engineer or Land Surveyor shall visit the site prior to construction and set a reference datum on the site to establish the 100-year base flood elevation. This elevation shall be shown on the building plans submitted to the City for review.

Upon issuance of the building permit, the owner or contractor of record shall set the top of the foundation forms so that the floor and mechanical equipment is three (3) feet above the reference datum that was set by the Engineer or Surveyor.

Foundation approval to pour will not be granted until the Engineer or Surveyor has verified the elevation of the top of the forms. Verification shall be written and available to the inspector on site at the time of inspection.

**2.5.230 Flood Hazard Reduction Standards**

All flood hazard reduction measures are required, as applicable, and must be certified as required in 2.5.210 (I) and (J) above to at least meet the following standards (these standards do not apply to structures exempted in Section 2.5.230 below:

- A. All structures, fully enclosed areas below the lowest floor and lower than 3 feet above the 100-year flood level must meet or exceed the following minimum criteria:
  - 1. A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided.
  - 2. The bottom of all openings shall be no higher than one foot above grade.
  - 3. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- B. Non-habitable construction meeting the certification requirements of 2.5.210 (I) & (J) can have the lowest floor and attendant utility and sanitary facilities located lower than one foot above the 100-year flood elevation if:
  - 1. The structure is floodproofed so that areas lower than one (1) foot above the 100-year flood level are watertight with walls substantially impermeable to the passage of water.
  - 2. The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - 3. The applicant is notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.
  - 4. The applicant files a certification by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the Building Official as set forth in 2.5.210(I).
  - 5. Non-habitable construction that is elevated, not floodproofed, must meet the elevation standards of 2.5.210 and the standards for space below the first floor as described in (A) of this Section.

**2.5.240 Accessory Buildings in Floodplain Districts that Represent a Minimal Investment are Exempt from the Standards of 2.5.210 and 2.5.220**

The following standards, and all other regulations that apply to development in floodplain areas, apply to those buildings. The definition of “minimal investment” for the purposes of this section is a building which costs less than \$10,000 in labor and materials to construct. The value of a proposed building will be that value stated on the application for building permits.

- A. Accessory structures shall not be used for human habitation.
- B. Accessory structures shall be designed to have low flood damage potential.
- C. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- D. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- E. Service facilities such as electrical and heating equipment shall be elevated and floodproofed.

**2.5.250 Recreation Vehicles in Floodplain Districts**

Recreation vehicles placed on sites in the floodplain are required to either:

- A. Meet the requirements of Section 2.5.210, including the elevation and anchoring requirements for manufactured homes; or
- B. Be on the site for fewer than 180 consecutive days; or
- C. Be fully licensed and ready for highway use, on wheels or jacking systems attached to the site only by quick disconnect type utilities and security devices, and with no permanently attached additions.

**2.5.260 Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased as a result of failure of manmade structures and/or natural causes. This ordinance does not imply that the land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Silverton or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**2.5.270 Storage of Material and Equipment**

No storage of material or equipment is allowed within floodway areas, unless the storage can be approved upon determination that the following criteria have been satisfied:

- A. Site Plan approval has been received.
- B. There is no storage or processing of material that is, in time of flooding, buoyant, flammable, toxic, explosive or otherwise could be injurious to human, animal, or plant life.
- C. The material or equipment is not subject to major damage by floods and is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.

## Chapter 2.6 – Hillside Protection (/H) Overlay

### Sections:

- 2.6.100 Purpose**
- 2.6.110 Applicability**
- 2.6.120 General**
- 2.6.130 Reports Required**
- 2.6.140 Development Density Options**
- 2.6.150 Building Location and Design Standards**
- 2.6.160 Re-vegetation Standards - Slopes Greater Than 20%**
- 2.6.170 Grading, Cut and Fill Standards**
- 2.6.180 Grading and Erosion Control**
- 2.6.190 Storm Drainage**
- 2.6.200 Street Standards**
- 2.6.210 Driveway Standards**
- 2.6.220 Tree Conservation, Protection and Removal**
- 2.6.230 Modification of Standards**
- 2.6.240 Variance from Hillside Lands Development Standards**

### **2.6.100 Purpose**

The intent of the Hillside Development overlay standards is to provide for supplementary regulations to underlying zoning district to ensure that development occurs in such a manner as to protect the natural and topographic character and identity of these areas, environmental resources, the aesthetic qualities and restorative value of lands, and the public health, safety, and general welfare of the citizens of Silverton by ensuring that development does not create soil erosion, sedimentation of lower slopes, slide damage, flooding problems, and severe cutting or scarring. It is the intent of these development standards to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the city.

### **2.6.110 Applicability**

The Hillside Development standards apply to all areas that have an average slope of twelve percent (12%) or greater. Notwithstanding any provisions of the Development Code to the contrary, Hillside Lots in subdivisions and partitions receiving tentative approval on or after the effective date of this ordinance shall comply with the standards set forth in this article. Hillside Lots in other areas may, at the option of the developer or owner, meet such standards in lieu of those specified elsewhere in the Development Code. A topographical survey of the lot shall be furnished by any person wishing to meet the standards of this article. For development of any lot in a subdivision or partitioning receiving tentative plan approval after the effective date of this ordinance, the Community Development Director or Building Official may require a topographic survey showing two-foot intervals wherever there is a question as to whether the lot is a hillside lot.

**2.6.120 General**

All development proposed within the Hillside Development overlay district is required to provide for the preservation and, if possible, enhancement of the site's natural features during all phases of the design and development process. This includes consideration of soils, vegetation, hydrology, wildlife habitat, views and visual orientation, both from the site and to the site, and unusual or unique natural features.

**2.6.130 Reports Required**

When land to be developed exceeds twelve percent (12%) average slope, a geotechnical study prepared by a Geotechnical Engineer and Certified Engineering Geologist indicating that the site is stable for the proposed use and development shall be submitted with the partition or subdivision application. The study shall include the following information:

- A. Index Map
- B. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.
- C. A scale-drawing site plan of the property, showing all natural physical features, topography at two-foot contour intervals, steepness of slopes, location of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structure or features all fully dimensioned, trees 6-inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities.
- D. Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds, etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.
- E. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.
- F. Suitability of site for proposed development from a geologic standpoint.
- G. Specific recommendations for cut and fill slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.
- H. If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.
- I. A scale-drawing grading plan, including all of the features and detail required for the site plan listed in C above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.
- J. Signature and registration number of the engineer and/or geologist.
- K. Additional information or analyses as necessary to evaluate the site.
- L. Inspection schedule for the project.

### 2.6.140 Development Density Options

The developer has two options for the development of steeply sloped land. The first option, Option "A", is designed to correlate minimum lot sizes to the average slope of the development area. The second option, Option "B", is designed to allow, through a Planned Development, a density transfer bonus to stimulate development on those portions of the development area where the slope of the land is less than 12 percent. A combination of Options "A" and "B" may be used through a Planned Development.

#### Option “A” Average Slope – Minimum Lot Size

In slope areas of 12-14.9% slope, the minimum lot areas shall be 10,000 square feet. In slope areas of 15-24.9%, the minimum lot size shall be 12,000 sq. ft. In slope areas of 25-29.9% slope, the minimum lot size shall be 15,000 square feet and for areas of slope between 30-34% the minimum lot size shall be 20,000 square feet. All hillside lots created by following Option “A” shall meet the lot area and dimension standards of Table 2.6.140

Areas with average slopes of greater than thirty-four (34%) prior to grading shall not be subdivided or partitioned further unless the area being divided is included in addition to the square footage required for building envelopes. However, open space, greenways and recreational trails may be developed in these areas. For those lots of record which have an average slope of greater than 34 percent and have no area less than 34 percent slope, the maximum residential development shall be one dwelling unit per lot of record. When density transferred from areas in excess of 34% slope, density transfers shall be allowed at a rate of one dwelling unit per acre.

**Table 2.6.140**

<b>Average Slope</b>	<b>Minimum Lot Size Per Dwelling Unit</b>	<b>Minimum Lot Frontage</b>	<b>Minimum Lot Depth</b>
12 – 14.9%	10,000 Sq. Ft.	80 Feet	100 feet
15 – 24.9%	12,000 Sq. Ft.	85 Feet	100 feet
25 – 29.9%	15,000 Sq. Ft.	90 Feet	100 feet
30 – 34%	20,000 Sq. Ft.	100 Feet	100 feet

#### Option “B” Planned Development Density Transfer Bonus

In order to promote the preservation of natural slopes greater than 12 percent, development density transfer is encouraged when dividing land. The density transfer is only feasible where there are sizable portions of the development area which have slopes less than 12 percent through a Planned Development process per Section 4.5. Determination of the density transfer bonus is a 3 step process:

1. Determine the area of the parcel where the average slope of the land is:
  - a. Less than 12 %.
  - b. From 12-14.9 %
  - c. From 15-24.9 %
  - d. From 25-29.9 %
  - e. From 30-34 %
  - f. In excess of 34 %
  
2. Determine the number of potential lots for the total development area which could have been permitted for the portion of the parcel where the average slope is greater than 12 percent, if the average slope option had been considered by using Table 2.6.140. Fractions shall be rounded to the nearest whole number.
  
3. Multiply the number of potential lots by 1.2 to determine the density that may be transferred to those sections of the development area where the slopes are less than 12 percent. Development shall occur in conformance with the provisions of the Planned Development process found in Chapter 4.5. Land of greater than 12 percent average slope subject to density transfer provisions shall be maintained as permanent open space or dedicated for park use. The findings and recommendations of the report required in section 2.6.130 shall be considered and utilized during the development process.

**2.6.150 Building Location and Design Standards**

All buildings and buildable areas proposed for Hillside Lands shall be designed and constructed in compliance with the following standards:

**A. Building Envelopes.** All newly created lots, either by subdivision or partition or property line adjustment, shall contain building envelopes conforming to the following standards:

1. The building envelopes shall contain a buildable area with a slope of 34% or less unless the division or lot line adjustment is for open space or conservation purposes.
  
2. Building envelopes and lot design shall address the retention of the following percentage of the lot in landscaping or in a natural state:

<b>Average Slope</b>	<b>Minimum Lot Size Per Dwelling Unit</b>	<b>Maximum Lot Coverage (Impervious Surface)</b>
12 – 14.9%	10,000 Sq. Ft.	35 %
15 – 24.9%	12,000 Sq. Ft.	35 %
25 – 29.9%	15,000 Sq. Ft.	30 %
30- 34%	20,000 Sq. Ft.	25 %

3. Building envelopes shall be designed and located to maximize tree conservation while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.

4. Building envelope locations shall be located to avoid ridgeline exposures, and designed such that the roofline of a building within the envelope does not project above the ridgeline.

**B. Building Setbacks.** Setbacks shall be the horizontal distance from the property line to the nearest vertical wall. Site plans and building elevations submitted for Building Permits shall include the topography of the site at 2-foot intervals and building elevations in relation to the existing and proposed finished grade.

Minimum Setback	Downhill Lot	Uphill Lot
Living Adjacent to a Street	20 feet.	20 feet
Minimum Setback	Downhill Lot	Uphill Lot
Garage	20 feet	20 feet
Side	15 feet	15 feet
Rear	30 feet	30 feet

**C. Building Design.** To reduce hillside disturbance through the use of slope responsive design techniques, buildings on Hillside Lands shall incorporate the following into the building design and indicate features on required building permits:

1. **Hillside Building Height.** The building height shall be determined by the vertical distance from the lowest grade plane to the average height of the highest roof surface. In no case will the height of the structure exceed thirty-five (35) feet.
2. **Fire Suppression.** All buildings served by streets or roadways in excess of 10% grade shall have a fire suppression system installed.
3. **Building Plans.** All structures on hillside lands in excess of 14% shall be designed by an Engineer or Architect. Foundations shall be designed in accordance with a site specific Geotechnical report.

**2.6.160 Re-vegetation Standards - Slopes Greater Than 20%**

Exposed soil which is not under continuous construction must be re-vegetated with temporary or permanent vegetation so that the soil is not left exposed for more than 60 days. Within 6 months of issuance of a Certificate of Occupancy, vegetation must be reestablished. If irrigation is not provided, then the exposed soil must be planted with species which can survive without irrigation. Vegetative cover or any alternative cover (rock, masonry, etc.) must be maintained in perpetuity.

**2.6.170 Grading, Cut and Fill Standards**

All cut and fill slopes must not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (i.e. 1:1-1/2 or 1:1) may be conditionally approved by the Public Works Director upon certification, by a qualified soils engineer or geologist, that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist. As a condition of approval, a designated state certified person on the grading crew shall be employed by the developer to determine soil stability on all cut and fill slopes and take appropriate measure where unstable soils are encountered.

**2.6.180 Grading and Erosion Control**

All development on lands classified as Hillside Lands shall be required to conform to the following items:

- A. Plans.** All grading, retaining wall design, drainage, and erosion control plans for development on Hillside Lands shall be designed by a geotechnical expert. All cuts, grading or fills shall conform to the most current State Structural Code. Erosion control measures on the development site shall be required to minimize the solids in runoff from disturbed areas. Temporary erosion control measures shall be taken throughout the course of development and construction, and permanent measures shall be taken thereafter to prevent erosion from foreseeable sources.
- B. Time Period.** For development other than single family homes on individual lots, all grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Excavation shall not occur during the remaining wet months of the year. Erosion control measures shall be installed and functional by October 31. Up to a 30-day modification to the October 31 date, and 45-day modification to the May 1 date may be made by the Community Development Director, based upon weather conditions and in consultation with the project geotechnical expert. The modification of dates shall be the minimum necessary, based upon evidence provided by the applicant, to accomplish the necessary project goals.
- C. Grading – Cuts.** All cut slopes on areas classified as Hillside Lands shall be designed by a registered structural engineer and the following standards shall apply:
  - 1. Cut slope angles shall be determined in relationship to the type of materials of which they are composed. Where the soil permits, limit the total area exposed to precipitation and erosion. Steep cut slopes shall be retained with stacked rock, retaining walls, or functional equivalent to control erosion and provide slope stability when necessary. Where cut slopes are to be laid back (1:1 or less steep), the slope shall be protected with erosion control netting or structural equivalent installed per manufacturers specifications, and re-vegetated.

2. Exposed cut slopes, such as those for streets, driveways accesses, or yard areas, greater than seven (7) feet shall be terraced. Cut faces on a terraced section shall not exceed a maximum height of four (4) feet or five (5) feet if Building Permits are obtained. Terrace widths shall be a minimum of three (3) feet to allow for the introduction of vegetation for erosion control. Total cut slopes shall not exceed a maximum vertical height of fifteen (15) feet.
  - a. The top of cut slopes not utilizing structural retaining walls shall be located a minimum setback of one-half the height of the cut slope from the nearest property line.
  - b. Cut slopes for structure foundations encouraging the reduction of effective visual bulk, such as split pad or stepped footings shall be exempted from the height limitations of Section 2.6.180.D.1.
3. Re-vegetation of cut slope terraces shall include the provision of a planting plan, introduction of top soil where necessary, and the use of irrigation if necessary. The vegetation used for these areas shall be native or species similar in resource value which will survive, help reduce the visual impact of the cut slope, and assist in providing long term slope stabilization. Trees, bush-type plantings and cascading vine-type planting may be appropriate. On slopes likely to be extensively disturbed by later construction, an interim ground cover shall be planted or other suitable temporary measures taken, to be supplemented by the permanent ground cover or shrubs and trees when the site is finally developed and landscaped.

**D. Grading – Fills.** On all fill slopes on lands classified as Hillside Lands, the following standards shall apply:

1. Fill slopes shall not exceed a total vertical height of 15 feet. The toe of the fill slope area shall be a minimum of six feet from the nearest property line.
2. Fill slopes shall be protected with an erosion control netting, blanket or functional equivalent. Netting or blankets shall only be used in conjunction with an organic mulch such as straw or wood fiber. The blanket shall be applied so that it is in complete contact with the soil so that erosion does not occur beneath it. Erosion netting or blankets shall be securely anchored to the slope in accordance with manufacturer's recommendation.
3. Utilities. Whenever possible, utilities shall not be located or installed on or in fill slopes. When determined that it is necessary to install utilities on fill slopes, all plans shall be designed by a geotechnical expert.
4. Re-vegetation of fill slopes shall utilize native vegetation or vegetation similar in resource value and which will survive and stabilize the surface. Irrigation may be provided to ensure growth if necessary. Evidence shall be required indicating long-term viability of the proposed vegetation for the purposes of erosion control on disturbed areas.

**E. Re-vegetation Requirements.** Where required, all re-vegetation of cut and fill slopes shall be installed prior to the issuance of a certificate of occupancy, signature of a required survey plat, or other time as determined by the hearing authority. Vegetation shall be installed in such a manner as to be substantially established within one year of installation. If such measures are considered ineffective, the Director of Public Works or his designee shall prescribe alternative measures to control erosion. Upon the failure of the person responsible to institute such measures within 30 days of notice to do so, the Director of Public Works shall obtain competitive bids and let a contract in the name of the City of Silverton for the performance of such work. All costs incurred thereby shall become a lien against the property to be assessed, collected, and enforced as provided for dangerous buildings in Section 15.08.360 of the Silverton Municipal Code.

**F. Maintenance, Security, and Penalties for Erosion Control Measures**

1. **Maintenance.** All measures installed for the purposes of long-term erosion control, including but not limited to vegetative cover, rock walls, and landscaping, shall be maintained in perpetuity on all areas which have been disturbed, including public rights-of way. The developer or subdivider shall record covenants for the property to ensure the on-going maintenance of erosion control measures.
2. **Security and Penalties.** Except for individual lots existing prior to December 1, 2005, after an Erosion Control Plan is approved by the hearing authority and prior to construction, the applicant shall provide a performance bond or other financial guarantees in the amount of 120% of the value of the erosion control measures necessary to stabilize the site. Any financial guarantee instrument proposed other than a performance bond shall be approved by the City Attorney. The financial guarantee instrument shall be in effect for a period of at least one year, and shall be released when the Community Development Director and Public Works Director determine, jointly, that the site has been stabilized. All or a portion of the security retained by the City may be withheld for a period up to five years beyond the one year maintenance period if it has been determined by the City that the site has not been sufficiently stabilized against erosion.

**G. Site Grading.** The grading of a site on Hillside Lands shall be reviewed considering the following factors:

1. Hazardous or unstable portions of the site shall be avoided.
2. Existing natural drainage systems shall be utilized, as much as possible, in their natural state, recognizing the erosion potential from increased storm drainage.
3. Flow-retarding devices, such as detention ponds and recharge berms, shall be used where practical to minimize increases in runoff volume and peak flow rates due to development. The needs for an emergency overflow system to safely carry any overflow water to an acceptable disposal point shall be considered for each facility.

4. Storm water facilities shall be designed, constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties.
5. Alternative storm water systems, such as dry well systems, detention ponds, and leach fields, shall be designed by a registered engineer or geotechnical expert and approved by the City's Public Works Director or Building Official.

### **2.6.190 Storm Drainage**

In all slope areas, impervious surface drainage from roofs, driveways, and parking areas must be directed to a City storm drain or other City-approved drainage system. Development activities must not block the flow of storm water in natural drainageways without prior approval of an alternative solution by the Public Works Director. With application for tentative plan approval for a subdivision or partition, the applicant shall submit a conceptual plan for stormwater control. The plans shall include, but are not limited to the following items as appropriate: location of curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Prior to the signing of the final plat, the applicant shall submit a permanent and complete stormwater control plan.

### **2.6.200 Street Standards**

- A. Where practical, streets must be contoured to hillside areas in order to minimize environmental and scenic disruption. Street grades shall generally be 10% or less. Street grades of up to 12% may be permitted for a distance of no more than 300 feet only where topographical conditions make it impractical to meet the 10% standard. No intersections are permitted where street grades exceed 10%. Street grades over 12% will require Variance approval by the approval authority. In no case shall a street grade exceed 15% for any distance. Street rights-of-way may be 40 feet in width with a minimum 28-foot wide curb to curb improvement, with a 5-foot (5') wide curblin sidewalk on one side and ten-foot (10') wide utility easements on both sides. The area within the utility easement shall be graded to meet the requirements of the private utilities.
- B. A minimum three-foot (3') wide level shoulder shall be provided adjacent to all exposed public improvements such as sidewalks and streets in areas classified as Hillside Lands.
- C. All constructed cut or fill slopes adjacent to street or sidewalks improvements must be entirely within slope easements, given to the City of Silverton, and shall be shown as such on both preliminary and final subdivision plats in areas classified as Hillside Lands. All retaining walls, other improvements, including landscaping, with the slope easement area shall in all cases be the property owner's responsibility to maintain or replace.
- D. Retaining walls necessary for public street improvements in areas classified as Hillside Lands and on public rights-of-way shall be designed and constructed as per the City's standard specifications. The developer shall be required to reimburse the City for an independent geotechnical/structural design review by a qualified engineer, selected by the City on all walls over five (5) feet in height.

### 2.6.210 Driveway Standards

The maximum difference in elevation between the curblineline and finished floor level of the garage or carport for driveways serving individual hillside lots shall be on a slope of 15% or less. The Building Official may permit a difference in elevation not exceeding a 20% slope provided that there is no slope exceeding 25% between any two points in the driveway, and that adequate vertical curves or ramps are used in the driveway to assure usability by a standard size American automobile. A driveway serving a residence located more than 50 feet from the public road shall conform to the following standards which are necessary for adequate access for emergency vehicles:

- A. Be improved with an all weather surface with a minimum width of 12 feet with 4 feet of unobstructed clearance on both sides. The unobstructed clearance areas may consist of 4-foot graveled shoulders on both sides.
- B. Have a maximum grade of twelve percent (12%) for no more than three hundred (300) feet; and
- C. Driveways 150 feet in length or more shall be provided with a vehicle turn-around meeting the approval of the Silverton Fire District.
- D. Provide adequate sight-distance at the intersection with a public street.

### 2.6.220 Tree Conservation, Protection and Removal

All development on Hillside Lands shall conform to the following requirements:

- A. Inventory of Existing Trees.** A tree survey at the same scale as the project site plan shall be prepared, which locates all trees greater than six (6) inches in caliper measured at four (4) feet above ground level (d.b.h.), identified by d.b.h., species, and approximate extent of tree canopy. In addition, for areas proposed to be disturbed, the existing tree base elevations shall be provided. Dead or diseased trees shall be identified. Groups of trees in close proximity [i.e. those within five (5) feet of each other] may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall have a location accuracy of plus or minus two feet. The name, signature, and address of the site surveyor responsible for the accuracy of the survey shall be provided on the tree survey. Portions of the lot or project area not proposed to be disturbed by development need not be included in the inventory.
- B. Evaluations of Suitability for Conservation.** All trees indicated on the inventory of existing trees shall also be identified as to their suitability for conservation. When required by the hearing authority, the evaluation shall be conducted by a landscape professional. Factors included in this determination shall include:
  - 1. **Tree Health.** Healthy trees can better withstand the rigors of development than non-vigorous trees.

2. **Tree Structure.** Trees with severe decay or substantial defects are more likely to result in damage to people and property.
3. **Species.** Species vary in their ability to tolerate impacts and damage to their environment.
4. **Potential Longevity.**
5. **Variety.** A variety of native tree species and ages.
6. **Size.** Large trees provide a greater protection for erosion and shade than smaller trees.

**C. Tree Conservation in Project Design.** Significant trees (twenty-four inch (24”) caliper or greater conifers measured at four (4) feet above ground level and twelve-inch (12”) caliper or greater broadleaf measured at four (4) feet above ground level) shall be protected and incorporated into the project design whenever possible.

1. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.
2. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.
3. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.
4. Trees shall be retained in significantly large areas and dense stands so as to ensure against windthrow.
5. Wooded areas associated with natural drainageways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least ten (10) feet in width or as recommended by the landscape professional.
6. Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.

**D. Tree Protection.** On all properties where trees are required to be preserved during the course of development, the developer shall follow the following tree protection standards:

1. All trees designated for conservation shall be clearly marked on the project site plan. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving or change in ground elevation, the applicant shall install fencing at the drip line of all trees to be preserved adjacent to or in the area to be altered. Temporary fencing shall be established at the perimeter of the dripline. Prior to grading or issuance of any

permits, the fences may be inspected and their location approved by the Community Development Department.

2. Construction site activities, including but not limited to parking, material storage, soil compaction and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.
3. No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for conservation unless indicated on the grading plans, as approved by the City, and landscape professional. If grading or construction is approved within the dripline, a licensed landscape professional may be required to be present during grading operations, and shall have authority to require protective measures to protect the roots.
4. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drain facilities and away from trees designated for conservation.
5. Should encroachment into a tree protection area occur which causes irreparable damage to trees, as determined by a licensed landscape professional, the project plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this article.

**E. Tree Removal.** Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in Wildfire Lands. When justified by Findings of Fact, the hearing authority may approve the removal of trees for one or more of the following conditions:

1. The tree is located within the building envelope.
2. The tree is located within a proposed street, driveway, or parking area.
3. The tree is located within a water, sewer, or other public utility easement.
4. The tree is determined by a licensed landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by a licensed landscape professional.
5. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a licensed landscape professional.

**F. Tree Replacement.** Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, or a hazard, shall be replaced in compliance with the following standards:

1. Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.

2. Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. The canopy shall be designed to mitigate the impact of paved and developed areas, reduce surface erosion and increase slope stability. Replacement tree locations shall consider impact on the wildfire prevention and control plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.
3. Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting shall be replaced in kind, after which a new five year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted.

**G. Enforcement.**

1. All tree removal shall be done in accordance with the approved tree removal and replacement plan. No trees designated for conservation shall be removed without prior approval of the City of Silverton.
2. Should the developer or developer’s agent remove or destroy any tree that has been designated for conservation, the developer may be fined up to three times the current appraised value of the replacement trees and cost of replacement or up to three times the current market value, as established by a professional arborist, whichever is greater.
3. Should the developer or developer’s agent damage any tree that has been designated for protection and conservation, the developer shall be penalized as prescribed in Section 1.08 of the Silverton Municipal Code. If necessary, a professional arborist’s report, prepared at the developer’s expense, may be required to determine the extent of the damage. Should the damage result in loss of appraised value greater than determined above, the higher of the two values will be used.

**2.6.230 Modification of Standards**

If the review body determines that the applicant’s plan adequately implements the policies of the Comprehensive Plan, the review body may modify the standards of this Code as they apply to the entire proposed development, within the following limitations:

- A. Front, side and rear yards may be reduced (when in conformance with the Fire and Building Safety Codes); provided, however, where attached dwellings are proposed there shall not be more than 5 dwelling units in any group.
- B. The reduction of public right-of-way, pavement width, and/or requirements for the installation of sidewalk as specified in Article 3.4, Public Facilities, may be made if provisions are made to provide off-street parking in addition to that required in other portions of this Code. Any reduction of these minimum street and sidewalk standards must be approved by the Public Works Director. The additional parking requirements are as follows:

1. Detached Dwelling Units: 2 additional off-street parking spaces.
2. Attached Dwelling Units: One-half additional off-street parking space for each bedroom more than one in each unit. In cases where a one-half space occurs in a total figure, the standard shall be increased to the next whole figure.

**2.6.240 Variance from Hillside Lands Development Standards**

In addition to the Variance review criteria listed in Section 5.1, the following review criteria must also be met:

- A. The variance is consistent with the stated purpose and intent of the physical and environmental constraints of the Hillside Development provisions.
- B. The amount of deviation from standards is the least amount necessary in order to provide a practical solution to the environmental constraints of the Hillside area.
- C. The variance provides for an improvement in design or other characteristic than would result from complying with the established Hillside regulations.

## Chapter 2.7 – Wetlands and Riparian (/WP) Overlay

### Sections:

- 2.7.110 Wetland - Purpose**
- 2.7.120 Applicability**
- 2.7.130 Restrictions on Development Within Wetlands**
- 2.7.140 Floodplain District and Wetlands Density Calculation**
- 2.7.150 Riparian-Purpose**
- 2.7.160 Definitions**
- 2.7.170 Riparian Corridor, Applicability**
- 2.7.180 Riparian Corridor, Location**
- 2.7.190 Permitted Activities within Riparian Corridors**
- 2.7.200 Conditional Uses within Riparian Corridors**
- 2.7.210 Prohibited Activities within Riparian Corridors**
- 2.7.220 Riparian Corridors, Reduction or Deviation**
- 2.7.230 Conservation and Maintenance of Riparian Corridors**

### **2.7.110 Wetland - Purpose**

The Wetlands overlay district is intended to ensure that wetland sites within the City, are developed with all due sensitivity for the vital role these areas play in the environment.

### **2.7.120 Applicability**

The wetland area regulations apply to those areas meeting Division of State Lands criteria for wetland classification. Precise wetland boundaries may vary from that shown on the Comprehensive Plan Map exhibit if on-site inspection and delineation by a recognized authority and/or other City approved documentation indicate more accurate boundaries. Those more precise boundaries can be identified, mapped, and used for review and development without a change in the Comprehensive Plan Wetlands Map exhibit. All developments proposed within a designated wetland area shall be subject to the provisions of Conditional Use Review and the wetland area regulations. If the development area is within the floodplain district, then the floodplain district regulations of 2.5.100 to 2.5.270 shall also apply.

### **2.7.130 Restrictions on Development Within Wetlands**

No development shall result in the elimination of a wetland area, result in eventual elimination of wetland characteristics, or be located totally within a wetland area without acquiring permit approval from federal and state regulatory agencies and the City of Silverton and, where necessary, amending the open space plan and zoning designation. Development may not infringe upon any designated wetland unless the review authority finds the following criteria have been met:

- A. The development cannot be located outside the wetland area, or the wetland is proposed to be reconfigured such that the proposed total area is at least equal in size and quality to the

wetland area existing prior to the proposed development. If the wetland area has not been substantially relocated, it is not necessary to remove the Open Space designation for such a modification.

- B. The encroachment within the wetlands is the minimum required to complete the development.
- C. Any encroachment or change in drainage which would adversely impact favorable wetland characteristics in the short- or long-term has been mitigated.
- D. Development review is coordinated with the Division of State Lands and any other applicable agencies and other required permits have been obtained.
- E. The applicable floodway or floodplain requirements of 2.5.100 – 2.5.270 have been met.
- F. The open space, vegetation, and wildlife protection policies of the Comprehensive Plan have been addressed.

**2.7.140 Floodplain District and Wetlands Density Calculation**

Residential lands located in a Floodplain District or Wetland area shall not be used in calculating total project density except as follows:

- A. Land which has been approved for development features (structures, roads, required yard areas, etc.) under the provisions of Section 2.5.190 or 2.7.130.
- B. In Planned Developments, land in a flood fringe or wetland area shall be calculated at 50% of the allowed density provided that the additional units can be incorporated harmoniously into the Planned Development and without adverse impacts on adjoining projects and provided further that the floodplain lands and wetlands can be effectively utilized within the Planned Development or dedicated for public use.

**2.7.150 Riparian - Purpose**

- A. The purposed of establishing a riparian corridor is to protect and restore Silver Creek and its associated riparian areas, and any other waterway specified in the Silverton Comprehensive Plan as having riparian areas determined to be significant, thereby protecting and restoring the hydrologic, ecologic, and land conservation functions these areas provide for the community.
- B. To protect fish and wildlife habitat, enhance water quality, control erosion and sedimentation, and reduce the effects of flooding.
- C. To protect and restore the natural beauty and distinctive character of Silver Creek as a community asset.

- D. To enhance coordination among local, state, and federal agencies regarding development activities near waterways.

### 2.7.160 Definitions

The following definitions shall apply to Section 2.7.150 to 2.7.230:

**Fish-bearing Stream:** A stream inhabited at any time of the year by anadromous or game fish species, or fish that are listed as threatened or endangered species under the federal or state Endangered Species Act.

**Riparian Area:** Lands adjacent to rivers, streams, lakes, ponds, and other water bodies. They are transitional between aquatic and upland zones, and as such, contain elements of both aquatic and terrestrial ecosystems. They have high water tables because of their close proximity to aquatic systems, soils that are usually made up largely of water-carried sediments, and some vegetation that requires free (unbound) water or conditions that are more moist than normal.

**Riparian Vegetation:** Native ground cover, shrubs, trees, and other vegetation predominately influenced by their association with water.

**Top-of-bank:** The first major change in the slope of the incline from the ordinary high water level of a water body. A major change is a change of ten degrees or more. If there is no major change within a distance of 50 feet from the ordinary high water level, then the top of bank will be the elevation 2 feet above the ordinary high water level.

### 2.7.170 Riparian Corridor, Applicability

- A. The provisions of Section 2.7.150 through 2.7.230 “Riparian Corridor,” shall be applied to Silver Creek and any other waterway specified in the Silverton Comprehensive Plan as having riparian areas determined to be significant. The provisions shall apply regardless of whether or not a building permit, development permit, or plan authorization is required, and do not provide any exemption from state or federal regulations. When a locally significant wetland is located within or adjacent to a riparian corridor, the riparian corridor setback will be applied, and shall be measured from the boundary of the wetland.
- B. Applications for plan authorizations (except Annexations), development permits, or building permits, and plans for proposed public facilities on parcels containing a riparian corridor, or a portion thereof, shall contain a to-scale drawing that clearly delineates the top-of-bank and riparian corridor boundary on the entire parcel or parcels.
- C. When reviewing plan authorization or development permit applications for properties containing a riparian corridor, or portion thereof, the approving authority shall consider the purpose statements in Section 2.7.150 in determining the extent of the impact on the riparian corridor.

- D. The Planning Commission shall be the approving authority for applications for exceptions to the provisions herein pertaining to Riparian Corridors and said applications shall be processed as Type III applications in accordance with Section 4.1.400. In addition, said request shall be submitted to the Oregon Department of Fish and Wildlife for habitat mitigation recommendation pursuant to O.A.R. 635-415 “Fish and Wildlife Habitat Mitigation Policy.”

### **2.7.180 Riparian Corridor, Location**

The riparian corridor boundary shall extend 25 feet measured horizontally from the top-of-bank, as defined herein, or both sides of those waterways defined in 2.7.270(A) and having an average annual stream flow of less than 1,000 cubic feet per second (cfs), unless a request to reduce the setback has been approved according to Section 2.7.220. Where the top-of-bank has been relocated as part of an approved waterway restoration project, at the request of affected property owners, the riparian corridor boundary shall extend 25 feet from the original top-of-bank.

### **2.7.190 Permitted Activities within Riparian Corridors**

- A. Any use, sign, or structure, and the maintenance thereof, lawfully existing on the date of adoption of the provisions herein, is permitted within a riparian corridor. Such use, sign, or structure may continue at a similar level and manner as existed on the date of adoption of the provisions herein. The maintenance and alteration of pre-existing ornamental landscaping is permitted within a riparian corridor as long as no additional riparian vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a riparian corridor.
- B. The following activities, and maintenance thereof, are permitted within a riparian corridor, subject to obtaining applicable permits, if any, from the Oregon Department of State Lands and the U.S. Army Corps of Engineers. All plans for development and/or improvements within a riparian corridor shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 “Fish and Wildlife Habitat Mitigation Policy.”
1. Waterway restoration and rehabilitation activities such as channel widening, realignment to add meanders, bank grading, terracing, reconstruction of road crossings, or water flow improvements.
  2. Restoration and enhancement of native vegetation, including the addition of canopy trees; cutting of trees which pose a hazard due to threat of falling if the tree is left in the riparian area after felling; or removal of non-native vegetation if replaced with native plant species at the same amount of coverage or density.
  3. Normal farm practices, other than structures, in existences at the date of adoption of the provisions herein, on land zoned for Farm Use.
  4. Normal flood control channel maintenance practices within a waterway, other than structures, necessary to maintain flow.

5. Replacement of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein with a structure in the same location, if it does not disturb additional riparian area, and in accordance with the provisions of Section 5.2, “Non-Conforming Uses and Development.”
  6. Expansion of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein, if the area of the expansion is not within the riparian corridor, and in accordance with the provisions of Section 5.3.
  7. Perimeter mowing and other cutting necessary for hazard prevention.
- C. New fencing may be permitted subject to consideration by the Community Development Director or his/her designee in consultation with the Director of Public Works and applicable state and federal agencies. An application for new fencing within a riparian corridor shall contain a to-scale drawing that clearly delineates the top-of-bank and riparian corridor boundary on the entire parcel or parcels, and shall indicate why the proposal is necessary and how it minimizes intrusion into the riparian corridor.

#### **2.7.200 Conditional Uses within Riparian Corridors**

The following activities, and maintenance thereof, are allowed within a riparian corridor if compatible with Section 2.7.150 and if designed to minimize intrusion. Such activities shall be subject to approval of a Conditional Use, which may be considered separately or in conjunction with another application review. The approving authority must determine that the proposal complies with at least one of the Conditional Use review criteria found in Section 4.4. Application permits, if any, from the Oregon Department of State Lands and the U.S. Army Corps of Engineers shall subsequently be obtained. All development and improvement plans shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 “Fish and Wildlife Habitat Mitigation Policy.”

- A. Water-related or water-dependent uses, such as drainage facilities and irrigation pumps.
- B. Utilities or other public improvements.
- C. Streets, roads, or bridges where necessary for access or crossings.
- D. Multiuse paths, accessways, trails, picnic areas, or interpretive and educational displays and overlooks, including benches and outdoor furniture.

### **2.7.210 Prohibited Activities within Riparian Corridors**

The following activities are prohibited within a riparian corridor, except as permitted in Sections 2.7.190 and 2.7.200:

- A. Placement of new structures or impervious surfaces.
- B. Excavation, grading, fill, stream alteration or diversion, or removal of vegetation except for perimeter mowing for fire protection purposes.
- C. Expansion of areas of pre-existing non-native ornamental landscaping such as lawn, gardens, etc.
- D. Dumping, piling, or disposal of refuse, yard debris, or other material.

### **2.7.220 Riparian Corridors, Reduction or Deviation**

A request to reduce or deviate from the riparian corridor boundary provisions of this Section may be submitted to the Community Development Director or his/her designee for consideration. A deviation request may be approved as long as equal or better protection of the riparian area will be ensured through a plan for a conservation easement, restoration, enhancement, or similar means. Such a plan shall be submitted to the Oregon Department of Fish and Wildlife for habitat mitigation recommendation pursuant to O.A.R. 635-415 “Fish and Wildlife Habitat Mitigation Policy.” In no case shall activities prohibited in Section 2.7.210 be located any closer than 25 feet from the top-of-bank. The Planning Commission shall be advised of the outcome of the deviation or reduction requests. Any decision of the Community Development Director may be appealed to the Planning Commission as provided in Article 4 of the Silverton Development Code.

### **2.7.230 Conservation and Maintenance of Riparian Corridors**

When approving applications for the following: Land Divisions, Planned Developments, Conditional Uses, and Variances, or for development of properties containing a riparian corridor, or portion thereof, the approval authority shall assure long term conservation and maintenance of the riparian corridor through one of the following methods:

- A. The area shall be protected in perpetuity by a conservation easement recorded on deeds and plats prescribing the conditions and restrictions set forth in Sections 2.7.150 through 2.7.230 and any imposed by state or federal permits; or
- B. The area shall be protected in perpetuity through ownership and maintenance by a private non-profit organization by conditions, covenants, and restrictions (CC&R’s) prescribing the conditions and restrictions set forth in Sections 2.7.150 through 2.7.230 and any imposed by state or federal permits; or

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- C. The area shall be transferred by deed to a willing public agency or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in Sections 2.7.150 through 2.7.230 and any imposed by state or federal permits; or
- D. The area shall be protected through other appropriate mechanisms acceptable to the City of Silverton which ensures long-term protection and maintenance.

## Chapter 2.8 – Public (/P) Overlay District

### Sections:

- 2.8.110 Purpose**
- 2.8.120 Applicability**
- 2.8.130 Abandoning Use – Transfer of Ownership**
- 2.8.140 Changing Use**
- 2.8.150 Public Overlay District Standards**

### **2.8.110 Purpose**

The Public overlay district (/P) is intended to identify those properties that are in public, semi-public, or governmental ownership. These properties generally contain uses that are considered essential public services or otherwise allow uses, services or facilities that enhance the livability and quality of life for the Silverton general public. These uses, facilities or services are generally non-commercial and/or not-for-profit. The intent of the Public (/P) overlay district is to recognize existing facilities, allow these sites to continue to be used to meet public needs, and when these facilities, uses, or sites are no longer needed, provide a system that allows for transfer into private ownership in accordance with established zoning. Typical types of uses that may occur within the Public overlay zone are: fairground; exposition center; conference center, overnight lodging and related uses, camp grounds, airport; public park; public playground, public play field; stadium; armory; auditorium; golf course; fire station, library, museum, military training facility; cemetery; mausoleum; school; educational institution; public school or institution for those with disabilities or special needs; penal institution; reformatory; detention and correction home, institution or school; hospital; public medical and dental clinic; municipal or governmental service building and use (i.e. reservoir, water tower, pump station, sewage treatment facility, water treatment facility, refuse transfer station or landfill, caretaker's unit associated with the primary use.)

### **2.8.120 Applicability**

The Public overlay is applied to properties in public, semi-public, or governmental ownership. 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 a Type II process.

### **2.8.130 Abandoning Use - Transfer of Ownership**

Whenever property within the Public Overlay (/P) is transferred to private ownership such transferred area shall have the Public Overlay removed and the base zoning shall be the applicable zoning district for the property. Future development shall be consistent with the provisions of the applicable base zone and other relevant sections of the development code.

**2.8.140 Changing Use**

Any area shown on the official zoning map that has the Public Overlay (/P) shall be developed in accordance with the provisions of the Public Overlay zone and in accordance with the Type II review procedures.

**2.8.150 Public Overlay District Standards****A. Land Development.**

<b>All Main Buildings Including Dwellings</b>		
	<b>Cemeteries, Educational Facilities, and Park Districts</b>	<b>Amusement, Recreation, Hospital, and Service Districts</b>
Maximum number of main buildings per lot:	Not Limited	Not Limited
<i>Minimum Lot Area:</i>		
Dwellings-same as prescribed for dwellings in	RM-10 District	RM-10 District
Main buildings other than dwellings	The ground area of all buildings plus all required yard areas.	The ground area of all buildings plus all required yard areas.
Minimum lot width	Not Limited	Not Limited
Maximum lot coverage	30 percent	Not Limited
Maximum height	2.5 stories or 35 feet	6 stories or 70 feet

**B. Yards.**

1. Special Setbacks. Particular segments of arterial streets have been designated with special setback lines to provide better amenities along such streets. When a yard abuts such a street, the yard depth will be measured from the special setback line. See the official zoning map for the streets which have a special setback.

	<b>Cemeteries, Educational Facilities, and Park Districts</b>	<b>Amusement, Recreation, Hospital, and Service Districts</b>
Front yard and any yard adjacent to a street	20 feet	20 feet
<b><i>Side Yard:</i></b>		
Dwellings same as the other main building	RM-10	RM-10
Main buildings other than dwellings	None except when abutting an R-1 District, then same as the R-1 District it abuts.	None except when a abutting an R-1 District, then same as the R-1 District it abuts.
<b><i>Rear Yard:</i></b>		
First story	20 feet	20 feet
For each additional story add	4 feet	4 feet

# Article 3 — Community Design Standards

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## Chapter 3.0 - Design Standards Administration

### Sections:

#### 3.0.100 Design Standards - Purpose

#### 3.0.200 Design Standards - Applicability

#### 3.0.100 Design Standards - Purpose

The following provisions describe how to apply the provisions of Article 3 and the relationship between Article 3 and the land use provisions in Article 2.

#### 3.0.200 Design Standards - Applicability

Article 3 is applied differently based on whether a project is classified as a *Major Project* or a *Minor Project*. In addition to the following criteria, each chapter of Article 3 contains “applicability” directions.

**A. Major Project.** Major projects are those that require Design Review (Chapter 4.2), Conditional Use review (Chapter 4.4), Land Division (Chapter 4.3), or Planned Development (Chapter 4.5) approval. Such projects must conform to the applicable sections of all of the following chapters:

- Land Use District Standards (Article 2)
- Access and Circulation (Chapter 3.1)
- Landscaping, Street Trees, Fences and Walls (Chapter 3.2)
- Parking and Loading (Chapter 3.3)
- Public Facilities (Chapter 3.4)
- Historic Landmarks (Chapter 3.5)

**B. Minor Project.** Minor projects are small developments and land use approvals that do not require public improvements, and those that do not fall under the Major Project criteria, such as Land Use Reviews. In general, the following chapters apply. (Some individual sections may not apply.)

- Land Use District Standards (Article 2)
- Access and Circulation (Chapter 3.1)
- Landscaping, Street Trees, Fences and Walls (Chapter 3.2)
- Parking and Loading (Chapter 3.3)
- Historic Landmarks (Chapter 3.5)

**C. Non-Conforming Situations.** See Chapter 5.2 for provisions related to non-conforming uses and developments.

## Chapter 3.1 — Access and Circulation

### Sections:

#### 3.1.100 Purpose

#### 3.1.200 Vehicular Access and Circulation

#### 3.1.300 Pedestrian Access and Circulation

#### 3.1.100 Purpose

The purpose of this Chapter is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles. Section 3.1.200 provides standards for vehicular access and circulation. Section 3.1.300 provides standards for pedestrian access and circulation. General street improvement requirements are provided in Section 3.4.100, with more specific requirements provided in the City of Silverton *Transportation System Plan* and the City's *Public Works Design Standards*.

#### 3.1.200 Vehicular Access and Circulation

- A. Intent and Purpose.** This Section implements the access management policies of the City of Silverton Transportation System Plan. The intent of this Section is to manage vehicular access and on-site circulation to ensure the continued operational safety, capacity and function of the transportation system.
- B. Applicability.** Section 3.1.200 applies to vehicle access(es) and on-site circulation facilities in the City of Silverton. This Section applies when lots are created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation; when development is subject to Land Use Review or Design Review; and when changes are proposed to existing regulations that will result in significant changes to access and circulation. Access to a designated state or county highway is subject to the provisions of this Section and the requirements of the applicable roadway authority. Where regulations of the City conflict with those of the roadway authority the more restrictive requirements apply.
- C. Access Permit Required.** Access to a public street (e.g., a new curb cut or driveway approach) requires an access permit. An access permit may be in the form of a letter from the roadway authority to the applicant, or it may be attached to a land use decision notice as a condition of approval. In either case, approval of an access permit shall follow the procedures and requirements of the applicable roadway authority, as determined through the review procedures in Article 4.
- D. Traffic Impact Study Requirements.** The Public Works Director may require a traffic study prepared by a registered traffic engineer to determine access, circulation, and other transportation requirements in conformance with Section 4.1.900, Traffic Impact Study.
- E. Conditions of Approval.** The Public Works Director or other road authority may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of

reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.

**F. Corner and Intersection Separation; Backing onto Public Streets.** New and modified accesses shall conform to the following standards:

1. Except as provided under subsection 4, below, the distance between street intersections or other street accesses shall meet the minimum spacing requirements as provided in the Transportation System Plan.
2. New property access shall be subject to the design requirements of the Transportation System Plan and Public Works Design Standards. The Public Works Director may limit or require the closure and/or combination of driveway approaches, and/or impose turning restrictions (i.e., right in/out, right in only, or right out only), consistent with Public Works Design Standards or those of other roadway authorities, as applicable.
3. Vehicular access to and from off-street parking areas shall not permit backing onto a public street, except as allowed through Design Review or a Planned Development approval. (Single-family dwellings and duplex dwellings are exempt.)
4. The roadway authority may reduce the required separation distance of access points where the standard would otherwise result in a taking of private property, or conformance to the standard is not feasible due to existing lot dimensions, development, other physical features, or conflicting code requirements (e.g., driveway grade requirements, or building or fire code requirements). Where the roadway authority finds that reducing the separation distance is warranted, the total number of access points to the site shall be limited to the minimum necessary to provide reasonable access and shared/joint access may be required.

**G. Site Circulation.** New developments shall be required to provide a circulation system that accommodates expected traffic generated from development. Pedestrian connections, including connections through large sites, and connections between sites (as applicable), and to adjacent sidewalks, must be provided and shall conform to Section 3.1.300.

**H. Joint and Cross Access – Requirements.** The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveway approaches for adjoining commercial, industrial and multifamily developments, and for other uses where they abut a collector or arterial street. When necessary for traffic safety and access management purposes, or to access flag lots, the City may require joint access and/or shared driveways in the following situations:

1. For shared parking areas.
2. For adjacent developments, where access onto an arterial or collector street is limited and access spacing standards can not otherwise be met.

3. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:
  - a. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable roadway authority’s access management classification system and standards;
  - b. A design speed of ten (10) miles per hour and a maximum width of twenty (20) feet, in addition to any parking alongside the driveway; additional driveway width or fire lanes may be approved when necessary to accommodate specific types of service vehicles, loading vehicles, or emergency service provider vehicles;
  - c. Driveway stubs to property lines (for future extension), turnarounds, and other design features to address emergency access requirements and to make apparent that the abutting properties may be required with future development to connect to the cross-access driveway.

**I. Joint and Cross Access – Reduction in Required Parking Allowed.** When a shared driveway is provided or required as a condition of approval, the land uses adjacent to the shared driveway may have their minimum parking standards reduced in accordance with the shared parking provisions of Section 3.3.300D.

**J. Joint and Cross Access – Easement and Use and Maintenance Agreement.** Pursuant to this Section, and concurrent with final plat recordation, property owners sharing an access drive must provide a joint agreement, consistent with items 1-3, below. For projects not involving a land division, the City may not issue Certificate(s) of Occupancy until the property owners have completed items 1-3.

1. Record an easement with the deed allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;
2. Record an agreement with the deed that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
3. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

**K. Access Connections and Driveway Design.** All openings onto a public right-of-way (access connections) and driveways shall conform to all of the following design standards:

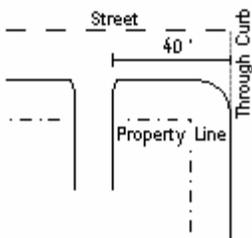
1. Driveway Approaches. Driveway approaches, including private alleys, shall be designed and located to provide exiting vehicles with an unobstructed view of other vehicles and pedestrians, and to prevent vehicles from backing into the flow of traffic on the public street or causing conflicts with on-site circulation. Construction of driveway accesses along acceleration or deceleration lanes or tapers should be avoided due to the potential for vehicular conflicts. Driveways should be located to allow for safe maneuvering in and around loading areas. See also, Chapter 3.3.500, Loading Areas.

2. Access Connections. Access connections shall be the minimum width practicable based on projected traffic volumes and functional requirements. For specific design and construction standards, refer to the Public Works Design Standards.
3. Driveways. Driveways shall meet the following standards, subject to review and approval by the Public Works Director:
  - a. Single Family Dwelling Driveways:
    - (1) Maximum width of 12 feet per off-street parking space, up to a maximum of 32 feet for three or more off-street parking spaces.
    - (2) Recreational vehicle pads must be located within the side yard or rear yard to qualify for additional driveway width as an off-street parking space.
    - (3) No more than 2 driveways allowed per lot, with each driveway conforming to the requirements in subsection (1) above.
    - (4) Combined driveways with abutting properties shall not exceed 40 feet in width.
    - (5) Separate driveways must be spaced at least six (6) feet apart.
  - b. Multiple Family and Attached Dwelling Driveways:
    - (1) Each family unit having separate vehicle access and fronting a different street shall be treated as a single-family dwelling, except that no more than one driveway per unit is allowed.
    - (2) Duplexes, triplexes and four-plexes with off-street parking spaces fronting onto a street shall meet the standards of 2.2.180.
    - (3) Driveways serving multiple family units with combined access onto a street shall not exceed a width of 32 feet for a single driveway, except where the Public Works Director determines that the width shall be limited to 24 feet, such as in the case of a multifamily development with 10 or fewer dwellings.
  - c. Commercial and Industrial Use Driveways shall be the minimum width necessary to efficiently and safely serve the proposed development. The maximum width allowed is 40 feet, except where the Public Works Director determines that a greater width is necessary to for traffic operations and safety at street intersections.
  - d. Driveway grades should be less than 12%. Those grades exceeding 12 percent shall be subject to review and approval by the Building Official. Grades of 12% may not exceed 300 feet in length. The applicant shall provide an engineered plan for any driveway exceeding a grade of 12 percent for review and approval by the Building Official. Before approving the Building Official must determine the driveway does not pose a safety concern.
  - e. Driveway cross slopes shall not exceed two (2) percent, and shall be designed to properly accommodate storm water runoff.
  - f. Driveways 150 feet in length or more shall be provided with a vehicle turn-around meeting the approval of the Silverton Fire District.

- g. All driveways must be located the maximum distance which is practical from a street intersection. In no instance shall the distance from an intersection be closer than the following as measured from the near driveway edge and the through curb line as shown by the following illustration.

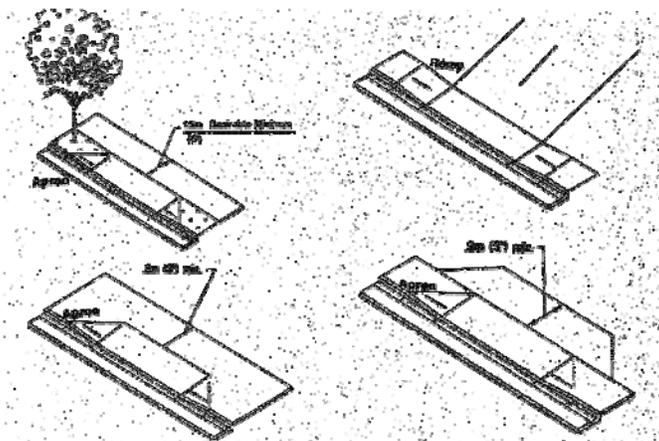
Arterial Street	80 feet
Collector Street	60 feet
Neighborhood/Local Street	40 feet

Where streets of different functional classifications intersect, the distance required is that of the classification which requires the greatest distance between the access point and the intersection



- 4. Driveway Construction. Driveway aprons connecting a driveway to a public street shall be constructed of concrete and installed consistent with the City’s Public Works Design Standards. The Public Works Director may require appropriate grade transitions between driveways and abutting sidewalks or walkways to address accessibility requirements. See Figure 3.1.200K.

**Figure 3.1.200K Typical Driveway Openings With Sidewalks/Walkways**

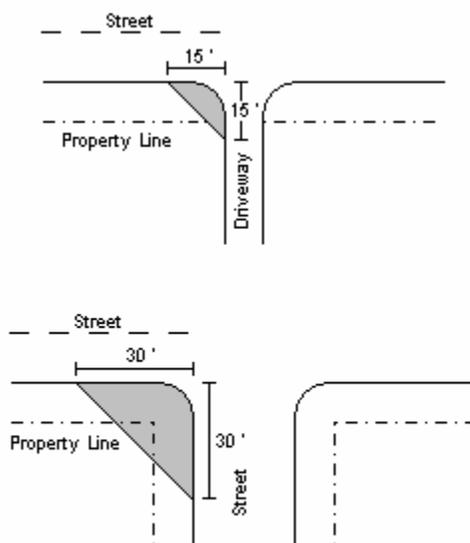


**L. Fire Apparatus Ways.** When required under the Uniform Fire Code, City-approved fire apparatus access ways shall be provided in accordance with City standards.

**M. Vertical Clearances.** Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13’ 6” for their entire length and width.

**N. Vision Clearance.** No visual obstruction (*e.g.*, sign, structure, solid fence, or shrub vegetation) between two (2) feet and eight (8) feet in height shall be placed in “vision clearance areas” on streets, driveways, alleys, or mid-block lanes where no traffic control stop sign or signal is provided, as shown in Figure 3.1.200N. The sides of the minimum vision clearance triangle are the curb line or, where no curb exists, the edge of pavement. Vision clearance requirements may be modified by the Public Works Director upon finding that more or less sight distance is required (*i.e.*, due to traffic speeds, roadway alignment, etc.). This standard does not apply to light standards, utility poles, tree trunks and similar objects.

**Figure 3.1.200N Vision Clearance Areas**  
(solid lines indicate curbs or edge of pavement)



**O. Construction.** The following construction standards apply to all driveways:

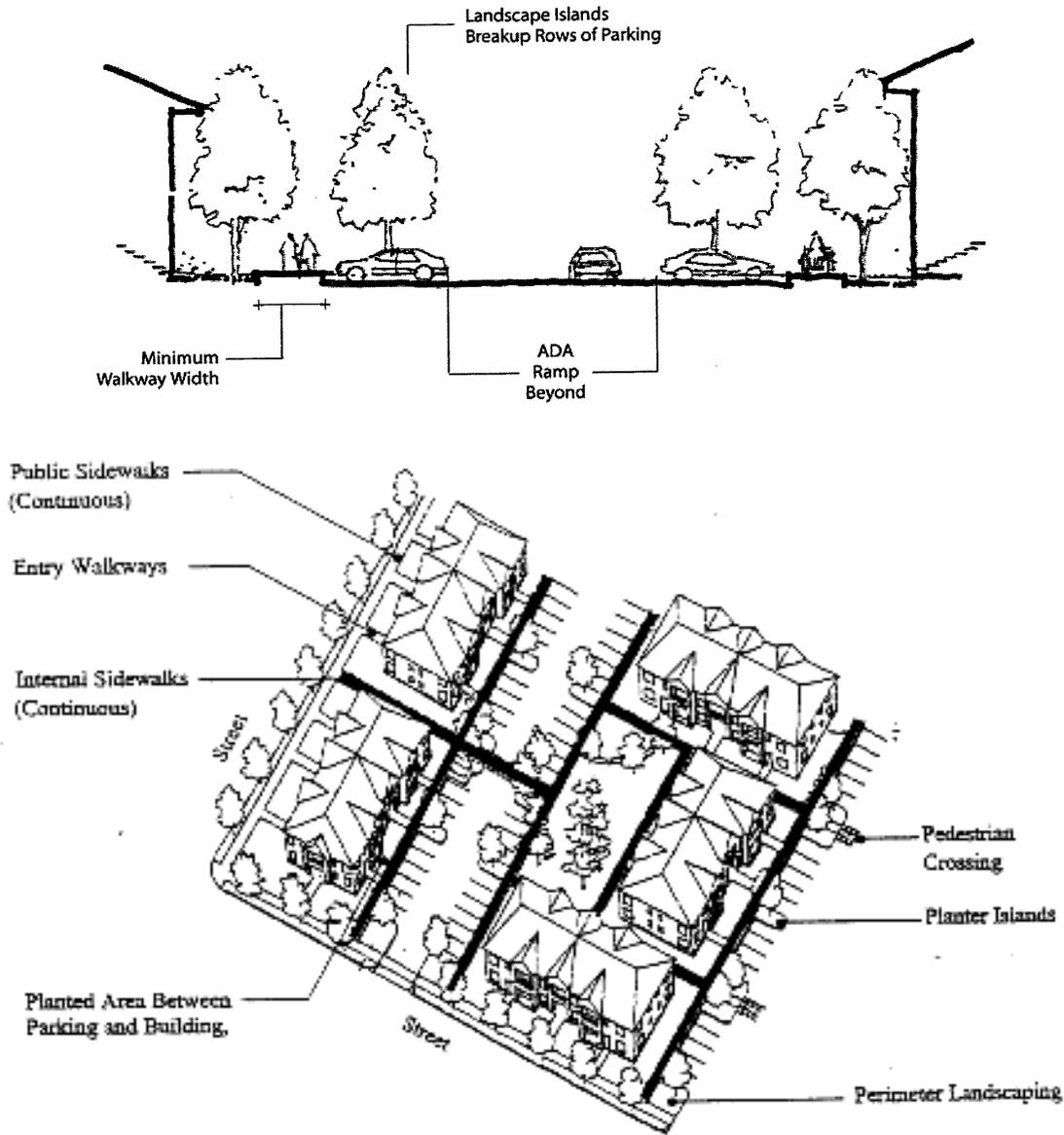
1. **Surface Options.** Driveways, parking areas, aisles, and turnarounds must be paved with asphalt or concrete. Other paving materials may be used, subject to approval by the Public Works Director. For example, porous paving materials such as porous concrete, pavers set in sand, or concrete blocks that allow grass to grow through may be permitted to reduce surface water runoff and protect water quality.
2. **Surface Water Management.** All driveways, parking areas, aisles, and turnarounds shall allow on-site collection of surface waters to eliminate sheet flow of such waters onto public rights-of-way and abutting property. Surface water facilities shall be constructed in conformance with the standards contained in the Public Works Design Standards. (Single family dwellings and duplex dwellings exempt.)
3. **Driveway Aprons.** When driveway approaches or “aprons” are required to connect driveways to the public right-of-way, they shall be paved with concrete surfacing and conform to the City’s engineering design criteria and standard specifications. (See Section 3.1.200K.)

### 3.1.300 Pedestrian Access and Circulation

**A. Site Layout and Design.** To ensure safe, direct, and convenient pedestrian circulation, all developments, except single-family detached housing and duplex dwellings, shall provide a continuous pedestrian system. The pedestrian system shall be design based on the criteria in subsections 1-3, below:

1. Continuous Walkway System. The pedestrian walkway system shall extend throughout the development site and connect to all future phases of development, and to existing or planned off-site adjacent trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets and to private property with a previously reserved public access easement for this purpose in accordance with the provisions of Section 3.1.200, Vehicular Access and Circulation, and Section 3.4.100, Transportation Standards.
2. Safe, Direct, and Convenient. Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets, based on the following criteria:
  - a. Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.
  - b. Safe and convenient. Routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.
  - c. "Primary entrance" for commercial, industrial, mixed use, public, and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.
  - d. "Primary entrance" for residential buildings is the front door (i.e., facing a street, plaza or courtyard). For multifamily buildings where individual dwelling units do not have their own exterior entrance, the walkway may connect to a lobby, courtyard, or breezeway that serves as a common entrance to multiple dwellings.
3. Connections Within Development. Connections within developments shall be provided as required in subsections a-c, below:
  - a. Walkways must connect all building entrances to one another to the extent practicable, as generally shown in Figure 3.1.300A;
  - b. Walkways must connect all on-site parking areas, storage areas, recreational facilities and common areas, and connect to off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections; and

Figure 3.1.300A Pedestrian Pathway System (Typical)

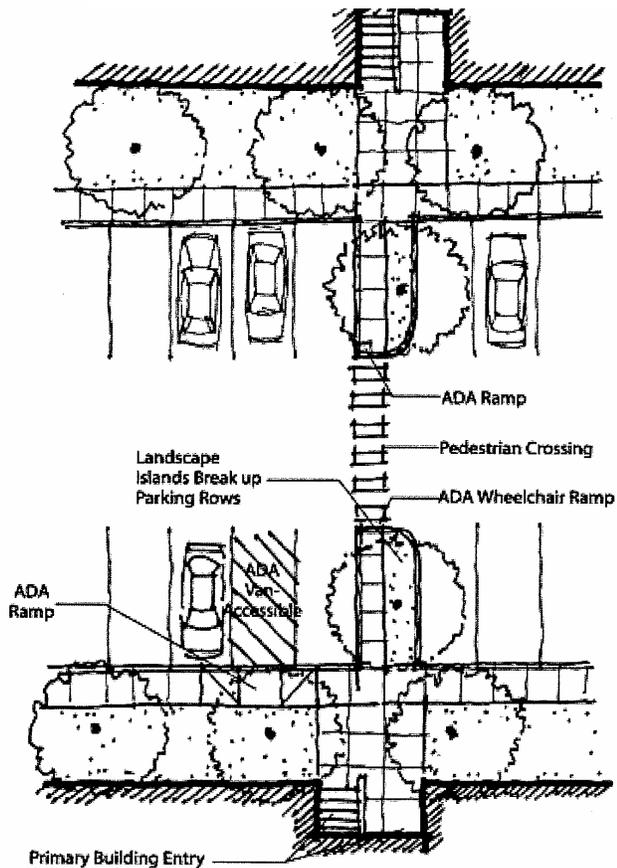


- c. Large parking areas shall be broken up so that no contiguous parking area exceeds one acre or 150 parking spaces, whichever is less. Parking areas may be broken up with plazas, landscape areas with pedestrian accessways (20 feet minimum total width), public streets or shopping streets (driveways with street-like features). For the purpose of this Section, a shopping street means a raised sidewalk of at least four (4) feet in width, six (6) inch curb, accessible curb ramps, street trees in planter strips or tree wells, and pedestrian-oriented lighting.

**B. Walkway Design and Construction.** Walkways, including those provided with pedestrian accessways, shall conform to all of the standards in subsections 1-4, as generally illustrated in Figure 3.1.300B:

1. Vehicle/Walkway Separation. Except for crosswalks (subsection 2), where a walkway abuts a driveway or street it shall be raised six (6) inches and curbed along the edge of the driveway/street. Alternatively, the decision body may approve a walkway abutting a driveway at the same grade as the driveway if the walkway has visually contrasting materials (e.g., pavers or stamped/scored concrete) and is protected from all vehicle maneuvering areas. An example of such protection is a row of decorative metal or concrete bollards designed to withstand a vehicle’s impact, with adequate minimum spacing between them to protect pedestrians.
  
2. Crosswalks. Where a walkway crosses a parking area, driveway, or street (“crosswalk”), it shall be clearly marked with painted or thermo-plastic striping or similar types of non-permanent applications. Contrasting paving materials (e.g., stamped or scored concrete or pavers inlaid between asphalt) are permitted. The Public Works Director may require the crosswalk be designed as a raised, speed table-type crossing area.
  
3. Walkway Width and Surface. Walkway and accessway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, as approved by the Public Works Director, at least five (5) feet wide. Multi-use paths (i.e., for bicycles and pedestrians) shall be concrete or asphalt and subject to the City of Silverton Public Works Design Standards.
  
4. Accessible routes. Walkways shall conform to applicable Americans with Disabilities Act (ADA) guidelines. The ends of all raised walkways, where the walkway intersects a driveway or street shall provide ramps that are ADA accessible, and walkways shall provide unobstructed, direct routes to primary building entrances.

**Figure 3.1.300B Pedestrian Walkway Detail (Typical)**



## Chapter 3.2 — Landscaping, Street Trees, Fences and Walls

### Sections:

- 3.2.100 Purpose**
- 3.2.200 Landscape Conservation**
- 3.2.300 Landscaping**
- 3.2.400 Street Trees**
- 3.2.500 Fences and Walls**

### **3.2.100 Purpose**

The purpose of Chapter 3.2 is to promote community health, safety, and welfare by protecting natural vegetation and setting development standards for landscaping, street trees, fences, and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health, and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic. Walls, fences, trees, and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces. The Chapter is organized into the following sections:

**Section 3.2.200, Landscape Conservation**, prevents the indiscriminate removal of significant trees and other vegetation, including vegetation associated with streams, wetlands, and other protected natural resource areas.

**Section 3.2.300, Landscaping**, sets standards for and requires landscaping of all development sites that require Land Use Review and Design Review. This section also requires buffering for parking and maneuvering areas, and between different land use districts. Note that other relevant standards are provided in Article 2, Land Use Districts, for specific types of development.

**Section 3.2.400, Street Trees**, sets standards for and requires planting of street trees for shading, comfort, water quality, and aesthetic purposes.

**Section 3.2.500, Fences and Walls**, regulates the design of fences and walls, including allowable height and materials, to promote security, personal safety, privacy, and aesthetics.

### 3.2.200 Landscape Conservation

- A. Applicability.** All development sites containing Significant Vegetation, as defined below, shall comply with the standards of this Section and be subject to development review. The purpose of this Section is to incorporate significant native vegetation into the landscapes of development and to protect vegetation in sensitive natural areas. The use of mature, native vegetation within developments is a preferred alternative to removal of vegetation and re-planting. Mature landscaping provides summer shade and wind breaks, controls erosion, and allows for water conservation due to larger plants having established root systems.
- B. Significant Vegetation.** “Significant vegetation” means street trees and plants within designated sensitive land areas such as flood plains, hillside protection areas, and wetlands, and trees not within such area that have a caliper of six (6) inches or larger at four (4) feet above grade; except that protection shall not be required for non-native, invasive plants (blackberries, poison oak, poison ivy, etc.) and any plants designated by the City as prohibited.
- C. Mapping and Protection Required.** Significant vegetation shall be mapped as required by Chapter 4.2, Design Review. Significant trees shall be mapped individually and identified by species and diameter or caliper at four (4) feet above grade. A “protection” area shall be defined around the edge of all branches (drip-line) of each tree. Drip lines may overlap between trees. The City also may require an inventory, survey, or assessment prepared by an arborist or other qualified professional to determine tree health, construction boundaries, building setbacks, and/or recommended protection or mitigation requirements.
- D. Protection Standards.** Trees on public lands shall not be removed, cut, felled, trimmed or otherwise damaged or destroyed, except as approved by the City. The City may approve removal or trimming when a tree poses an immediate hazard to public safety as determined by the Public Works Director. Other significant vegetation (including vegetation on private property) identified as meeting the criteria in subsection B, above, shall be retained to the extent practicable to protect environmental values and to minimize the risk of erosion, landslide, and stormwater runoff. Where protection is impracticable because it would prevent reasonable development of public streets, utilities, or land uses permitted by the applicable land use district, the City may allow removal of significant vegetation from the building envelope as defined by required yard setbacks. Where yard areas must be disturbed to install streets or utilities, the applicant may be required to restore such areas after construction with landscaping or other means to prevent erosion and to protect the public health, safety, and welfare. With the owner’s consent, the City may accept a land dedication or become a party to a conservation easement on private property for conservation purposes.
- E. Mitigation Required.** Where removal of or impacts to significant vegetation is proposed or it is reasonable to expect it will be unavoidable during development, the City shall require mitigation through development review. Mitigation shall be proportionate to the loss of significant vegetation. Where complete mitigation on-site is not practical due to limitations of the site, the City may accept an in lieu fee for mitigation which will occur off-site.
- F. Construction.** All significant vegetation on a site that is not otherwise designated and approved by the City for removal shall be protected prior to, during, and after construction in

accordance with a limit-of-clearing and grading plan approved by the Planning Official. The City may require chain link or other protective fencing around significant vegetation and limit grading activities and operation of vehicles and heavy equipment in and around significant vegetation areas to prevent damage to the resource and to prevent erosion, pollution, or landslide hazards.

**G. Tree Felling.** Review approval is required for the felling of five (5) or more significant trees on a lot or property inside the City limits within a calendar year. Felling trees at the direction of the City or by the City necessary to remove or alleviate an immediate danger to life or property; removal of any tree that is defined as a nuisance under the Silverton Municipal Code; to restore utility service or to reopen or maintain a public street or easement is exempt from review.

An application following the submittal requirements for a Design Review shall be submitted to the City for review prior to any tree removal. The City may approve the request when the following review criteria are met.

1. Trees shall be retained in significantly large areas and dense stands so as to ensure against windthrow.
2. Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.
3. Wooded areas associated with natural drainage ways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or as required elsewhere in this code.
4. Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
5. Tree felling on developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future City residents.
6. Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide buffers from adjacent properties.
7. The plan for tree felling shall be consistent with the preservation of the site's future development potential and zoning.

**H. Exemptions.** The protection standards in “D” and “E” do not apply to:

1. Dead or Diseased Vegetation. Dead or diseased vegetation meeting the criteria for “significant vegetation” may be removed after approval of a Type I Land Use Review.
2. Hazardous Vegetation and Other Emergencies. Significant vegetation may be removed without land use approval when the vegetation poses an immediate threat to life or safety or protection of property (e.g., windstorm damage, fallen over house, road or power line, blocked drainage way, or similar circumstance).

### 3.2.300 Landscaping

- A. Applicability.** This Section shall apply to all new developments requiring Land Use Review and Design Review.
- B. Landscaping Plan Required.** A landscape plan is required. All landscape plans shall conform to the requirements in Chapter 4.2.500, Section B.5.
- C. Landscape Area Standards.** Landscape areas shall be as provided in the base zone (Article 2) and other applicable provisions of this Code (e.g., parking areas, buffering, screening, street trees, etc.).
- D. Landscape Materials.** Permitted landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features, as described below. “Coverage” is based on the projected size of the plants at maturity, i.e., typically three (3) years after planting.
1. Existing Vegetation. Existing non-invasive vegetation may be used in meeting landscape requirements. When existing mature trees are protected on the site (e.g., within or adjacent to parking areas) the decision making body may reduce the number of new trees required by a ratio of one (1) inch caliper of new tree(s) for every one (1) inch caliper of existing tree(s) protected.
  2. Plant Selection. A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. When new vegetation is planted, soils shall be amended, as necessary, to allow for healthy plant growth.
  3. “Non-native, invasive” plants, as per Section 3.2.200.B, shall be removed during site development and the planting of new invasive species is prohibited.
    - a. Trees Prohibited in Right-of-Way. Because of their potential negative impact on public infrastructure, it is unlawful to plant any of the following trees in or on public right-of-way: box elder, tree of heaven, golden chain, holly, silver maple, bamboo, poplar, willow, conifer, cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and ailanthus.
    - b. Trees Requiring Approval. It is unlawful to plant willow, cottonwood or poplar trees anywhere in the city unless the Public Works Director approves the site as one where the tree roots will not likely to interfere with public sewers.
  4. Hardscape features, such as plazas, pathways, patios and other pedestrian amenities may count toward ten (10) percent of the required landscape area, except in the Commercial Districts, where hardscape features may count toward 50 percent of the landscape area, provided that such features conform to Section 2.3.170. Street trees, where required, do not count toward the minimum landscape area. Swimming pools, sports courts, decks

and similar facilities may not be counted toward fulfilling the landscape requirement in any zone.

5. Ground Cover Standard. All landscaped areas, whether or not required, that are not planted with trees and shrubs, or covered with non-plant material (subsection 8, below), shall have ground cover plants that are sized and spaced with a minimum of one (1) plant per twelve (12) inches on center in triangular spacing, or other planting pattern that is designed to achieve fifty (50) percent or greater coverage of all areas not covered by shrubs or trees.
6. Tree Size. Trees shall have a minimum diameter or caliper four (4) feet above grade of two (2) inches or greater at time of planting.
7. Shrub Size. Shrubs shall be planted from five (5) gallon containers or larger.
8. Non-plant Ground Covers. Bark dust, chips, aggregate, or other non-plant ground covers may be used, but shall cover no more than fifty (50) percent of the area to be landscaped and shall be confined to areas underneath plants. Non-plant ground covers cannot be a substitute for ground cover plants.
9. Significant Vegetation. Significant vegetation protected in accordance with Section 3.2.200 may be credited toward meeting the minimum landscape area standards. Credit may be granted for trees at a ratio of one (1) caliper inch per inch of tree(s) protected, except that parking lot landscaping shall be provided as required by subsection E.3, below. The Street Tree standards of Section 3.2.400 may be waived by the City when existing significant trees protected within the front yard provide the same or better shading and visual quality as would otherwise be provided by street trees.
10. Storm Water Facilities. Storm water facilities (e.g., detention/retention ponds and swales designed for water quality treatment), when allowed, shall be landscaped with water-tolerant, native plants.

**E. Landscape Design Standards.** All yards, parking lots, and required street tree planter strips shall be landscaped to provide, as applicable, erosion control, visual interest, buffering, privacy, open space and pathway identification, shading, and wind buffering, based on the following criteria and standards:

1. Yard Setback Landscaping Design. Landscaping in yards shall:
  - a. Provide visual screening and privacy within side and rear yards; while leaving front yards and building entrances mostly visible for security purposes
  - b. Use shrubs and trees as wind breaks and to screen parking areas.
  - c. Retain natural vegetation

- d. Define pedestrian pathways and open space areas with landscape materials
  - e. Provide focal points within a development, for example, by preserving large or unique trees or groves, hedges, and flowering plants
  - f. Use trees to provide summer shading within common open space areas and within front yards when street trees cannot be provided
  - g. Use a combination of plants for year-long color and interest
  - h. Use landscaping to screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales, and detention/retention ponds
2. Yard Setback Landscaping Requirements. Landscaping requirements listed by type of use:
- a. Residential, Single Family: All front yards (exclusive of access ways and other permitted intrusions) are required to be landscaped with one (1) tree at least six (6) feet in height (2 inch minimum caliper) and two (2) five-gallon shrubs or accent plants per 1,000 square feet of required yard area with the remaining area to be treated with an attractive ground cover (e.g. lawn, bark, rock, ivy, and evergreen shrubs) within six (6) months of issuance of an occupancy permit.
  - b. Commercial and Multi-Family: All required yards adjacent to a street (exclusive of access ways and other permitted intrusions) are required to be landscaped with one (1) tree at least six (6) feet in height (2 inch minimum caliper) and five (5) five-gallon shrubs or accent plants per 1,000 square feet of required yard area with the remaining area to be treated with an attractive ground cover (e.g. lawn, bark, rock, ivy, and evergreen shrubs) prior to issuance of an occupancy permit.
  - c. Industrial and Public/Semi-Public: All required yards adjacent to a street (exclusive of access ways and other permitted intrusions) are required to be landscaped with one (1) tree at least six (6) feet in height (2 inch minimum caliper) and five (5) five-gallon shrubs or accent plants per 1,000 square feet of required yard area with the remaining area to be treated with an attractive ground cover (e.g. lawn, bark, rock, ivy, and evergreen shrubs) prior to issuance of an occupancy permit. Where the yard adjacent to a street of an industrially of publicly/semi-publicly zoned property is across a right-of-way from other industrially, commercially, or publicly/semi-publicly zoned property, only 30% of such yard area must be landscaped.
3. Parking areas. A minimum ten (10) percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of “evenly distributed” shade trees with shrubs and/or ground cover plants that conform to the criteria in Section 3.2.300.E.1.a-h, above. “Evenly distributed” means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial canopy. At a minimum, one tree per ten (10) parking spaces on average shall be planted to create a

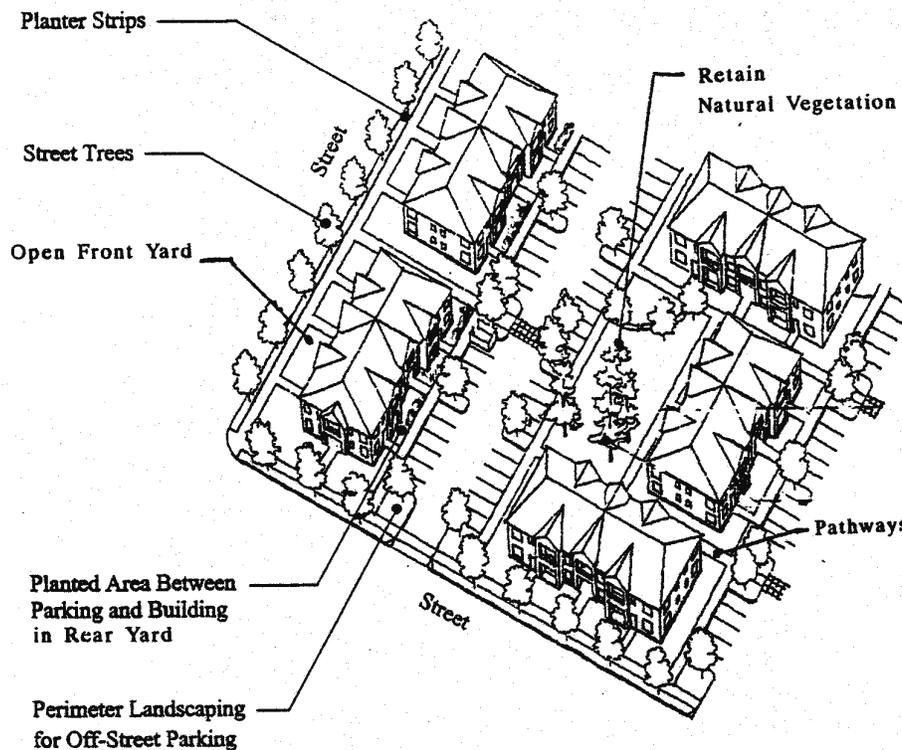
partial tree canopy over and around the parking area. Parking areas shall include landscape islands with trees to break up the parking area into rows of not more than ten (10) contiguous (side-by-side) parking spaces. All parking area landscapes shall have dimensions of not less than twenty-four (24) square feet of area, or not less than four (4) feet in width by six (6) feet in length, to ensure adequate soil, water, and space for healthy plant growth. Such areas shall have irrigation, or temporary irrigation to ensure plant survival and success.

4. Buffering and Screening Required. Buffering and screening are required under the following conditions:
  - a. Parking/Maneuvering Area Adjacent to Streets and Drives. Where a parking or maneuvering area is adjacent and parallel to a street or driveway, an evergreen hedge; decorative wall (masonry or similar quality material) with openings, arcade, trellis, or similar partially opaque structure six (6) feet in height shall be established between street and driveway. The required screening shall have breaks to allow visibility (natural surveillance) into the site and to allow pedestrian access to any adjoining walkways. Hedges used to comply with this standard shall be a minimum of 36 inches in height at maturity, and shall be of such species, number, and spacing to provide year-round screening within one (1) year after planting. Vegetative ground cover is required on all surfaces between the wall/hedge and the street/driveway line.
  - b. Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering area or driveway is adjacent to a building, the area shall be separated from the building by a curb and a raised walkway, plaza, or landscaped buffer not less than five (5) feet in width and six (6) feet in height. Raised curbs, bollards, wheel stops, or other design features shall be used to protect pedestrians, landscaping, and buildings from being damaged by vehicles. Where parking areas are located adjacent to residential ground-floor living space, a four (4) foot wide landscape buffer with a curbed edge may fulfill this requirement.
  - c. Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Other Screening When Required. All mechanical equipment, outdoor storage and manufacturing, and service and delivery areas, shall be screened from view from all public streets and adjacent Residential districts. When these or other areas are required to be screened, such screening shall be provided by:
    1. A decorative wall (i.e., masonry or similar quality material),
    2. Evergreen hedge,
    3. Opaque or sight-obscuring fence complying with Section 3.2.500, or
    4. A similar feature accepted by the approval authority providing an adequate screen.

Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with Chapter 3.1, Access and Circulation. (See Section 3.2.500 for standards specific to fences and walls.)

- d. Existing Significant Vegetation. Where significant vegetation exists it shall be preserved as a “buffer” around the development/subdivision within the setback areas at a minimum. The reviewing body may require preservation of other tree groves and clusters of significant vegetation through design review or the planned development process when an applicant has requested an adjustment to code standards, as provided under Chapters 4.2 and 4.5.
- e. Different Land Uses. Whenever differing between land use are situated adjacent to each other

**Figure 3.2.300E General Landscape Areas (Typical)**



**F. Irrigation.** All required landscape areas except for single family dwellings, duplexes and triplexes shall be provided with a piped underground water supply irrigation unless a licensed landscape architect or certified nurseryman submits written verification that the proposed plant materials do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit. The use of indigenous drought-tolerant plants from the City’s approved plant list is encouraged, and may be required where exposure, slope or soil conditions warrant. Irrigation shall be provided for plants that are not drought-tolerant.

**G. Maintenance.** If the plantings fail to survive, the property owner shall replace them with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.) within six (6) months of their dying or removal, whichever comes first. All man-made features required by this Code shall be maintained in good condition, or

otherwise replaced by the owner within six (6) months of any such feature being removed or irreversibly damaged (whichever comes first).

1. Height Requirements. Trees or shrubs growing in the right-of-way or on private property must be trimmed to maintain a minimum canopy height of 8 feet above sidewalks, or 12 feet above streets or alleys.
2. Trimming-Specifications-Owner Responsibility
  - a. Trees, shrubs or plants standing in or upon any public street or alley, or on private grounds, and having branches projecting into the public street or sidewalk, shall be kept trimmed by the owner or owners of the property adjacent to or in front of such trees, shrubs or plants growing so that:
    1. The lowest branches shall not be less than a minimum of 12 feet above any surface of the street pavement, and shall not be less than 14 feet above the surface of streets designated as state highways;
    2. The lowest branches shall not be less than a minimum of 8 feet above any surface of a sidewalk;
    3. The highest branches of any bush or shrub on private property shall comply with the clear vision area requirements.
  - b. Newly planted trees may remain untrimmed, provided that they do not interfere with street traffic or persons using the sidewalk, or obstruct the light of any street electric lamp.
3. Trimming-Notice to Comply. Whenever the owner or owners, lessees, occupants or person in charge of private grounds neglect or refuse to trim any tree, shrub or plant, as provided in this code, the city shall serve upon such owner or owners, lessees, occupants or person in charge a written notice to trim such tree or trees, shrubs or plants within 10 days after giving of such notice, failure to do so will be considered in violation of this Chapter and subject to the penalties provided in this code. Such notice shall be served upon the owner or owners, lessees, occupants, person in charge, or occupant of the property by posting the same upon such property or near to the trees, shrubs or plants to be trimmed.
4. Trimming-City to Perform Work When. If the owner or owners, lessees, occupants or persons in charge of the property fail and neglect to trim such trees, shrubs or plants within 10 days after receiving said notice, the city manager or duly authorized representative may cause any vegetation in or upon any parking strip, street right-of-way or other public place in the city to be trimmed, pruned, or removed.
5. Removal of Trees or Shrubs.

- a. The City Manager may remove or cause or order to be removed any tree, plant or shrubs, or part thereof, planted or growing in or upon any public street or alley which is in unsafe conditions, which by reason of its nature is injurious to sewers or other public improvements, or is affected with an injurious fungus disease, insect or other pest.
- b. Whenever, in the opinion of the City Manager, trimming or treatment of any such tree or shrub located on private ground but have branches extending over any public street or alley is deemed necessary, the City Manager shall have the power to trim or treat any such branch or branches, or cause or order the same to be trimmed or treated.

**3.2.400 Street Trees**

Street trees shall be planted in all new subdivisions and any project classified as a Major Project, except where specifically exempt under this Code or where the reviewing body approves an adjustment to the street design standards under Section 3.4.100, Transportation Standards. Planting of street trees shall generally follow construction of curbs and sidewalks, however, the City may defer tree planting until final inspection of completed dwellings to avoid damage to trees during construction. The planting and maintenance of street trees shall conform to the following standards and guidelines and any applicable road authority requirements:

- A. Growth Characteristics.** Trees shall be selected based on climate zone, growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. Drought resistant trees should be chosen where they suit the specific soil type.
- B. Caliper Size.** The minimum diameter or caliper size at planting, as measured four (4) feet above grade, is two (2) inches.
- C. Spacing and Location.** The intent of this section is to provide a procession of trees for shade, buffering, pedestrian comfort and aesthetics on all city streets. Street trees shall be spaced so that there is at least one tree planted for every 35 feet of street frontage, except where existing utilities, vision clearance requirements or similar factors preclude such spacing. Actual spacing of trees may vary based on the growth habits of selected trees. See City of Silverton Street Trees List.
- D. Soil Preparation, Planting and Care.** The developer shall be responsible for planting street trees, including soil preparation, ground cover material, staking, and temporary irrigation for one year after planting. The developer shall also be responsible for tree care (pruning, watering, fertilization, and replacement as necessary) during the first two years after planting, after which the adjacent property owners shall maintain the trees.
- E. Assurances.** The City shall require the developer to provide a performance and maintenance bond or cash deposit in an amount determined by an estimate provided by the developer or by the Community Development Director, to ensure the planting of the tree(s) and care during the first year after planting.
- F. Street Tree List.** A list of approved street trees is available at Silverton City Hall.

**3.2.500 Fences and Walls**

Construction of fences and walls shall conform to all of the following requirements:

**A. General Requirements.** All fences, walls, or hedges shall comply with the height limitations of the respective zoning district (Article 2, Tables 2.2.120.A and 2.3.120) and the standards of this Section. The City may require installation of walls and/or fences as a condition of development approval, in accordance with land division approval (e.g., flag lots), approval of a conditional use, or design review approval. A building permit is required for fences greater than 6 feet in height (See also, Section 3.2.300 for landscape screening wall requirements.) All fences shall be located outside any vision clearance area.

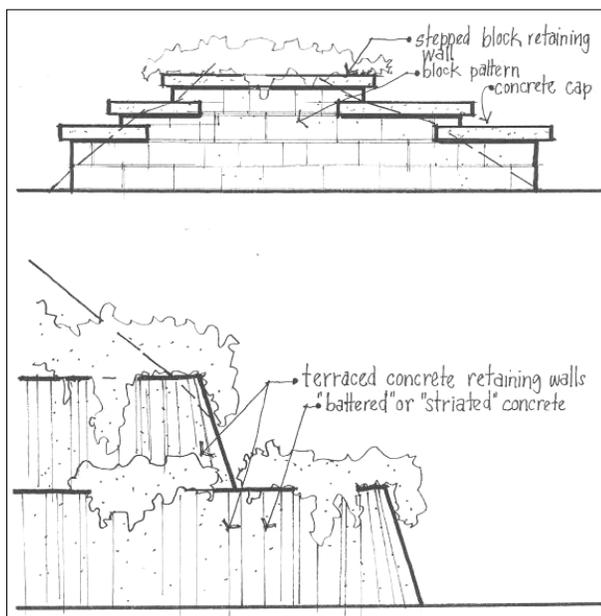
**B. Dimensions.**

1. The combined height of fences and/or retaining walls and/or other decorative landscape elements (i.e. rocks, railroad ties, etc.) within a front yard setback or in front of the front façade of a building shall not exceed 42-inches as measured from the grade closest to the street right-of-way.
2. Fences built atop retaining walls shall conform to the following standards:
  - a. When the retaining wall is not adjacent to or abutting a public right-of-way and is less than 30 inches in height from finished grade the maximum height of the fence shall be (6) six feet in a residential zoning district and (8) feet in a commercial or industrial zoning district.
  - b. When the retaining wall is not adjacent to or abutting a public right-of-way and is greater than 30 inches in height from finished grade, the combined height of the wall and fence from finished grade shall not exceed (8 ½) eight and one-half feet in a residential zoning district and (10) feet in a commercial or industrial zoning district.
  - c. Fences located on top of retaining walls greater than 30 inches in height from finished grade and not adjacent to or abutting a public right-of-way may exceed the total allowed combined height listed in (b.) above provided that the fence is located a minimum of two feet from the retaining wall and the fence height does not exceed (6) six feet in height with a maximum combined height of 15 feet (the maximum height requirement does not apply to any safety measure required by the International Building Code).
4. One arbor, gate, or similar garden structures not exceeding eight (8) feet in height and six (6) feet in width is allowed per yard, provided that it is not within a required clear vision area.
5. Walls and fences to be built for required buffers shall comply with Section 3.2.300.
6. Fences and walls shall comply with the vision clearance standards of Section 3.1.200.

**C. Maintenance.** For safety and for compliance with the purpose of this Chapter, walls and fences required as a condition of development approval shall be maintained in good condition, or otherwise replaced by the property owner.

**D. Materials.**

1. Permitted materials: wood, chain-link steel, iron, bricks, stone, rusticated concrete masonry block, stucco, or similar masonry, and non-prohibited evergreen plants are permitted. Poured concrete walls must be striated, battered, scored or have other finished surface. Materials on all projects other than single family and duplex dwellings on individual lots are subject to review and approval through Design Review.
2. Prohibited materials: unfinished concrete blocks, straw bales, barbed or razor wire, scrap lumber or other scrap materials, sheet metal, hedges taller than eight (8) feet and similar fence and wall materials are prohibited. Electric fences are also prohibited.
3. Masonry walls exceeding four (4) feet in height are subject to review and approval by the Building Official. Fences and walls taller than six (6) feet are subject to landscape screening and require a building permit.



Examples of walls include rusticated concrete block, poured concrete form (battered or striated finish).

## Chapter 3.3 — Parking and Loading

### Sections:

- 3.3.100 Purpose**
- 3.3.200 Applicability**
- 3.3.300 Automobile Parking Standards**
- 3.3.400 Bicycle Parking Standards**
- 3.3.500 Loading Areas**

### **3.3.100 Purpose**

The purpose of Chapter 3.3 is to provide basic and flexible standards for development of vehicle and bicycle parking. The design of parking areas is critically important to the economic viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Historically, some communities have required more parking than is necessary for some land uses, paving extensive areas of land that could be put to better use. Because vehicle parking facilities occupy large amounts of land, they must be planned and designed carefully to use the land efficiently, minimize stormwater runoff, and maintain the visual character of the community. This Chapter recognizes that each development has unique parking needs and provides a flexible approach for determining parking space requirements (i.e., “minimum” and “performance-based” standards). This Chapter also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children as well as adults need safe and adequate spaces to park their bicycles throughout the community.

### **3.3.200 Applicability**

All developments subject to Land Use Review or Design Review (Chapter 4.2), including modifications to existing parking facilities, must comply with the provisions of this Chapter.

**3.3.300 Automobile Parking Standards**

**A. Vehicle Parking - Minimum Standards by Use.** The number of required off-street vehicle parking spaces is determined in accordance with the standards in Table 3.3.300A, or alternatively, through a separate parking demand analysis as described in subsection 2 below.

1. Where a use is not specifically listed in this table, parking requirements are determined by finding that a use is similar to one of those listed in terms of parking needs, or by estimating parking needs individually using the demand analysis option described below.
2. An applicant may propose parking in amounts less than listed in Table 3.3.300A by submitting a parking demand analysis to the Community Development Director for review and approval. The parking demand analyses must be based on the proposed use and provide an estimate of parking demand based on the number of employees and customer/visitors who are likely to travel to the subject site by automobile, transit, bicycle and foot. The analysis is reviewed through a Type II Land Use Review, or a Type III review if the request is part of an application that is already subject to Type III review. The reviewing body may approve, approve with conditions or deny the proposal.
3. 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.

**Table 3.3.300A – Minimum Required Parking by Use**

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Minimum Parking per Land Use</b> <i>(fractions rounded down to the closest whole number)</i>
<b>Residential Categories</b>	
<b><i>Household Living</i></b>	
Accessory Dwelling	None when the primary single family dwelling provides 2 spaces and there is on-street parking. If no on-street parking is available then 1 additional space must be provided.
Single Family Dwelling, including attached and detached dwellings and manufactured homes	2 spaces per dwelling unit provided on-street parking is available. If on-street parking is not available, then each unit must provide 3 spaces.
Duplex	3 spaces per duplex
Multifamily	1 space per studio or 1-bedroom unit plus 1 visitor space for each 4 units 1.5 spaces/unit per 2-bedroom unit plus 1 visitor space for each 4 units 2.25 spaces/unit per 3-bedroom or larger unit plus 1 visitor space for each 4 units
Group Living, such as nursing or convalescent homes, rest homes, assisted living, congregate care, and similar special needs housing	1 space per 4 bedrooms plus 1 space per employee based on the largest shift.
<b>Commercial Categories</b>	
Drive-Up/Drive-In/Drive-Through Facilities (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 2.3.160	No parking requirement if drive-up/drive-in/drive through is in conjunction with a business. If not in conjunction with a business, then one space per employee is required. See Section 2.3.160 for queuing area requirements
Bed and Breakfast Inn	1 space per rentable bedroom plus 1 space for owner/manager
Educational Services, not a school (e.g., tutoring or similar services)	1 space per 500 sq. ft. floor area
Entertainment, Major Event	1 space for every 4 event attendees plus 1 space for every 3 employees
Offices	1 space per 400 sq. ft. of floor area
Outdoor Recreation, Commercial	1 space for every 4 event attendees plus 1 space for every 3 employees
Parking Lot (when not an accessory use)	None

3.3.300 – Automobile Parking Standards

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Minimum Parking per Land Use</b> (fractions rounded down to the closest whole number)
Quick Vehicle Servicing or Vehicle Repair. (See also Drive-Up/Drive-In/Drive-Through Uses, per Section 2.3.160)	2 spaces per service bay plus 1 per employee
Retail Sales and Service (See also Drive-Up Uses)	<u>Retail</u> : 1 spaces per 400 sq. ft., plus 1 space for each 3 employees except bulk retail (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales) 1 per 1,000 sq. ft.
	<u>Restaurants and Bars</u> : 8 spaces per 1,000 sq. ft. floor area
	<u>Health Clubs, Gyms</u> : 1 space per piece of work out equipment or work out station; plus one space for every 3 employees
	<u>Continuous Entertainment (e.g., bowling alleys)</u> : 1 space for every 4 patrons or 1 space per bowling lane plus 1 space for every 3 employees
	<u>Lodging (hotels, motels, inns)</u> , (see also Bed and Breakfast Inns): 1 per rentable room plus 1 space for every 3 employees; For associated uses, such as restaurants, entertainment uses, and bars, see above
Self-Service Storage	2 spaces
<b>Industrial Categories</b>	
Industrial Service (See also Drive-Up Uses)	A minimum of 2 spaces; 1 space per 1,000 sq. ft. of floor area
Manufacturing and Production	A minimum of 2 spaces; 1 space per 1,000 sq. ft. of floor area
Warehouse and Freight Movement	A minimum of 2 spaces; 1 space per 1,000 sq. ft. of floor area
Wholesale Sales - fully enclosed - not enclosed	1 space per 1,000 sq. ft: A minimum of 2 spaces 1 space per 1,000 sq. ft: A minimum of 2 spaces
<b>Institutional Categories</b>	
Basic Utilities	None
Community Service	1 space per 200 sq. ft. of floor area

### 3.3.300 – Automobile Parking Standards

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.6; definitions are in Chapter 1.5.)</i>	<b>Minimum Parking per Land Use</b> (fractions rounded down to the closest whole number)
Daycare, adult or child day care; does not include Family Daycare (12 or fewer children) under ORS 657A.250	1 drop-off space for every 10 children plus 1 space for each employee.
Parks and Open Space	1 space for every 4 attendees or per CU review (Chapter 4.4) for active recreation areas.
Religious Institutions and Houses of Worship	1 space per every 4 seats of the main assembly area; or per CU review, as applicable
Schools	<u>Grade, elementary, middle, junior high schools:</u> 2 spaces per classroom
	<u>High schools:</u> 1 space per 6 students plus 1 space per full time employee
<b>Other Categories</b>	
Accessory Uses (with a permitted use)	No standard, except some uses may be required to provide parking under the minimum standards for primary uses, as determined by the decision body through Land Use Review, Conditional Use review, or Site Design Review.
Agriculture – Nurseries and similar horticulture	See Retail Sales and Wholesale, as applicable
Radio Frequency Transmission Facilities	None
Rail Lines and Utility Corridors, except those existing prior to effective date of Development Code are allowed.	None
Temporary Uses (limited to “P” and “CU” uses), per Section 4.9.100.	As determined per Section 4.9.100
Transportation Facilities (operation, maintenance, preservation, and construction [ <i>in accordance with the City’s Transportation System Plan</i> ])	None

**B. Vehicle Parking - Minimum Accessible Parking**

1. Accessible parking shall be provided for all uses in accordance the standards in Table 3.3.300B; parking spaces used to meet the standards in Table 3.3.300B shall be counted toward meeting off-street parking requirements in Table 3.3.300A;
2. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;
3. Accessible spaces shall be grouped in pairs where possible;
4. Where covered parking is provided, covered accessible spaces shall be provided in the same ratio as covered non-accessible spaces;
5. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.

<b>Table 3.3.300B - Minimum Number of Accessible Parking Spaces</b>			
Source: ADA Standards for Accessible Design 4.1.2(5)			
Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (with 60" access aisle, or 96" aisle for vans*)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
	<i>Column A</i>		
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A**	7/8 of Column A***
1001	20 plus 1 for each 100 over 1000	1/8 of Column A**	7/8 of Column A***
*vans and cars may share access aisles			
**one out of every 8 accessible spaces		***7 out of every 8 accessible parking spaces	

**On-Street Parking.** On-street parking shall conform to the following standards:

1. Dimensions. The following constitutes one on-street parking space:
  - a. Parallel parking, each twenty-two (22) feet of uninterrupted curb;
  - b. diagonal (45-60 degree) parking, each with twelve (12) feet of curb;
  - c. 90-degree (perpendicular) parking, each with nine (9) feet of curb.
2. Location. When approved through Land Use Review or Design Review, as applicable, on-street parking may be counted toward the minimum standards in Table 3.3.300A when it is on the block face abutting the subject site. An on-street parking space must not obstruct a required clear vision area and its must not violate any law or street standard.
3. Public Use Required for Credit. On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.

**D. Shared parking.** Required parking facilities for two (2) or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. The City may approve owner requests for shared parking through Land Use Review or Design Review, as applicable.

**E. Off-site parking.** Except for single-family dwellings, the vehicle parking spaces required by this Chapter may be located on another parcel of land, provided the parcel is within 500 feet of the use it serves and the City has approved the off-site parking through Land Use Review or Design Review, as applicable. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written instrument.

**F. General Parking Standards.**

1. Location. Parking is allowed only on streets, within garages, carports, and other structures, or on driveways or parking lots that have been designed and developed in conformance with this code. Article 2, Land Use Districts, prescribes parking location for some land uses (e.g., the requirement that parking for some multiple family and commercial developments be located to side or rear of buildings), and Chapter 3.1, Access and Circulation, provides design standards for driveways. Street parking spaces shall not include space in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pedestrian accessway, landscape, or other undesignated area.
2. Mixed uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the

requirements for all uses, unless it can be shown that the peak parking demands are less (i.e., the uses operate on different days or at different times of the day). The City may reduce the total parking required accordingly through Land Use Review or Design Review, as applicable.

3. Availability of facilities. Owners of off-street parking facilities may post a sign indicating that such off-street parking, or portions thereof, is available only for residents, customers, and/or employees.
4. Lighting. Parking areas shall have lighting to provide not less than two (2) foot-candles of illumination over walkways leading to and from parking area. Similar lighting should be provided over parking areas but complete illumination of parking spaces at two (2) foot candles is not required. Light standards shall be directed downward only and shielded to prevent lighting spillover into any adjacent residential district or use and to prevent light pollution in the night sky.
5. Screening of Parking Areas. Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses, per Section 3.2.300E.

**G. Parking Stall Design and Minimum Dimensions.** All off-street parking spaces shall be improved to conform to City standards for surfacing, stormwater management, and striping. Standard parking spaces shall conform to the following standards and the dimensions in Figures 3.3.300F(1) and (2), and Table 3.3.300F:

1. Motor vehicle parking spaces shall measure nine (9) feet wide by eighteen (18) feet long or by sixteen (16) feet long, with not more than a two (2) foot overhang when allowed;
2. All parallel motor vehicle parking spaces shall measure eight (8) feet wide by twenty-two (22) feet;
3. Parking area layout shall conform to the dimensions in Figure 3.3.300F(1) and (2), and Table 3.3.300F, below;
4. Not more than 20% of the total parking spaces in a parking lot may be designated for compact cars and shall measure eight (8) feet wide by sixteen (16) feet long. Such spaces must be signed and or the space painted with “Compact Car Only.”
5. Parking areas shall conform to Americans With Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines; and
6. Bicycle parking shall be on a two (2) feet by six (6) feet minimum concrete pad per bike, or within a garage or patio of residential use.

Figure 3.3.300F(1) - Parking Area Layout

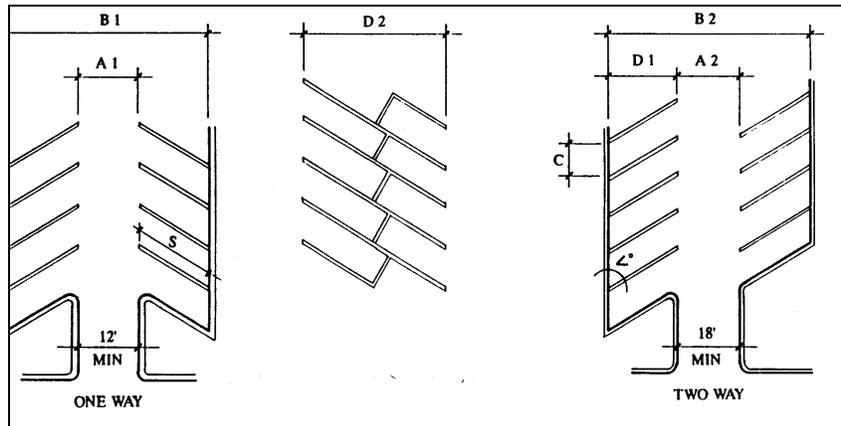


Figure 3.3.300.F(2) Disabled Person Parking Requirements

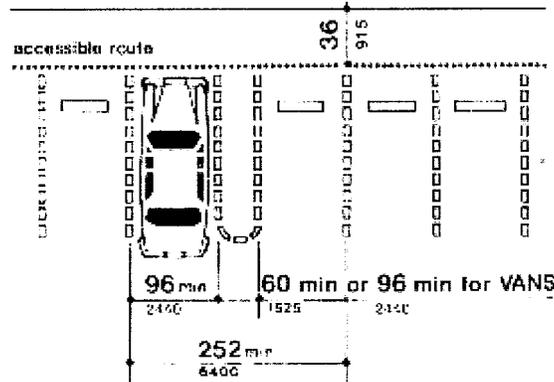


Table 3.3.300F - Parking Area Layout

	PARKING ANGLE <math>\lt; \text{°}</math>	CURB LENGTH	STALL DEPTH		AISLE WIDTH		BAY WIDTH		STRIPE LENGTH
			SINGLE D1	DOUBLE D2	ONE WAY A1	TWO WAY A2	ONE WAY B1	TWO WAY B2	
<b>Standard Space</b>  (See Figure 3.3.300F(2) for ADA space requirements)	90°	9'	18'	36'	23'	23'	59'	59'	18'
	Compact	8'	16'	32'	23'	23'	55'	55'	16'
	60°	10'	20'	40'	17'	18'	57'	58'	23'
	45°	12'	18'-6"	37'	13'	18'	50'	55'	26'-6"
	30°	17'	16'-6"	33'	12'	18'	45'	51'	32'-8"
	0°	22'	8'	16'	12'	18'	28'	34'	8'

**Important cross-references:**

See also, Article 2, Land Use District standards, for parking location requirements for some multifamily and commercial land uses; Chapter 3.1, Access and Circulation, for driveway standards; and Chapter 3.2, Landscaping.

### 3.3.400 Bicycle Parking Requirements

Except for single family dwellings and duplex dwellings, all uses that are subject to Land Use Review or Site Design Review, as applicable, shall provide bicycle parking, in conformance with the standards in Table 3.3.400, and subsections A-I, below.

**A. Minimum Required Bicycle Parking Spaces.** Uses must provide bicycle parking spaces, as designated in Table 3.3.400. Where two options are provided (e.g., 2 spaces, or 1 per 8 bedrooms), the option resulting in more bicycle parking is used.

Use Categories	Specific Uses	Number of Spaces (near building entry)
<b>Residential Categories</b>		
Multi-Family Dwellings (3 or more units)	Multifamily	2, or 1 space per units
Group Living	Group Living	2 or 1 space per every 2 bedrooms
	Dormitory	1 per 2 bedrooms
<b>Commercial Categories</b>		
Retail Sales And Service	Retail Sales And Service	2, or 1 space per every 10 automobiles spaces required
	Lodging	2, or 1 per every 10 automobiles
Office		2, or 1 space per every 10 automobiles spaces required
Commercial Outdoor Recreation		8, or 1 per 10 auto spaces
Major Event Entertainment		8, or 1 per 20 seats or per CU review
<b>Industrial Categories</b>		
Manufacturing And Production		2, or 1 per every 10 automobile spaces required.
Warehouse And Freight Movement		2, or 1 per floor area
<b>Institutional Categories</b>		
Basic Utilities	Bus transit center	8

Use Categories	Specific Uses	Number of Spaces (near building entry)
Community Service	Community Service	2, or 1 per every 10 required automobile spaces
	Park and ride	8
Parks (active recreation areas only)		8, or per CU review
Schools	Grades 2-5	1 per classroom, or per CU review
	Grades 6-12	4 per classroom, or per CU review
Colleges	Excluding dormitories (see Group Living, above)	2, or 4 per classroom, or per CU review
Medical Centers		2, or 1 per 10 required automobile spaces, or per CU review
Religious Institutions and Places of Worship		2, or 1 per 10 required automobile spaces
Daycare		2, or 1 per 2,000 sq. ft. of net building area
<b>Other Categories</b>		
Other Categories		Determined through Land Use Review, Site Design Review or CU Review, as applicable

- B. Exemptions.** This Section does not apply to single-family and duplex dwellings, home occupations, agriculture and livestock uses.
- C. Long Term Bicycle Parking.** Long term bicycle parking (covered or enclosed) may be used to fulfill bicycle parking requirements.
- D. Location.** Bicycle parking when located outside the building it is intended to serve must be no farther from the main building entrance than the distance to the closest vehicle space, or fifty (50) feet, whichever is less.
- E. Visibility and Security.** Bicycle parking for customers and visitors of a use must be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.
- F. Design Options.** Bicycle parking requirements for multiple family uses and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building. For example, covered bicycle parking

may be under a stairway, projecting walls, or roof overhangs. Bicycle parking, when allowed within a public right-of-way, must conform to the City of Silverton’s Public Works Design Standards.

1. Bike racks must be securely anchored to the ground, wall or other structure.
2. Racks for required bicycle parking spaces shall ensure that bicycles may be locked to them without undue inconvenience. Provision of bicycle lockers for long-term (employee) parking is encouraged but not required.
3. Bicycle parking spaces shall be at least 2 feet wide by 6 feet long and when covered, have a vertical clearance of 7 feet. An access aisle of at least 5 feet in width shall be provided and maintained beside or between each row of bicycle parking.
4. Each parking space must be accessible without moving another bicycle.

**G. Lighting.** For security, outdoor bicycle parking shall be at least as well lit as primary building entrances and vehicle parking areas.

**H. Reserved Areas.** Areas designated for bicycle parking shall be clearly marked and reserved for bicycle parking only, for example, with appropriate signage or pavement stenciling.

**I. Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards (Chapter 3.1).

**3.3.500 Loading Areas.**

- A. Purpose.** The purpose of this section of the Code is to provide standards for a minimum number of off-street loading spaces that will ensure adequate loading areas for large uses and developments, and to ensure that the appearance of loading areas is consistent with that of parking areas.
- B. Applicability.** Section 3.3.500 applies to residential multi-family projects with fifty (50) or more dwelling units, and non-residential and mixed-use buildings with 20,000 square feet or more total floor area.
- C. Number of Loading Spaces.**
1. Multi-Family Residential Buildings. Buildings where all of the floor area is in residential use shall meet the following standards:
    - a. Fewer than fifty (50) dwelling units on a site that abuts a local street: No loading spaces are required.
    - b. All other buildings: One (1) space per 50 units.
  2. Non-residential and mixed-use buildings. Buildings where any floor area is in non-residential uses shall meet the following standards:
    - a. Less than 20,000 square feet total floor area: No loading spaces required.
    - b. 20,000 to 50,000 square feet of total floor area: One (1) loading space.
    - c. More than 50,000 square feet of total floor area: Two (2) loading spaces.
- D. Size of Spaces.** Required loading spaces shall be at least thirty-five (35) feet long and ten (10) feet wide, and shall have a height clearance of at least thirteen (13) feet.
- E. Placement, setbacks, and landscaping.** Loading areas shall conform to the setback and perimeter landscaping standards in Articles 2 and 3. Where parking areas are prohibited between a building and the street, loading areas are also prohibited. In the Downtown Commercial (DC) and Downtown Commercial Fringe (DCF) districts, the reviewing body may approve a loading area adjacent to or within the street right-of-way through Design Review or Conditional Use review, as applicable, where it finds that loading and unloading operations are short in duration (i.e., less than one hour), do not obstruct traffic during peak traffic hours, and do not interfere with emergency response services.

## Chapter 3.4 — Public Facilities

### Sections:

- 3.4.010 Purpose and Applicability
- 3.4.100 Transportation Standards
- 3.4.200 Public Use Areas
- 3.4.300 Sanitary Sewers, Water, Street Lights, and Fire Protection
- 3.4.400 Storm Drainage and Erosion Control
- 3.4.500 Sidewalks
- 3.4.600 Utilities
- 3.4.700 Construction Plan Approval and Assurances
- 3.4.800 Installation
- 3.4.900 Easements

### 3.4.010 Purpose and Applicability

- A. Purpose.** Chapter 3.4 provides general development standards and approval criteria for public improvements. The code incorporates by reference the city's public facility master plans, including plans for domestic water, sanitary sewer, storm drainage, parks, and transportation. The code also incorporates by reference Silverton's Public Works Design Standards. Chapter 3.4 is intended to provide minimum requirements for public facilities. It is not intended to duplicate or replace the design standards contained the above documents.
- B. When Standards Apply.** Development may occur only upon the City of Silverton reviewing and approving all proposed public facilities, finding it in conformance with requirements established in this Chapter.
- C. Engineering Design Criteria, Standard Specifications and Details.** Unless otherwise provided herein, construction, reconstruction, and repair of public facilities in the City of Silverton, including but not limited to transportation facilities, water, sanitary sewer, storm drainage, parks, and other facilities, shall occur only in accordance with the City of Silverton Public Works Design Standards. The Design Standard's specifications, standards, and details are hereby incorporated into this Code by reference.
- D. Conditions of Development Approval.** Development shall not occur until all required public facilities are in place or guaranteed, in conformance with the provisions of this Code and the City's Design Standards. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, must be roughly proportional to the impact of the development on public facilities. Findings in the development approval must indicate how the required improvements are directly related and roughly proportional to the impact of development.

### 3.4.100 Transportation Standards

**A. Development Standards.** The following standards shall be met for all new uses and developments:

1. All new lots created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation must have frontage or approved access to a public street, except as specifically allowed through a Planned Development approval under Chapter 4.5 or as provided for flag lots under Chapter 4.3 Land Divisions.
2. Streets within or abutting a development shall be fully improved in accordance with the Transportation System Plan and the Design Standards. Three-quarter-street improvements may be accepted only when requiring a full-width street improvement can not be justified based on the proportionate impact of the development on the transportation system, as approved by the Public Works Director. Where a less than full street is allowed, the minimum total paved width shall not be less than twenty-eight (28) feet to provide for two travel lanes and bicycle lanes, unless otherwise approval by the Public Works Director.
3. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Section, and public streets shall be dedicated to the applicable road authority.
4. When development occurs with frontage on a substandard right-of-way and right-of-way dedication is not required as part of the development, the setback for the new development shall be calculated based on the anticipated future right-of-way.
5. All new streets and drives shall be paved in accordance with Design Standards.

**B. Guarantee.** The City may accept a future improvement guarantee in lieu of street improvements if the following conditions exist:

1. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the near future and deferring the improvement associated with the project under review does not, by itself, reduce street safety or capacity; and
2. Deferral of the improvement, or a part of the improvement, does not create a potential safety hazard to motorists, bicyclists, or pedestrians; and
3. Deferral of the improvement does not preclude future improvements in conformance with City plans; **OR**
4. The improvement is not roughly proportional to the proposed development; and

5. The applicant has not voluntarily agreed to complete the street improvements with proposed development.

**C. Creation of Rights-of-Way for Streets and Related Purposes.** Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a street by acceptance of a deed, provided that the street is deemed in the public interest by the City Council for the purpose of implementing the Transportation System Plan, and the deeded right-of-way conforms to the standards of this Code.

**D. Creation of Access Easements.** The City may approve an access easement when the easement is necessary to provide for access and circulation in conformance with Chapter 3.1, Access and Circulation. Access easements shall be created and maintained in accordance with applicable provisions of the Uniform Fire Code.

**E. Street Location, Width, and Grade.** The location, width and grade of all streets shall conform to the Transportation System Plan and an approved street plan or subdivision plat. Street location and design shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets as follows:

1. Street grades shall be approved by the Public Works Director in accordance with the Design Standards; and
2. Where the location of a street is not shown in an existing street plan, the location of streets in a development shall either:
  - a. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this Section, or
  - b. Conform to a street plan adopted by the City if it is impractical to connect with existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets, and the need for public convenience and safety.

**F. Minimum Rights-of-Way and Street Sections.** Street rights-of-way and improvements must conform to the standards and specification of the Transportation System Plan and Design Standards. Where a range of right-of-way or roadway width is indicated, the width shall be the narrower in the range unless unique and specific conditions exists as determined by the reviewing body based upon the following factors:

1. Street classification in the Transportation System Plan
2. Anticipated traffic generation
3. On-street parking needs
4. Sidewalk and bikeway requirements based on anticipated level of use

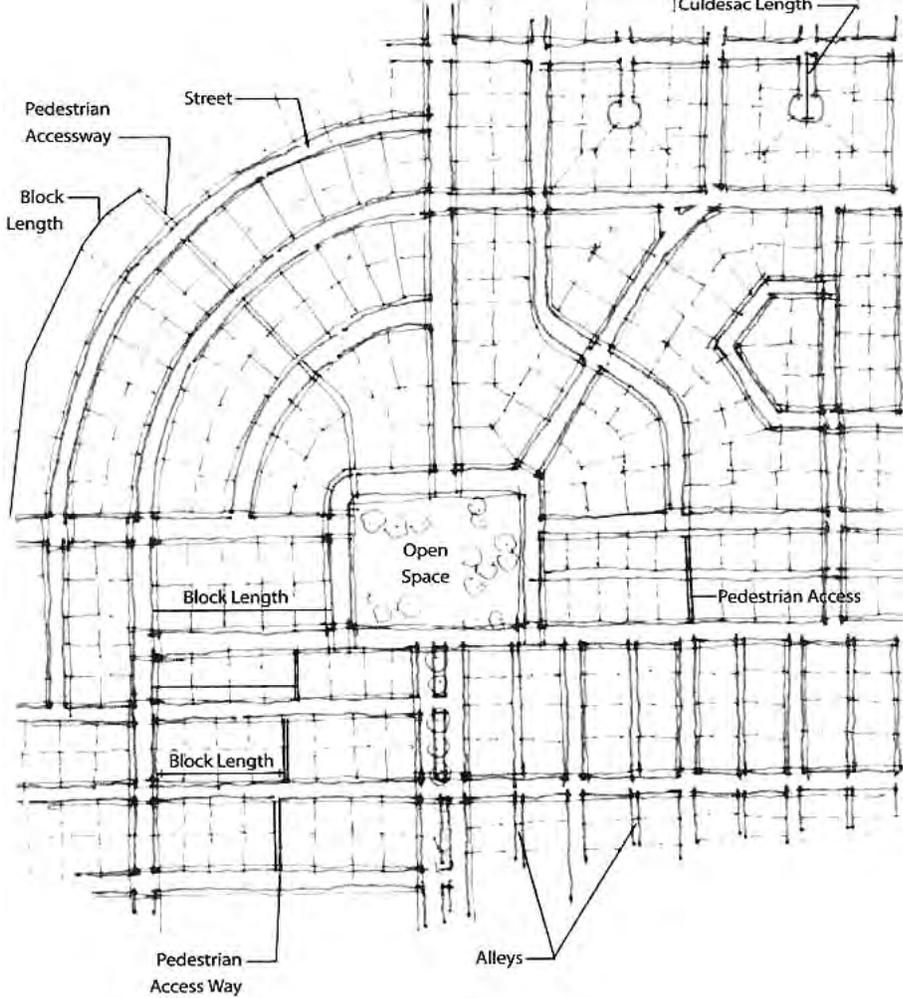
5. Requirements for placement of utilities
6. Street lighting
7. Minimize drainage, slope, and sensitive lands impacts
8. Street tree location, as provided for in Chapter 3.2
9. Protection of significant vegetation, as provided for in Chapter 3.2
10. Safety and comfort for motorists, bicyclists, and pedestrians
11. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided
12. Access needs for emergency vehicles and
13. Transition between different street widths (i.e., existing streets and new streets).

**G. Subdivision Street Connectivity.** All subdivisions shall conform to all the following access and circulation design standards, as applicable:

1. Connectivity to Abutting Lands. The street system of proposed subdivisions shall be designed to connect with existing, proposed, and planned streets outside of the subdivision as provided in this Section. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the Fire Marshal, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.
2. When Abutting an Arterial Street. Property access to abutting arterials shall be minimized. Where such access is necessary, shared driveways may be required in conformance with Section 3.1.200. If vehicle access off a secondary street is possible, then the road authority may prohibit access to the arterial.
3. Continuation of Streets. Planned streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods and to facilitate emergency access and evacuation. Connections shall be designed to meet or exceed the standards in subsection 4, below, and to avoid or minimize through traffic on local streets. Appropriate design and traffic control and traffic calming measures, as provided in subsection H, below, are the preferred means of discouraging through traffic.
4. Street Connectivity and Formation of Blocks. In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions and site developments of more than two (2) acres shall be served by a connecting network of public streets and/or pedestrian access ways, in accordance with the following standards (minimum and maximum distances between two streets or a street and its nearest accessway):
  - a. Residential Districts: Minimum of 100-foot block length and maximum 600-foot length maximum with a desired block length of 500 feet.
  - b. Downtown Commercial and Downtown Commercial Fringe Districts: Block lengths shall be consistent with the existing town plat, as of *[effective date of this Code]*

- c. General Commercial District: Minimum of 100-foot block length and maximum 600-foot length;
- d. Not applicable to the Industrial Districts

**Figure 3.4.100G - Street Connectivity and Formation of Blocks**



5. Pedestrian Accessway Standards. Where it is impractical to make a street connection in conformance with the standards in subsection 4, a pedestrian accessway must be provided at or near the middle of a block in lieu of the street connection, as generally shown in Figure 3.4.100G. The City may also require developers to provide an accessway where a cul-de-sac or other street is planned and the accessway would connect the streets or provide a connection to other developments. Such accessways shall conform to all of the following standards:
  - a. Accessways shall be no less than twenty (20) feet wide with a minimum eight-foot (8') wide paved surface or wider if utilities are provided, and located within a right-of-way or easement allowing public access and, as applicable, emergency vehicle access
  - b. If the streets within the subdivision or neighborhood are lighted, accessways in the subdivision must also be lighted. Accessway lighting must provide at least two (2)-

- foot candles of illumination. Light standards shall be directed downward only and shielded to prevent lighting spillover and to prevent light pollution in the night sky.
- c. A right-of-way or public access easement provided in accordance with subsection a that is less than twenty (20) feet wide may be allowed on steep slopes where the decision body finds that stairs, ramps, or switch-back paths are necessary.
  - d. Accessways must be wheelchair accessible except where existing topography precludes access, and
  - e. The City may require landscaping and fences as part of the required accessway improvement to buffer pedestrians from adjacent vehicles, or to screen accessways from view of adjacent residences.

#### **H. Traffic Signals and Traffic Calming Features.**

1. Traffic signals shall be required with development when traffic signal warrants are met, in conformance with the Highway Capacity Manual and Manual of Uniform Traffic Control Devices. Where a proposed development results in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed in conformance with the roadway authority's requirements prior to occupancy of the development. The developer's cost and the timing of improvements maybe partially reimbursable through system development charge credits or other reimbursement approved by the Public Works Director.
2. When an intersection meets or is projected to meet traffic signal warrants, the City may accept alternative mitigation, such as a roundabout, in lieu of a traffic signal, if approved by the Public Works Director and applicable road authority if different than the City.
3. The City may require the installation of traffic calming features such as curb extensions, reduced street width (parking on one side), medians with pedestrian crossing refuges, traffic tables or other features to reduce vehicle speeds in neighborhoods and other areas with high pedestrian use.

#### **I. Future Street Plan and Extension of Streets.**

1. A future street plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development. The plan must show the pattern of existing and proposed future streets from the boundaries of the proposed land division and include other divisible parcels within 600 feet surrounding and adjacent to the subject site. The street plan is not binding; rather it is intended to show potential future street extensions with future development
2. Streets shall be extended to the boundary lines of the parcel or tract to be developed when the City determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. The point where the streets temporarily end shall conform to a-d, below:

- a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets when the adjoining property is developed.
- b. A temporary barricade approved by the Public Works Director shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade shall be included in the street construction cost.
- c. Temporary street ends must provide turnarounds constructed to Uniform Fire Code standards for streets over 150 feet in length. See also, Section 3.1.200.
- d. A one (1) foot wide reserve strip shall be required to be dedicated to the City at the terminus of the stub street.

**J. Street Alignment and Design.** The alignment, design and construction of all streets, including vehicle and bicycling travel lanes, bus pullouts and waiting areas, sidewalks, planter strips, tree wells, street furnishings, driveway approaches (dimensions, spacing, access limitations), intersections, grades, horizontal and vertical curves, cul de sacs, and other improvements, shall conform to the City of Silverton Design Standards.

**K. Streets Adjacent to Railroad Right-of-Way.** When a transportation improvement is proposed within 300 feet of a public railroad crossing, or a modification is proposed to an existing public crossing, the Oregon Department of Transportation and the rail service provider shall be notified and given an opportunity to comment. Private crossing improvements are subject to review and licensing by the rail service provider.

**L. Development Adjoining Arterial Streets.** Where a development adjoins or is crossed by an existing or proposed arterial street, residential access shall be separated from through traffic and designed to minimize traffic conflicts. (See also, the access requirements under Section 3.1.200.) The reviewing body may require one or more of the following improvements to ensure the continued operational safety of the transportation system and land use compatibility:

1. A parallel access street (frontage road) along the arterial street with a landscape median separating the two streets
2. Deep lots (120 feet or greater) abutting the arterial street to provide at least ten (10) feet of landscape buffering along the arterial, provided vehicle access is from a secondary street. Where a secondary street is not available and direct access to the arterial is necessary, such lots shall combine and share driveways
3. Screen planting within a non-access reservation (e.g., public easement or tract) of not less than ten (10) feet in width at the rear or side property line along the arterial
4. Other treatment approved by the City that is consistent with the intent of this Section.

- M. Private Streets.** Private streets are permitted solely within Manufactured Home Parks when the review body determines that public streets are not needed to provide for circulation and/or access to neighboring properties.
- N. Street Names.** The developer shall submit proposed street names to the City of Silverton Community Development Department for review and submittal to the Marion County Road Naming Committee for approval prior to recording final plat. No new street name shall be used that duplicates or could be confused with the name of an existing street in the vicinity. Street names, signs, and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers.
- O. Survey Monuments.** Upon completion of public improvements and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to establish survey monuments in accordance with City and Marion County Standards and provide certification to the Public Works Director of all public improvements and as-builts.
- P. Street Signs.** All street signs must be reviewed and approved by the Public Works Department or other roadway authority, as applicable, before they are installed. The developer is responsible for the cost of all signs required in development. Street name signs shall be installed at all street intersections. Stop signs and other signs may also be required.
- Q. Mail Boxes.** Plans for mail boxes must be approved by the United States Postal Service and the Public Works Department prior to installation.
- R. Street Light Standards.** Street lights must be reviewed and approved by the Public Works Department prior to installation.
- S. Street Cross-Sections.** Cross sections shall conform to the City of Silverton Public Works Design Standards. The final lift of asphalt or concrete pavement shall be placed on all new constructed public roadways prior to final City acceptance of the roadway unless otherwise approved by the Public Works Director.
- T. Alley Standards.** Use of alleys may be considered as part of residential neighborhood design. A narrower minor local street (28-foot paved surface) will be allowed with alley access because the alley will reduce some of the parking and access functions usually found on the frontage street. To the maximum extent possible, all private utilities must be located in the alley and curb cuts will not be permitted along the frontage street. The standard 6-foot planter strip and 5-foot setback sidewalks are required along the frontage street. Alleys shall be consistent with the city's Public Works Design Standards, paved with a dustless surface (i.e. concrete or asphaltic concrete), and shall follow the general development standards governing streets. As an incentive, lots with alley access may be up to 1,000 square feet smaller than the standard minimum lot size of the zone.

### 3.4.200 Public Use (Park) Areas

#### A. Dedication of Public Use (Park) Areas.

1. The availability of park land and open space is a critical element in maintaining and improving the quality of life in Silverton. All new development that results in the creation of new residential dwelling units (subdivisions, partitions, planned unit developments, multi-family developments, manufactured home parks, etc) are required to provide through payment and/or dedication public use areas (such as parks, playgrounds, community centers, trails, etc.) based on the City's most current Parks and Recreation Master Plan.
2. Where a proposed park, playground, or other public use area shown in a plan adopted by the City is located in whole or in part in a subdivision, planned unit development and/or other development proposal, the City may require the dedication and/or reservation and/or improvement thereof for public use (parks, playgrounds, trails, etc.) purposes provided that the impact of the development on the City park system is roughly proportionate to the dedication/reservation/improvement being required. However, the City is under no obligation to accept such areas or improvements offered for dedication or sale.
3. The amount of land and park improvements, when required, shall be proportionate to the impact the development will have in generating park need based on the number of proposed dwelling units. All required improvements shall conform to the level of service standards identified in the City Silverton's most current Parks Master Plan and as refined adopted by the Parks and Recreation System Development Charges (SDC) Methodology. The 2008 Park and Recreation Master Plan estimating and 2030 population of 14,400 and need for 115.25 acres of new park lands (based on 8 acres of neighborhood park and community park land per 1,000 population), 20 acres of new natural areas, 13,467 lineal feet of trails, and other improvements (community center, swimming pool, etc), to serve the new need. (Note: This amount of needed land does not address the existing deficiencies since improvement fee SDC's may only be used for growth needs.) The required park land dedication is in addition to any street tree planter strips, storm water facilities, or other open space improvements that may be donated or otherwise required.
4. Any required park land dedication and/or improvements in excess of the proportionate share impact of the development shall be eligible for reimbursement. The city may accept a cash payment (also known as a System Development Charge) in lieu of park land dedication and/or improvement where it finds that due to location, size, or other considerations that the proposed a land and/or improvements would not provide suitable park facilities.
5. The Silverton City Council may permit a non-City (public or private) entity to own and manage the park area required in subsection 3, provided that the City and park provider shall first enter into a legal agreement assuring that City residents will have public access to the park. The agreement, at a minimum, shall also describe the types of park uses and

facilities that are to be provided, park operating hours, and ongoing maintenance responsibilities. All property taxes are the responsibility of the property owner.

6. Land that been required to meet park needs shall be dedicated to the City or if it is to be owned by a public or private entity then the City Council shall approve of the alternative ownership and legal documents, acceptable to the City Attorney shall be provided that assure public access, park operating hours, and ongoing maintenance responsibilities.
7. **Dedication Procedures.** Prior to approval of the final plat, the developer shall dedicate land as previously determined by the City in conjunction with approval of the tentative plan. Dedication of land in conjunction with multi-family development (when there is no final plat) shall be required prior to the issuance of permits and commencement of construction.
  - a. Prior to acceptance of required park land dedications, the applicant/developer shall complete the following items for all proposed dedication areas:
    1. The developer shall clear, fill and/or grade all land to the satisfaction of the city, install sidewalks on the park land adjacent to any street and seed the park land; and
    2. The developer shall submit a Phase 1 Environmental Site Assessment completed by a qualified professional according to the American society of Testing and Materials standards (ASTM 1527). The results of this study shall reflect a clean environmental record.
  - b. Additional Requirements:
    1. In addition to a formal dedication on the plat to be recorded, the subdivider shall convey the required lands to the City by general warranty deed. The developer of a multi-family development or manufactured home park shall deed the lands required to be dedicated by a general warranty deed. In any of the above situations, the land so dedicated and deeded shall not be subject to any reservations of record, encumbrances of any kind or easements which, in the opinion of the Director, will interfere with the use of the land for park, open space, or recreational purposes.
    2. Where any reservations, encumbrances, or easements exist, the City may require payment in lieu of dedication of lands unless it chooses to accept the land subject to the encumbrances.
  - c. **Phased Development.** In a phased development, the required park land shall be dedicated prior to approval of the final plat for the first phase. Improvements to the land as required by 3.4.200 7.a.1 shall be made prior to approval of the final plat for the phase that includes the park land.

8. **Cash in Lieu of Dedication.** At the City’s discretion, the City may accept cash payment in lieu of land dedication. The amount of the cash payment shall be set by the City Council by resolution and shall be based on the Parks and Recreation System Development Charges (SDC) Methodology Update Report. The fee shall be paid prior to the signing of the final plat or with multi-family development (when there is no final plat) payment shall be required prior to the issuance of permits and prior to the commencement of construction.

**B. System Development Charge Credit.** Dedication of land or facilities to the City for parks, voluntary or otherwise, may be eligible for credit toward any required system development charge for parks.

**3.4.300 Sanitary Sewers, Water, Street Lights and Fire Protection.**

- 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.
- B. Plan Approval.** Development permits for sewer and water system improvements shall not be issued until the Public Works Director has approved all sanitary sewer and water plans in conformance with City standards.
- C. Over-Sizing Facilities.** The City may require as a condition of development approval that sewer and water systems serving new development be sized to accommodate future development within the area as projected by the applicable Water and Sewer Master Plans and Public Works Design Standards. Oversizing of facilities may be eligible for credit toward system development charges.
- D. Street Lights.** Street lights shall be provided in all developments within the City and shall be provided in accordance with City’s Design Standards. The reviewing body may add street lights at other locations and authorize specific exceptions to the above priorities when necessary in order to enhance the public safety and welfare.
- E. Fire Protection.** Developers shall provide third party verification of existing and proposed water service mains and hydrant flow supporting the development site. Hydrant flow analyses and plans for hydrants and water service mains shall be subject to review and approval by the Fire Marshal as part of the development review process.
- F. Inadequate Facilities.** Development may only occur where existing or proposed public facilities are adequate to serve the site as required per Section 3.4.300.A above. If services do not meet these standards, service upgrades may be required or the development permits may be restricted by the City. Deficiencies in the existing water or sewer system that cannot be rectified by the development and that if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water or sewerage treatment systems will not be approved.

**3.4.400 Storm Drainage and Erosion Control**

- A. General Provisions.** The City shall issue a development permit only where adequate provisions for storm water runoff and erosion control have been made in conformance with the City of Silverton Storm Drainage Master Plan and Public Works Design Standards.
- B. Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be large enough to accommodate existing stormwater. Such facilities shall be subject to review and approval by the Public Works Director.
- C. Effect on Downstream Drainage.** Where it is anticipated by the Public Works Director that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development. Storm water detention and/or retention facilities, including water quality treatment, may be required in conformance with City standards.
- D. Over-Sizing.** The City may require as a condition of development approval that storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable Storm Drainage Master Plan. Over-sizing of facilities may be eligible for credit towards SDC's.
- E. Existing Watercourse.** Where a proposed development is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety.
- F. Erosion Control.** Specific erosion control measures shall be designed, installed and monitored in conformance with the City's Design Standards. City-approved erosion control measures must be in place prior to, during and after construction activities for projects that disturb one (1) or more acres of land over a period of time. A National Pollution Discharge Elimination System (NPDES) Permit must be obtained from the Department of Environmental Quality prior to the issuance of a development permit or land use permit.
- G. Detention.** All required storm water detention must provide for the 25-year storm event. Detention shall be located in underground facilities or if above ground detention is utilized, it shall be with the review and approval of the Public Works Director.

### 3.4.500 Sidewalks

**A. Requirement.** Sidewalks shall be constructed on all public streets in the City by the owners of property next adjacent thereto. As such, sidewalks shall be constructed in accordance with the specification hereinafter provided. All development for which land use applications are required must include sidewalks adjacent to public streets. This requirement also applies to new single-family houses and duplexes if they are located on arterial or collector streets or on curbed local streets if there is an existing sidewalk within 500 feet on the same side of the street.

In the case of arterial or collector streets, sidewalks shall be built during their construction and considered during their reconstruction. This provision shall also apply to local streets that serve commercial and multi-family development. Sidewalks are required on both sides of all streets except in “Hillside Developments” and “Mini-Subdivisions. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians shall be provided through construction of paved roadway shoulders at least 8 feet in width on arterials and 6 feet on other streets.

**B. Specifications for Construction.** Specifications for the construction of the various kinds of walks provided for have been made by the City Engineer and filed in the office of the City Recorder, which specifications are hereby especially referred to and by reference are made a part hereof; provided however, that changes may be made in such specifications by the City Council at any time, and when so made and approved and filed in the office of the City Recorder, such changed or amended specifications shall become a part hereof the same as though such specifications were now on file in the office of the City Recorder.

**C. Mid-block Requirements.** In the case of blocks greater than 500 feet in length, the review body shall require mid-block pedestrian walks and/or bikeways on a right-of-way at least 20 feet in width with a minimum eight-foot (8') wide paved surface. All walkways or bikeways between streets shall be subject to the requirements of the Public Works Director.

**D. Design, Width, and Location.** All sidewalks must be constructed, replaced or repaired in accordance with the Silverton Transportation system Plan and the Standard Construction Specifications. The required width and location of sidewalks is as follows:

1. The required width for a sidewalk on an arterial or collector street is six (6) feet. This width may be reduced to five (5) feet if the sidewalk is separated from the curb by a landscaped planter strip at least five feet wide. In those instances where there is inadequate right-of-way for additional width and no additional right-of-way can be obtained as a condition of development approval, the sidewalk width may be reduced to five (5) feet. In all cases, any right-of-way remaining outside the sidewalk is to be landscaped and maintained by the adjoining property owner.
2. Sidewalks along residential and other local streets must be a minimum of five (5) feet in width. Street trees shall be selected from the list of approved street trees established by the City. Other tree species may be approved if they have similar qualities as those on the list. The planter strip shall be of permeable materials.

3. In the Downtown area sidewalks shall be provided consistent with the Silverton Downtown Master Plan.
4. Regardless of other provisions contained in this article, any sidewalk project that is less than 200 feet in length and connects on either end to an existing sidewalk may be designed to match the existing pattern with the approval of the City Public Works Director.
5. Where obstructions exist or are proposed (including but not limited to mail boxes, utility poles, trees, planters, fire hydrants, signs, benches, bus stops, etc.), provisions must be made to maintain a minimum of four feet of unobstructed sidewalk width on local streets, five feet on collector and arterial streets, and six feet in the Historical Business District.
6. Maintenance of sidewalks and planter strips shall be the continuing obligation of the adjacent property owner. Planter strips shall be landscaped and maintained in like manner to the front yard setback requirements of Article 3 – Community Design Standards.
7. Sidewalks shall be designed to parallel streets in line and grade and shall avoid unnecessary meandering from the curb line and elevation changes except as necessary to avoid significant trees or traverse topographic barriers. All sidewalks shall be constructed to the official City specifications grade and at such lateral grade or slope as has been or may be specified in the general specification therefore by the City Engineer. Grades shall be furnished without charge to property owners, when applied for, for the purpose of constructing sidewalks.
8. Pedestrian/bike accessways not adjacent to a public street shall be a minimum of twenty (20) feet wide and dedicated to the public. The accessway improvement shall be a minimum eight-foot (8') wide paved surface and shall be provided with pedestrian scaled lighting along the access way. Lighting shall not shine into adjacent residences. Trees shall be provided within the dedicated accessway in accordance with the requirements of Section 3.2.

**E. Conformance to Street Grades.** All sidewalks constructed adjacent to a street must be placed upon the street grade as established at the time of sidewalk construction. If a space is left between the property line and the sidewalk and/or between the sidewalk and the curb, the space shall be filled and surfaced with earth or other approved material level with the sidewalk. Grade shall be furnished without charge to property owners, when applied for, for the purpose of constructing sidewalks.

**F. Timing of Sidewalk Construction.** Sidewalk construction may be deferred until the proposed improvement on the property is completed. No occupancy permit shall be issued by the Building Official for a development until the provisions of this Article are satisfied. The Public Works Director shall require a future improvement assurance (as described in Section 3.4.700) when, in his opinion, the construction of the sidewalk is impractical for one or more of the following reasons:

1. In the case of all property other than industrial:
  - a. The street is not improved with curbs.
  - b. Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk,
  - c. Street right-of-way is insufficient to accommodate a sidewalk on one or both sides of the street,
  - d. Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible.
  - e. The location is not on a designated collector or arterial street.
  - f. Less than seventy (70) percent of the property frontage is developed with sidewalks along that side of the block, except in the case of a new or developing subdivision in which case, sidewalks shall not be deferred.
2. In the case of industrial property:
  - a. The frontage considered for the deferral is not on a major pedestrian route to a school, shopping center, park, church, or other pedestrian traffic generator, as determined by the Public Works Director,
3. The deferral of the sidewalk construction does not pose a threat to the welfare and safety of the public based upon a review of the pedestrian/vehicular traffic, the width and condition of the street, and of the one street parking.
4. Whenever the construction of a sidewalk has been deferred, the property owner shall unless otherwise allowed by the Public Works Director or his/her designee:
  - a. Grade and slope the area to the future sidewalk grade;
  - b. Avoid planting trees in the sidewalk area, or building fences, retaining walls, steps, or other impediments to the future sidewalk; and
  - c. Note on the plans for the development that a deferment has been granted but that sidewalk construction may be ordered by the City Council at any time.
5. Sidewalk construction, which has been deferred pursuant to this Section may be initiated by resolution of the City Council.

### 3.4.600 Utilities

#### A. Underground Utilities.

1. Generally. All new utility lines including, but not limited to, those required for electric, communication, lighting, and cable television services and similar facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above, subject to review and approval by the Public Works Director.
2. Subdivisions. The following additional standards apply to all new subdivisions, in order to facilitate underground placement of utilities:
  - a. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct required vision clearance areas.
  - b. The City reserves the right to approve the location of all surface-mounted facilities
  - c. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
  - d. Stubs for service connections shall be sufficient in length to avoid disturbing the street improvements when service connections are made.

**B. Exception to Undergrounding Requirement.** The standard applies only to proposed subdivisions. Exceptions to the undergrounding requirement may be granted by the Public Works Director due to physical constraints, such as steep topography, sensitive lands or existing development conditions that make undergrounding impractical.

**3.4.700 Construction Plan Approval and Assurances.**

**A. Plan Approval and Permit.** No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council.

**B. Performance Guarantee.** The City may require the developer or subdivider to provide assurance, bonding or other performance guarantees to ensure completion of required public improvements. See Chapter 4.2, Design Review, and Chapter 4.3, Land Divisions.

1. The assurance shall contain the time within which the obligation is to be met. It may take the form of a surety or performance bond, cash, a negotiable security deposit, a mutual improvement agreement, a monetary contribution to a fund for future improvements if established by a separate city ordinance or other guarantees approved by the City Attorney sufficient to cover the cost of the work as estimated by the City. The bond shall be conditioned upon the developer’s carrying out the obligation and fulfilling the other requirements of this Title that bear on the approval of the development. The deposit or bond shall be forfeited to the City if the developer does not fulfill the requirements. The bond or deposit shall remain in the custody of the City until the obligation is completed or the bond or deposit is forfeited, or shall be placed in an escrow account subject to City control.
  
2. If the Public Works Director finds that a developer is not fulfilling an obligation, the Director shall, in written notice to the developer and the developer’s surety, specify the details of noncompliance. Unless the Public Works Director allows more time for compliance because of circumstances beyond the developer’s control, within 30 days after receiving the notice, the developer or the developer’s surety shall commence the compliance and proceed diligently to complete fulfillment of the obligation.
  - a. If the developer or the developer’s surety does not commence the compliance within the 30 days or the additional time allowed by the Public Works Director, or has so commenced but fails diligently to complete the compliance, or the compliance is otherwise not completed within the time specified in granting the development approval, the City may take the following action:
    1. Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgement.
    2. Notify the developer and the developer’s surety of the developer’s failure to perform as required by this Code.
    3. Demand payment from the developer for the unfulfilled obligation.
    4. If the security for the obligation is a bond, notify the surety that has furnished the bond that reimbursement for the expense for fulfillment of the obligation is due

and payable to the City or, if the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup the expense.

5. Void all approvals granted in reliance on the improvement assurance.
  - b. If a bond or other required security is not sufficient to compensate the City for expenses necessary to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City and upon the entire contiguous real property of the owner of the land subject to the obligation.
  - c. The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer's failure to do the required obligation.
  - d. The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
  - e. The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the city to pursue any civil remedy permitted by law.

**C. Petition for Improvement/Waiver of Remonstrance.** Existing single family residential lot of record and lots created by a land partition may be developed provided the lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for the lacking public facilities as determined and approved by the Public Works Director in consultation with the Silverton Fire District

### 3.4.800 Installation

- A. Conformance Required.** Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this Chapter, approved construction plans, and to improvement standards and specifications adopted by the City.
- B. Adopted Installation Standards.** The Standard Specifications for Public Works Construction, Oregon Chapter A.P.W.A., are hereby incorporated by reference; other standards may also be required upon recommendation of the Public Works Director.
- C. City Inspection.** Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications to the approved design requested by the developer may be subject to review under Chapter 4.6, Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.
- D. Engineer's Certification and As-Built Plans.** A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accordance with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide two (2) sets of "as-built" plans, in conformance with Design Standards specifications, for permanent filing with the City.

### 3.4.900 Easements.

- A. Provision.** The developer is responsible for making arrangements with the City, the applicable district, and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. Public main line utility easements shall conform to City specification. See the Design Standards.
- B. Recordation.** As determined by the Public Works Director, all easements facilities required under Chapter 3.4 shall be recorded after final acceptance of public improvements. See also, Chapter 4.3, Land Divisions.

## Chapter 3.5 —Historic Landmarks

### Sections:

- 3.5.100 Purpose**
- 3.5.200 Historic Landmark Commission**
- 3.5.300 Historic Resources Inventory**
- 3.5.400 Designated Landmarks Register**
- 3.5.500 Historic Design Review**
- 3.5.600 Historic Relocations and Demolitions**
- 3.5.700 Exclusions**
- 3.5.800 Appeals**

### **3.5.100 Purpose**

The City recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community and are irreplaceable, and as such, merit preservation. This ordinance establishes an Historic Landmark Commission; a program for the identification, evaluation, and designation of historic resources as landmarks, and; a process for assisting in the perpetuation of these resources through review of alteration, moving or demolition of Designated Historic Landmarks, Contributing Historic Resources, and Historic Resources of Statewide Significance.

### **3.5.200 Historic Landmark Commission**

- A. The Mayor and City Council shall appoint a five-member (5) Historic Landmark Commission (“Commission”) to carry out the provisions of this ordinance. The membership criteria, term of service, election of officers, number of frequency of meetings, staff support for the commission, and roles and responsibilities of the commission are as provided in Ordinance #06-25.
- B. A simple majority of the seated members of the Commission shall constitute a quorum to conduct official business.
- C. In the event that it is not feasible to constitute a separate commission, either due to the lack of interested or qualified members or due to concerns by the Council regarding the administrative burden a separate commission might require, the Silverton Planning Commission shall assume the role of the Historic Landmark Commission for the City of Silverton.
- D. Employing the procedures and criteria in Section 3.5.300, the Commission shall periodically identify, evaluate, and re-evaluate the historic resources of the City and maintain an accurate Inventory of Historic Resources.

- E. Employing the procedures and criteria in Section 3.5.400 of this ordinance, the Commission shall periodically revise the Designated Landmarks Register of the City by adding or deleting properties.
- F. Employing the procedures and criteria in Sections 3.5.500 through 3.5.700, the Commission shall review and act upon applications for the alteration, relocation, or demolition of Designated Landmarks, or the major exterior alteration, relocation, or demolition of Historic Resources of Statewide Significance.
- G. The Commission shall advise and make policy recommendations to the Silverton City Council on matters relating to historic preservation; and shall make an annual report in writing to the Silverton City Council on its activities, and its projected activities for the following twelve months.
- H. Nothing in the above section shall conflict or supersede with the duties and responsibilities assigned to the Silverton Planning Commission.

**3.5.300 Historic Resources Inventory**

- A. The Commission shall determine and periodically revise priorities for the identification and evaluation of historic resources.
- B. The Commission shall develop or adopt a system, based on historic integrity and significance, for evaluating historic resources. The system shall rank surveyed historic resources as eligible, potentially eligible, or ineligible for listing on the Designated Landmarks Register. Owners of surveyed properties will be notified of these findings.
- C. Documentation of properties in the Inventory of Historic Resources shall be on forms compatible with the Statewide Inventory of Historic Properties, and upon completion, copies of the forms shall be supplied to the State Historic Preservation Office.
- D. Documentation of properties in the Inventory of Historic Resources is an administrative function of the Community Development Department that does not require a land use decision

**3.5.400 Designated Landmarks Register**

- A. Properties listed on the National Register of Historic Places, including all properties within National Register Historic District boundaries, are automatically listed on the Designated Landmarks Register. As Historic Resources of Statewide Significance, all such properties are subject to the regulations in Sections 3.5.500 and 3.5.600 regardless of their listing on the Designated Landmarks Register, pursuant to Oregon Administrative Rules. However, only properties listed on the Designated Landmarks Register shall be eligible for public incentives and code considerations pursuant to this ordinance.
- B. Any individual or group, including the Commission acting on its own initiative, may nominate a historic resource for inclusion on or removal from the Designated Landmarks

Register by submitting a complete application to the Commission. The burden of proof lies with the applicant. No property shall be so designated without the written consent of the owner or, in the case of multiple ownerships, a majority of the owners.

- C. The Commission shall establish standards for a complete application. Upon acceptance of a complete application, the Commission shall review the application using a Type III procedure under Section 4.1.400.
- D. In order to be included or maintained on the Designated Landmarks Register the Commission must find that the historic resource is over fifty (50) years of age or of extraordinary historic importance, and possess sufficient historic integrity, and;
  - 1. Is associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or
  - 2. Is associated with the lives of persons, or groups of people, significant in local, state, or national history; or
  - 3. Embodies the distinctive characteristics of an architectural type, style, period, or method of construction or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
  - 4. Has yielded or is likely to yield information which is important in local, state, or national history.
- E. The Commission shall develop findings to support its decisions. These findings shall indicate those elements of a property, including interior landscape, architecture, and archaeological features, that are included in the designation and subject to regulation under the provisions of this ordinance.

**3.5.500 Historic Design Review**

- A. Alterations or new construction of a designated landmark, contributing historic resource, or a historic resource of statewide significance are subject to Historic Design Review unless exempted by Subsection B, below.
- B. Exempt from Historic Design Review. The following activities shall be exempt from historic design review:
  - 1. Normal repair and maintenance other than change of façade color where exterior material or color is specifically listed in the National Register nomination as an attribute that contributes to the resource’s historic value;
  - 2. Changes that do not require a building permit, design review permit, sign permit, or other permit from the City and that will not alter the exterior material of a historic resource.
  - 3. Changes of exterior paint color unless the exterior color was specifically listed in the National Register nomination as an attribute that contributes to the resource’s historic value; or

4. Changes in landscaping unless the landscaping is identified in the National Register of Historic Places nomination as an attribute that contributes to the resources historic value;
  5. Parking lot landscaping that meets the standards of Chapter 3.2 and does not involve the installation of a wall or fence;
- C. The following activities shall require staff level Historic Design Review through a Type I or Type II procedure (Sections 4.1.200-4.1.300), as applicable:
1. Exterior alterations or renovations to elevation(s) facing an interior or rear property line or that are not otherwise visible from the adjacent public right-of-way(s).
  2. Additions to the building that are not visible from the public right-of-way(s) and do not change the building footprint, height, volume or massing as seen from the adjacent public right-of-way(s).
  3. Restoration of historic features using materials and techniques that are similar to those used in the original construction or that will substantially replicate the original when such materials or techniques are not available.
  4. In-kind replacement of doors, windows, siding and other architectural features that are visible from the adjacent public right-of-way(s).
  5. Uncovered or covered rear deck additions not visible from the adjacent public right-of-way(s).
  6. Construction of a detached accessory structure with 460 square feet or less of floor area when the accessory structure is at least 40 feet from a front property line.
  7. Installation of new or replacement awnings.
  8. Signs less than 15 square feet. Consultation with the Landmarks Commission will occur for all signs greater than 15 square feet in area.
- D. The following activities shall require Historic Design Review through a Type III procedure (Section 4.1.400). A public hearing before the Historic Landmark Commission is required:
1. Exterior alterations, renovations, or additions to elevation(s) facing a public right-of-way(s) or that are visible from the public right-of-way(s) that result in an increase in building footprint, height, volume, or massing.
  2. Construction of a new building(s) or placement of a relocated structure(s) on an historic site.
  3. Restoration of historic features using materials and techniques that are dissimilar to those used in the original construction or that will substantially deviate from the original construction in terms of style, design, or character.
  4. Changes of exterior paint color from a paint color that was specifically listed in the National Register nomination as an attribute that contributes to the resource's historic value.

5. Relocation of a historic building.
  6. Public art.
  7. Covered or uncovered rear deck additions that are visible from the adjacent public right-of-way(s).
  8. Construction of a detached accessory structure with greater than 460 square feet of area or when the accessory structure is less than 40 feet from a front property line.
- E. At a minimum an application for Historic Design Review shall include:
1. Materials as required for Design Review under Chapter 4.2.
  2. Documentation from the historic resources inventory.
  3. Narrative description of proposed alteration to the historic resource.
  4. Other materials as deemed necessary by the Community Development Director to assist in Historic Design Review.
- F. Upon acceptance of a complete application staff shall process the request through a Type I or Type II procedure (Sections 4.1.200 or 4.1.300) or schedule a public hearing before the Landmark Commission pursuant to Section 4.1.400.
- G. Where an application requires Design Review under Chapter 4.2 (e.g., modification to a non-historic parking lot) and Historic Design Review by the Landmark Commission (e.g., modification to an historic structure), the Commission may serve as the reviewing body for both requests. Alternatively, separate hearings before the Planning Commission and Landmark Commission may be required, with the Landmark Commission's review limited to historic elements of the project. The Community Development Director shall have discretion in determining the applicable reviewing body based on the size and scope of the project, and consistent with the criteria in Chapters 3.5 and 4.2.
- H. The burden of proof lies with the applicant. Applications for Historic Design Review may be approved, approved with conditions, or denied. Conditions imposed by the Landmark Commission are binding on all permits issued pursuant to City codes.
- I. In order to approve historic design review applications, the reviewing body must find that the proposal meets the following standards:
1. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
  2. The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
  3. A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.

4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
7. Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken,
9. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and its environment.
10. New additions, exterior alterations, or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

### **3.5.600 Historic Relocations and Demolitions**

- A. Applications for the relocation or demolition of a designated landmark or historic resource of statewide significance shall be considered in a public hearing by the Landmark Commission following a Type III procedure (Section 4.1.400). In order for the Commission to approve the relocation or demolition, it must find that:
  1. No prudent and feasible alternative exists, or
  2. The designated property is deteriorated beyond repair, or
  3. The value to the community of the proposed use if the property outweighs the value of retaining the designated landmark or historic resource of statewide significance.
- B. At the hearing for an application to relocate or demolish a designated landmark or historic resource of statewide significance the Commission may, in the interest of exploring reasonable alternatives, delay issuance of a demolition permit for up to 90 days from the date of the hearing. If, ten days prior to the expiration of the delay period the Commission finds that there are still reasonable alternatives to explore, it may apply to the Silverton City Council for permission to continue the delay for an additional period of up to 90 days.
- C. In approving an application for the demolition of a designated landmark or historic resource of statewide significance, the Commission may impose the following conditions:

1. Photographic, video, or drawn recordation of the property to be demolished, and/or
2. Salvage and creation of significant elements, and/or
3. Other reasonable mitigation measures.

**3.5.700 Exclusions**

- A. No provision of this ordinance shall be construed to prevent the ordinary or emergency repair or maintenance of a designated landmark or historic resource of statewide significance, when such action does not involve a change in design, materials, or appearance.
- B. No provision in this ordinance shall be construed to prevent the alteration, demolition, or relocation of a designated landmark or historic resource of statewide significance, when the Building Official certified that such action is required for public safety.

**3.5.800 Appeals**

- A. Appeals of Historic Design Review decisions by staff are referred to the Landmark Commission for a public hearing under Section 4.1.300G.
- B. Decisions of the Landmark Commission can be appealed to the Silverton City Council, as provided under Section 4.1.300G. Decisions of the Silverton City Council can be appealed to the Land Use Board of Appeals.

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## Chapter 4.1 Types of Review Procedures

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- 4.1.200 Type I Procedure (Ministerial)
- 4.1.300 Type II Procedure (Limited Land Use Decisions)
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### 4.1.100 Purpose and Applicability of Review Procedures

**A. Purpose.** The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 4.1.100 provides a key for determining the review procedure and the decision-making body for particular approvals.

**B. Applicability of Review Procedures.** All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures: Type I, II, III, and IV. These procedures are described in subsections 1-4 below. Table 4.1.100 lists all of the City’s land use and development approvals and their required review procedure(s).

1. Type I Procedure (Administrative). Type I decisions are made by the Community Development Director, or someone he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective review criteria, and applying City standards and criteria requires no use of discretion;
2. Type II Procedure (Limited Land Use Decision). Type II decisions are made by the Community Development Director or designee with public notice, and an opportunity for a Planning Commission public hearing if requested. The appeal of a Type II decision made by the Planning Commission is heard by City Council;
3. Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals made to the City Council. Type III decisions generally use discretionary review criteria.

4. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts, not just one property). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council. A Type IV hearing may be conducted in a joint meeting of the City Council and Planning Commission.

**C. Number of Days.** All “days” referenced by this Code are calendar days, unless noted otherwise.

<b>Table 4.1.100 Summary of Approvals by Type of Review Procedure</b>		
<b>Approvals*</b>	<b>Review Procedures</b>	<b>Applicable Regulations</b>
Access Permit (public street)	Type I	Chapters 3.1, 4.2, 4.3; Engineering Standards
Appeal of a Land Use Decision	Type III	Sections 4.1.300 and 4.1.400
Building Permit	N/A	Building Code
Code Interpretation	Type II	Chapter 4.8
Code Amendment	Type IV	Chapter 4.7
Comprehensive Plan Amendment	Type IV	Comprehensive Plan
Conditional Use	Type III	Chapter 4.4
Flood Plain Development Permit	Type I/II/III	Chapter 2.5
Planned Development	Type III	Chapter 4.5
Modification to Approval	Type II/III (minor or major)	Chapter 4.6
Zoning Map Change - Quasi-Judicial (no plan amendment required)	Type III	Chapter 4.7
- Legislative (plan amendment)	Type IV	Chapter 4.7
Property Line Adjustments and Lot Consolidations	Type II	Chapter 4.3
Lot-of-Record Determination	Type I/II	Chapter 5.3
Non-Conforming Use or Development Confirmation	Type I/II	Chapter 5.2
Partition	Type II	Chapter 4.3
Land Use Review	Type I/II	Chapter 4.2, Building Code
Design Review	Type II/III	Chapter 4.2
Subdivision - Preliminary Plan - Final Plat	Type III Type I	Chapter 4.3
Temporary Use Permit	Type I/II/III	Chapter 4.9
Annexation	Type IV	Chapter 4.10
Urban Growth Boundary	Type IV	Chapter 4.11
Comprehensive Plan Amendments	Type IV	Chapter 4.12
Vacations	Type IV	Chapter 4.13
Variance	Type III	Chapter 5.1
Adjustment	Type II	Chapter 5.1

\* Approvals or permits from other agencies, such as a road authority or state or federal natural resource agency, may be required for some actions. The City notifies agencies of requests (Type II, III, and IV applications) that may affect their facilities or services.

**4.1.200 Type I Procedure (Ministerial)**

**A. Application Requirements.**

1. Application Forms. Type I applications shall be made on forms provided by the Community Development Director or designee.
2. Application Requirements. Type I decisions are generally made within thirty (30) days of the City receiving a complete application. Type I applications shall:
  - a. Include the information requested on the application form;
  - b. Address the criteria in sufficient detail for review and action; and
  - c. Be filed with the required, non-refundable fee.

**B. Administrative Decision Requirements.** The Community Development Director or designee's decision shall address all of the review criteria, including applicable requirements of any road authority. Based on the criteria and the facts contained within the record, the Community Development Director shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

**C. Final Decision.** A Type I decision is the final decision of the City. It cannot be appealed to City officials.

**D. Effective Date.** A Type I decision is final on the date it is made.

**4.1.300 Type II Procedure (Limited Land Use Decisions)**

**A. Pre-application Conference.** A pre-application conference is required for Type II reviews unless waived by the Community Development Director. Pre-application conference procedures are in Section 4.1.600.

**B. Application Requirements.**

1. Application Forms. Type II applications shall be made on forms provided by the Community Development Director or designee.
2. Submittal Information. Applications to be reviewed by the Planning Commission must be submitted and complete at least forty-five (45) days before the requested Planning Commission meeting date. For Staff Reviews, a total of five (5) copies of the application shall be submitted. For Planning Commission reviews, an additional seven (7) copies shall be submitted after the Community Development Director has deemed the application complete:
  - a. Include the information requested on the application form;
  - b. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval, e.g., Chapters 4.2 (Land Use and Design Review), 4.3 (Land Divisions), 4.6 (Modifications), 4.8 (Code Interpretations), and 4.9 (Miscellaneous Permits);
  - c. Be accompanied by the required, non-refundable fee; and
  - d. Plans, studies, exhibits, and/or other information as may be required by the Community Development Director, to assist the City in making findings under the applicable review criteria.
  - e. A certified list prepared by a title company or certified by the Marion County Tax Assessor's office with the names and addresses of all property owners within 500 feet of the subject site

**C. Notice of Application for Type II (Limited Land Use) Decision.**

1. Before making a Type II Limited Land Use Decision, the Community Development Director or designee shall mail notice to:
  - a. All owners of record of real property within a minimum of 500 feet of the subject site;

- b. All City-recognized neighborhood groups or associations whose boundaries include the site;
  - c. Any person who submits a written request to receive a notice; and
  - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.
3. Notice of a pending Type II Limited Land Use Decision shall:
- a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
  - b. List the relevant review criteria by name and number of code sections;
  - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
  - d. Include the name and telephone number of a contact person regarding the decision;
  - e. Describe the proposal and identify the specific permits or approvals requested;
  - f. Describe the street address or other easily understandable reference to the location of the site;
  - g. State that if any person fails to address the relevant review criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant review criteria are considered relevant evidence;
  - h. State that all evidence relied upon by the Community Development Director or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
  - i. State that after the comment period closes, the Community Development Director or designee shall issue a Type II Limited Land Use Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;

- j. Contain the following notice: “Notice to mortgagee, lien holder, vendor, or seller: The City of Silverton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

**D. Type II Decision Requirements.** The Community Development Director or designee shall make a Type II written decision addressing all of the relevant review criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Community Development Director or designee shall approve, approve with conditions, or deny the requested permit or action. Alternatively, the Community Development Director, and/or the applicant, may refer the application to the Planning Commission for review in a public hearing, in which case the review shall follow the Type III procedures in Section 4.1.400. If the applicant refers the application to a Type III hearing, he or she shall pay the fee for a Type III review.

**E. Notice of Decision.**

1. Within five (5) business days after the Community Development Director or designee signs the decision, a Notice of Decision shall be sent by mail to:
  - a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
  - b. Any person who submits a written request to receive notice, or provides comments during the application-review period;
  - c. Any City-recognized neighborhood group or association whose boundaries include the site; and
  - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
2. The Community Development Director or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.
3. The Type II Notice of Decision shall contain:
  - a. A description of the applicant’s proposal and the City’s decision on the proposal (i.e., may be a summary);
  - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;

- c. A statement of where the City’s decision can be obtained;
- d. The date the decision shall become final, unless appealed;
- e. A statement that all persons entitled to notice may appeal the decision; and
- f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

**F. Final Decision and Effective Date.** A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II decision is effective on the day after the 10 day appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided. (See also, subsection G, below.)

**G. Appeal.** Appeals of Type II decisions are heard by the Planning Commission or the Historic Landmarks Commission, as applicable, and follow the procedures below:

1. Who may appeal. The following people have legal standing to appeal a Type II decision:
  - a. The applicant or owner of the subject property;
  - b. Any other person who participated in the proceeding by submitting oral or written comments.
2. Appeal filing procedure.
  - a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Decision by filing a Notice of Appeal according to the following procedures;
  - b. *Time for filing.* A Notice of Appeal shall be filed with the Community Development Director or designee within 10 days of the date the Notice of Type II Decision was mailed;
  - c. *Content of notice of appeal.* The Notice of Appeal shall contain:
    - (1) An identification of the decision being appealed, including the date of the decision;
    - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
    - (3) A statement explaining the specific issues being raised on appeal;
    - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
    - (5) Filing fee.

3. Scope of appeal. The appeal of a Type II Decision by a person with standing shall be limited to the project proposal; new evidence and arguments may be presented, but the specific issues raised in the prior proceedings must also be addressed by the appellant. The Review Body may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue raised in the Notice of Appeal.
4. Appeal procedures. Type III notice, hearing procedures and decision process shall also be used for appeals of Type II decisions, as provided in Sections 4.1.400;
5. Further Appeal to LUBA. The decision of the Review Body regarding an appeal of a Type II Decision is the final decision of the City. The decision of the Review Body on an appeal is final and effective on the date it is mailed by the City. The Review Body's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.

#### 4.1.400 Type III Procedure (Quasi-Judicial)

**A. Pre-application Conference.** A pre-application conference is required for all Type III applications. The procedures for a pre-application conference are described in Section 4.1.600.C.

#### **B. Application Requirements.**

1. Application forms. Type III applications shall be made on forms provided by the Community Development Director or designee; if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.
2. Submittal Information. Type III applications must be submitted and complete at least forty-five (45) days before the requested Planning Commission hearing date. For the initial Staff Review, a total of five (5) copies of the application shall be submitted. An additional seven (7) copies shall be submitted after the Community Development Director has deemed the application complete. All Type III applications shall:
  - a. Include the information requested on the application form;
  - b. Contain plans, exhibits, studies, and/or other information as required by the Community Development Director, in order to assist the City in making findings under the applicable review criteria.
  - c. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval, e.g., Chapters 4.2 (Land Use and Design Review), 4.3 (Land Divisions), 4.6 (Modifications), 4.8 (Code Interpretations), and 4.9 (Miscellaneous Permits);
  - d. Be accompanied by the required non-refundable fee; and
  - e. A certified list prepared by a title company or certified by the Marion County Tax Assessor's office with the names and addresses of all property owners within 500 feet of the subject site

**C. Notice of Hearing.**

1. Mailed notice. The City shall mail the notice of the Type III hearing. The records of the County Assessor's Office are the official records for determining ownership. Notice of a Type III application hearing or Type II appeal hearing shall be given by the Community Development Director or designee in the following manner:
  - a. At least 20 days before the hearing date, notice shall be mailed to:
    - (1) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
    - (2) All property owners of record within 500 feet of the site;
    - (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
    - (4) Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;
    - (5) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
    - (6) Any person who submits a written request to receive notice;
    - (7) For appeals, the appellant and all persons who provided testimony in the original decision; and
    - (8) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
  - b. The Community Development Director or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.
  - c. At least ten (10) business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.
2. Content of Notice. Notice of appeal of a Type II Administrative decision or notice of a Type III hearing to be mailed and published per Subsection 1 above shall contain the following information:

- a. The nature of the application and the proposed land use or uses that could be authorized for the property;
  - b. The applicable criteria and standards from the development code(s) that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
  - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Silverton City Hall at no cost and that copies shall be provided at a reasonable cost;
  - h. A statement that a copy of the City’s staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
  - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
  - j. The following notice: “Notice to mortgagee, lien holder, vendor, or seller: The City of Silverton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”
3. Posting Notice. The site shall be posted with a notice that contains a brief description of the project, the file number assigned to the project by the City and the address of City Hall and the phone number for the Community Development Department. The notice shall be clearly visible to pedestrians and motorists and must be able to withstand adverse weather.

**D. Conduct of the Public Hearing.**

1. At the commencement of the hearing, the hearings body shall state to those in attendance:
  - a. The applicable review criteria and standards that apply to the application or appeal;

- b. A statement that testimony and evidence shall concern the review criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
  - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
  - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
  3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.
    - a. When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
    - b. An extension of the hearing or record granted pursuant to Section 4.1.400.D is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
    - c. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence;

- d. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;
  - e. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
  - f. The review authority shall retain custody of the record until the City issues a final decision.
4. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing *ex parte* contacts (see Section 4.1.400.D (5) below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
- a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing *ex parte* contacts (as defined in Section 4.1.400.D(5) below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
  - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  - d. If a member of the hearings body abstains or is disqualified, the City may provide a substitute in a timely manner subject to the impartiality rules in Sections 4.1.400.D(4) through (5). In this case, a member of the City Council appointed by a majority vote of the City Council may substitute for a member of the Planning Commission.
  - e. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;

- f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

5. Ex parte communications.

- a. Members of the hearings body shall not:
  - (1) Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per Section 4 above;
  - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
- b. No decision or action of the hearings body shall be invalid due to *ex parte* contacts or bias resulting from *ex parte* contacts, if the person receiving contact:
  - (1) Places in the record the substance of any written or oral *ex parte* communications concerning the decision or action; and
  - (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
- c. A communication between City staff and the hearings body is not considered an *ex parte* contact.

6. Presenting and receiving evidence.

- a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
- b. There may be a presentation of a staff report, a presentation by the applicant or those representing the applicant, a presentation by those who oppose the proposed application, by those in favor of the proposed application and by those who do not necessarily support or oppose the proposed application.

- c. A rebuttal by the applicant shall be limited to issues raised during the presentation of evidence in opposition or neutral. A sur-rebutal shall be limited to issues raised during the rebuttal of the evidence.
- d. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section 4.1.400.D;
- e. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

**E. The Decision Process.**

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the Community Development Director or designee within ten (10) business days after the close of the deliberation;
5. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within ten (10) business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.
6. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the 10 day appeal period expires. If an appeal for a Type III application is filed, the decision becomes effective on the day

after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing. An appeal of a Type II appeal decision to the State Land Use Board of Appeals must be filed within 21 days of the Review Body's written decision. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the City Council's written decision.

7. Appeals. Appeals of Type III decisions are heard by the City Council, as applicable, and follow the procedures below:

A. Who may appeal. The following people have legal standing to appeal a Type III decision:

1. The applicant or owner of the subject property;
2. Any other person who participated in the proceeding by submitting oral or written comments.

B. Appeal filing procedure.

1. *Notice of appeal*. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Decision by filing a Notice of Appeal according to the following procedures;
2. *Time for filing*. A Notice of Appeal shall be filed with the Community Development Director or designee within 10 days of the date the Notice of Type III Decision was mailed;
3. *Content of notice of appeal*. The Notice of Appeal shall contain:
  - (a) An identification of the decision being appealed, including the date of the decision;
  - (b) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
  - (c) A statement explaining the specific issues being raised on appeal;
  - (d) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
  - (e) If de novo review is requested, a statement summarizing the new evidence which will be offered and the criteria to which it will relate. The decision to grant a de nova hearing rests solely upon the discretion of the City Council.
  - (f) Filing fee.

- C. Scope of appeal. The Review Body shall determine the scope of review on appeal to one of the following:
1. Restricted to the record made on the decision being appealed. The record shall include; a factual report prepared by the Community Development Director, All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review, and the minutes of the hearing. The reviewing body may make its decision based only upon the record, or may grant the right of oral argument, to all affected parties but not the introduction of additional evidence.
  2. Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.
  3. A de novo hearing on the merits. “De novo hearing” shall mean a hearing by the review body as if the request had not been previously heard and as if no decision had been rendered, except that all testimony, evidence, and other material from the record of the previous consideration may be included in the record of the review. The presiding officer may establish a time limit for presentation of information at the public hearing.
- D. Appeal procedures. A Type III notice, hearing procedures and decision process shall also be used for appeals of Type III decisions, as provided in Sections 4.1.400;
- E. Further Appeal to LUBA. The decision of the Review Body regarding an appeal of a Type II Decision is the final decision of the City. The decision of the Review Body on an appeal is final and effective on the date it is mailed by the City. The Review Body’s decision may be appealed to the State Land Use Board of Appeals within 21 days of the written notice of decision pursuant to ORS 197.805 – 197.860.

#### 4.1.500 Type IV Procedure (Legislative)

- A. Pre-Application Conference.** A pre-application conference is required for all Type IV applications initiated by a party other than the City of Silverton. The requirements and procedures for a pre-application conference are described in Section 4.1.600.C.
- B. Timing of Requests.** The City Council may establish a calendar for the purpose of accepting Type IV requests only at designated time(s). At a minimum, Type IV requests shall be filed not less than sixty (60) days prior to the requested initial hearing date. The City Council may initiate its own legislative proposals at any time.

#### C. Application Requirements.

1. Application forms. Type IV applications shall be made on forms provided by the Community Development Director or designee.
2. Submittal Information. A total of five (5) copies of the application shall be submitted. An additional seven (7) copies shall be submitted after the Community Development Director has deemed the application complete, and additional copies may be required after the Planning Commission has completed its review and has forwarded a recommendation to City Council. The application shall contain:
  - a. The information requested on the application form;
  - b. Plans, exhibits, studies, and/or other information, as required by the Community Development Director, to assist the City in addressing the applicable criteria and standards in sufficient detail for review and decision;
  - c. The required, non-refundable fee; and
  - d. A letter or narrative statement that explains how the application satisfies each and all of the relevant review criteria and standards.
  - e. A certified list prepared by a title company or certified by the Marion County Tax Assessor's office with the names and addresses of all property owners within 500 feet of the subject site

#### D. Notice of Hearing.

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and comprehensive plan amendments).
2. Notification requirements. Notice of public hearings for the request shall be given by the Community Development Director or designee in the following manner:

- a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and mailed to:
    - (1) Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
    - (2) All property owners within 500 feet of the subject site;
    - (3) Any affected governmental agency;
    - (4) Any person who requests notice in writing;
    - (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
    - (6) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
  - b. At least 10 days before the scheduled Planning Commission public hearing date, and 14 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.
  - c. The Community Development Director or designee shall:
    - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by subsection a; and
    - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
  - d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing.
  - e. Notifications for annexation shall follow the provisions of this Chapter.
3. Content of notices. The mailed and published notices shall include the following information:

- a. The number and title of the file containing the application, and the address and telephone number of the Community Development Director or designee’s office where additional information about the application can be obtained;
  - b. The proposed site location;
  - c. A description of the proposed site and the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
  - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See Section 4.1.500.E); and
  - e. Each mailed notice required by Section 4.1.500.D shall contain the following statement: “Notice to mortgagee, lien holder, vendor, or seller: The City of Silverton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”
4. Posting Notice. The site shall be posted with a notice that contains a brief description of the project, the file number assigned to the project by the City and the address of City Hall and the phone number for the Community Development Department. The notice shall be clearly visible to pedestrians and motorists and must be able to withstand adverse weather.
5. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
  - b. Published notice is deemed given on the date it is published.

**E. Hearing Process and Procedure.**

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
  - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
    - (1) Regulate the course, sequence, and decorum of the hearing;
    - (2) Direct procedural requirements or similar matters; and
    - (3) Impose reasonable time limits for oral presentations.

b. No person shall address the Commission or the Council without:

(1) Receiving recognition from the presiding officer; and

(2) Stating their full name and address.

c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision that will be made is a recommendation to the City Council or the final decision of the Council;

b. The Community Development Director or designee's report and other applicable staff reports shall be presented;

c. The public shall be invited to testify;

d. The public hearing may be continued to allow additional testimony or it may be closed; and

e. The hearing body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

**F. Continuation of the Public Hearing.** The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

**G. Decision-Making Criteria.** The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

1. Approval of the request is consistent with the Statewide Planning Goals;

2. Approval of the request is consistent with the Comprehensive Plan; and

3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

**H. Approval Process and Authority.**

1. The Planning Commission shall:
  - a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
  - b. Within 14 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the Community Development Director or designee.
2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the Community Development Director or designee before the Council public hearing on the proposal. The Community Development Director or designee shall send a copy to each Council member and place a copy in the record;
3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change, the Community Development Director or designee shall:
  - a. Report the failure together with the proposed change to the City Council; and
  - b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing make a decision. No further action shall be taken by the Commission.
4. The City Council shall:
  - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
  - b. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
  - c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

**I. Vote Required for a Legislative Change.**

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

**J. Notice of Decision.** Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the Community Development Director or designee. The City shall also provide notice to all persons as required by other applicable laws. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

**K. Final Decision and Effective Date.** A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

**L. Appeal.** A legislative decision may be appealed to the State Land Use Board of Appeals by a person with standing within 21 days of the written notice of decision.

**M. Record of the Public Hearing.**

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
  - a. All materials considered by the hearings body;
  - b. All materials submitted by the Community Development Director or designee to the hearings body regarding the application;
  - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
  - d. The final ordinance;
  - e. All correspondence; and
  - f. A copy of the notices that were given as required by this Chapter.

**4.1.600 General Provisions Applicable to All Reviews: 120-day Rule; Time Computation; Pre-application Conferences; Acceptance and Review; Community Development Director’s Duties, Amended Applications; Re-submittal; Appeals**

- A. 120-day Rule.** The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions - plan and code amendments - under ORS 227.178.)
- B. Time Computation.** In computing any period of time prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day that is not a Saturday or legal holiday.
- C. Pre-application Conferences.**
1. Applicant’s Responsibility. When a pre-application conference is required or requested, the applicant shall submit a summary of the proposal to the Community Development Director with a non-refundable fee at least seven (7) days beforehand, then meet with the Community Development Director or his/her designee(s) and other parties as appropriate at the scheduled time;
  2. Information provided. At such conference, the Community Development Director or designee shall:
    - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
    - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
    - c. Provide available technical data and assistance that will aid the applicant;
    - d. Identify other governmental policies and regulations that relate to the application; and
    - e. Reasonably identify other opportunities or constraints concerning the application.
  3. Disclaimer. Failure of the Community Development Director or his/her designee to provide any of the information required by this Section 4.1.600.C shall not constitute a waiver of any of the standards, criteria or requirements for the application;

4. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

**D. Acceptance and Review of Applications.**

1. Initiation of applications:
  - a. Applications for approval under this Chapter may be initiated by:
    - (1) Order of City Council;
    - (2) Resolution of the Planning Commission;
    - (3) The Community Development Director or designee;
    - (4) A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.
  - b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.
2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.
  - a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the Community Development Director or designee.
  - b. When proceedings are consolidated:
    - (1) The notice shall identify each application to be decided;
    - (2) The decision on a plan map amendment shall precede the decision on a proposed zone change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
    - (3) Separate findings and decisions shall be made on each application.
3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When an application is received by the City, the Community Development Director or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant;

- (1) The required forms;
- (2) The required, non-refundable fee;
- (3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

b. Completeness.

(1) Review and notification. After the application is accepted, the Community Development Director or designee shall review the application for completeness. If the application is incomplete, the Community Development Director or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information, or 14 days to submit a refusal statement;

(2) Application deemed complete for review. In accordance with the application submittal requirements of this Chapter, the application shall be deemed complete upon the receipt by the Community Development Director or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the Community Development Director or designee in Section 4.1.600.D.3.b, above. For the refusal to be valid, the refusal shall be made in writing and received by the Community Development Director or designee no later than 14 days after the date on the Community Development Director or designee’s letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete for processing on the 31st day after the Community Development Director or designee first accepted the application.

(3) Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted.

(4) Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, road authority, and other applicable County, State, and federal review agencies.

4. Changes or additions to the application during the review period. Once an application is deemed complete:

- a. All documents and other evidence relied upon by the applicant shall be submitted to the Community Development Director or designee at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by Community Development Director or designee, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;
- b. When documents or other evidence are submitted by the applicant during the review period but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see “d”, below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
  - (1) Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
  - (2) Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section 4.1.600.A above) on the existing application. If the applicant does not consent, the City shall not select this option;
  - (3) Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence;
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

**E. Community Development Director’s Duties.** The Community Development Director or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City’s comprehensive plan, and implementing ordinance provisions;
2. Accept all development applications that comply with Section 4.1.600;
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report and findings may also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the review criteria;
4. Prepare a notice of the proposal decision:
  - a. In the case of an application subject to a Type I or II review process, the Community Development Director or designee shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
  - b. In the case of an application subject to a hearing (Type III or IV process), the Community Development Director or designee shall make the staff report available to the public at least seven (7) days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 4.1.300.C (Type II), 4.1.400.C (Type III), or 4.1.500.D (Type IV);
5. Administer the hearings process;
6. File notice of the final decision in the City’s records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation that was considered by the decision-maker(s) on the application; and
8. Administer the appeals and review process.

**F. Amended Decision Process.**

1. The purpose of an amended decision process is to allow the Community Development Director or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The Community Development Director or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures in Chapter 4.6. All other changes to decisions that are not modifications under Chapter 4.6 follow the appeal process.

**G. Re-submittal of Application Following Denial.** An application that has been denied, or an application that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the Community Development Director or designee.

**4.1.700**      *Reserved*

**4.1.800 Neighborhood Contact.**

Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to the City in order to solicit input and exchange information about the proposed development. An applicant is encouraged to hold a neighborhood meeting with a City-recognized neighborhood or community organization and adjacent property owners before submitting the application to the City.

#### 4.1.900 Traffic Impact Studies

The purpose of this section of the code is to assist in determining which road authorities participate in land use decisions, and to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.

**A. When a Traffic Impact Study is Required.** The City or other road authority with jurisdiction may require a Traffic Impact Study (TIS) as part of an application for development, a change in use, or a change in access. A TIS shall be required when a land use application involves one or more of the following actions:

1. A change in zoning or a plan amendment designation if required by the Public Works Director;
2. Any proposed development or land use action resulting in an increased of 20 single family dwellings or 200 average daily trips, whichever is less, per the Institute of Transportation Engineers (ITE) Trip Generation Manual;
3. Where a road authority states that it has operational or safety concerns with its facility(ies);
4. A change in land use that may cause an increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 20 peak hour trips or more per day; or
5. The location of the access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or
6. A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.

**B. Traffic Impact Study Preparation.** A Traffic Impact Study shall be prepared and certified by a professional engineer in accordance with the requirements of the road authority and Public Works Design Standards, with the specific scope of work to be determined by the Public Works Director. If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

## Chapter 4.2 Land Use Review and Design Review

### Sections:

- 4.2.100 Purpose**
- 4.2.200 Applicability**
- 4.2.300 Land Use Review Procedure and Review Criteria**
- 4.2.400 Design Review - Application Review Procedure**
- 4.2.500 Design Review - Application Submission Requirements**
- 4.2.510 Design Review – Adjustments (Performance Option)**
- 4.2.600 Review Criteria - Design Review**
- 4.2.700 Bonding and Assurances**
- 4.2.800 Development in Accordance With Permit Approval; Modifications; Permit Expiration**

### **4.2.100 Purpose**

The purpose of this Chapter is to:

- A. Provide rules, regulations and standards for efficient and effective administration of land use and design review;
- B. Carry out the development pattern and plan of the City and its comprehensive plan policies;
- C. Promote the public health, safety and general welfare;
- D. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards;
- E. Encourage the conservation of energy resources; and
- F. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

**4.2.200 Applicability**

Land Use Review or Design Review shall be required for all new developments and modifications of existing developments described below, except existing single family dwellings undergoing a remodel or minor addition (i.e., lot coverage increase by less than 50 percent over existing lot coverage). Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing and similar maintenance and repair shall be exempt from review.

**A. Land Use Review.** Land Use Review is a review conducted by the Community Development Director or designee without a public hearing (Type I or II). See Chapter 4.1 for review procedure. It is for changes in land use and developments that do not require a conditional use or Design Review approval. Land Use Review ensures compliance with the basic land use and development standards of the zone, such as lot area, building setbacks and orientation, lot coverage, maximum building height, and other provisions of Article 2. Land Use Review is required for all of the types of land uses and development listed below. Land uses and developments exceeding the thresholds below require Design Review.

1. Change in occupancy from one type of land use to a different land use where any change in floor area or on-site parking is limited to ten (10) percent or less;
2. Single family detached dwelling (including manufactured home on its own lot);
3. A single duplex, or up to two single family attached (town home) units not requiring a land division;
4. Minor Modifications to development approvals as defined by Chapter 4.6;
5. Accessory structures (not exceeding 800 square feet of floor area) and parking facilities when accessory to a primary permitted use;
6. Public improvements required by a condition of approval (e.g., transportation facilities and improvements, parks, trails, and similar improvements, as determined by the Community Development Director).

**B. Design Review.** Design Review ensures compliance with the land use and development standards in Article 2 and the design standards and public improvement requirements in Article 3. All of the following actions are subject to Design Review.

1. Development for a new multifamily, attached single family, commercial, industrial or institutional use, including land divisions, site preparation and construction of buildings, parking, landscaping, signage, and other site improvements for the same.
2. Change in occupancy from a less intensive land use to a more intensive land use resulting in development or exterior improvements, as evidenced by an increase in floor area, dwelling density, parking, trip generation, or similar factor(s), by more than ten (10) percent;
3. Building addition exceeding 1,000 square feet, or 10 percent of an existing structure, whichever is greater, where there is no change in occupancy or use;
4. Major Modifications to development approvals as defined by Chapter 4.6;
5. Temporary uses, if required under Chapter 4.9;
6. Parking facilities when not accessory to a primary permitted use;
7. Public improvements, including but not limited to transportation facilities and improvements, buildings, modular buildings, parks, trails, and similar improvements, as determined by the Community Development Director, if not subject to a prior land use approval.

#### **4.2.300 Land Use Review Procedure and Review Criteria**

When Land Use Review is required, it shall be conducted prior to issuance of building permits, occupancy permits, business licenses, or public improvement permits, as determined by the Community Development Director. The City shall conduct Land Use Reviews using either a Type I or Type II procedure, as described in Sections 4.1.200 and 4.1.300. A Type I procedure shall be used when the Community Development Director finds that the applicable standards are clear and objective and do not require the exercise of discretion. A Type II procedure shall be used when the decision is discretionary in nature, but it does not involve any requested Adjustments under Section 4.2.510. The Community Development Director shall be responsible for determining the required review procedure. An application for Land Use Review shall be approved only upon meeting all of the following criteria:

- A. The proposed land use and development is permitted by the underlying zone (Article 2);
- B. The applicable development and design standards of the underlying zone and any applicable overlay district(s) are met (Article 2); and
- C. The applicable access, parking, landscaping, signage and other requirements of Article 3 are met.

Building permits must be obtained subsequent to Land Use Review. Land Use Reviews do not address a project's compliance with applicable building, fire and life safety regulations.

#### **4.2.400 Design Review - Application Review Procedure**

Design Reviews are classified as a Limited Land Use Decisions (Type II), except as provided by subsections 4.2.400(A) and (B), below:

- A. Applications involving one or more Adjustments, as provided in Section 4.2.510, are reviewed through a Quasi-Judicial (Type III) process and require a public hearing.
- B. If the property is subject to an overlay zone, a Quasi-Judicial (Type III) public hearing may be required for Design Review approval. See the applicable overlay zone provisions under Chapters 2.5 through 2.8.
- C. If the subject Design Review application is part of a larger request involving a Conditional Use or other Quasi-Judicial (Type III) action, the applications shall be combined and reviewed concurrently using the Type III procedure.
- D. Land use decisions meeting the criteria under Section 4.2.300 are subject to Land Use Review and do not require Design Review, except as may be required by subsections A-C, above.

#### 4.2.500 Design Review - Application Submission Requirements

All of the following information is required for Design Review application submittal:

**A. General Submission Requirements.** An application for Design Review shall contain all of the information required for a Type III review under Section 4.1.400, and provide:

1. **Traffic Estimate.** The application shall describe the proposed access to and from the site and estimate potential vehicle traffic increases resulting from the project. The Community Development Director may require a Traffic Impact Study, in accordance with Section 4.1.900; and
2. In situations where this Code requires the dedication of property to the City, the City shall either, (1) include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services, or (2) not require the dedication as a condition of approval; this does not preclude the City from accepting voluntary dedications.

**B. Design Review Information.** In addition to the general submission requirements and number of required copies for a Type III review (Section 4.1.400), an applicant for Design Review shall provide the following information, as deemed applicable by the Community Development Director. The Community Development Director may deem applicable any information that he or she needs to review the request and prepare a complete staff report and recommendation to the review body:

1. Site analysis map. At a minimum the site analysis map shall contain the following:
  - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
  - b. Topographic contour lines at 2-foot intervals or less for slopes of less than 10 percent, and 5-foot intervals for steeper slopes;
  - c. Identification of slopes greater than 12 percent, consistent with the method of measurement and contour intervals required by the City Engineer;
  - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
  - e. Potential natural hazard areas, including any flood areas subject to Chapter 2.5, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;

#### 4.2.500 –Design Review Application Submission Requirements

- f. Resource areas, including marsh and wetland areas, streams, and wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
  - g. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
  - h. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
  - i. The location, size and species of trees and other vegetation having a caliper (diameter) of six (6) inches or greater at four feet above grade;
  - j. North arrow, scale, names and addresses of all persons listed as owners of the subject property on the most recently recorded deed;
  - k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable.
2. Proposed site plan. The site plan shall contain the following information:
- a. The proposed development site, including boundaries, dimensions, and gross area;
  - b. Features identified on the existing site analysis maps that are proposed to remain on the site;
  - c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
  - d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
  - e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
  - f. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
  - g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);
  - h. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
  - i. Loading and service areas for waste disposal, loading and delivery;

#### 4.2.500 –Design Review Application Submission Requirements

- j. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
  - k. Location, type, and height of outdoor lighting;
  - l. Location of existing and proposed mail boxes;
  - m. Name and address of project designer, if applicable;
  - n. Locations of bus stops and other public or private transportation facilities;
  - o. Sign concept plan (e.g., locations, general size, style and materials of signs). (Signs are subject to review and approval under Silverton Municipal Code Section 15.16.)
3. Architectural drawings. Architectural drawings showing one or all of the following shall be required for new buildings and major remodels:
- a. Building elevations with building height and widths dimensioned, and materials labeled;
  - b. Building materials, colors and type; a materials sample board may be required;
  - c. The name of the architect or designer.
4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for development sites ½ acre or larger. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 3.4.400.
5. Landscape plan. A landscape plan may be required and at the direction of the Community Development Director shall show the following:
- a. The location and height of existing and proposed fences, buffering or screening materials;
  - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
  - d. Existing and proposed building and pavement outlines;

#### 4.2.500 –Design Review Application Submission Requirements

- e. Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic-underground or other approved method of irrigation) and anticipated planting schedule;
  - f. Other information as deemed appropriate by the Community Development Director. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.2. Landscape, Street Trees, Fences and Walls of this Code.
6. Deed restrictions. Copies of all existing and proposed restrictions or covenants, including those for access control.
  7. Narrative. Letter or narrative report documenting compliance with the applicable review criteria contained in Section 4.2.600 review criteria.
  8. Traffic Impact Study, when required, shall be prepared in accordance with the road authority's requirements. See Section 4.1.900 for relevant standards.
  9. Other information determined by the Community Development Director. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code.

#### 4.2.510 Design Review – Adjustments (Performance Option)

**A. Adjustments.** The intent of this section is to allow reasonable flexibility and to promote creativity in project designs. An Adjustment is a modification to a code standard (decrease, increase, waiver, or material substitution) resulting in a design that is as good or better than what would likely result under the standard with respect to the Code’s intent; the Adjustments may be approved only when the proposal is consistent with the stated purpose of the code. An application for Design Review may include, and the decision body may approve, a request for adjustment(s) to one or more of the site/building design standards in the following code sections:

Section 2.2.180:	Residential Districts – Building Orientation
Section 2.2.190:	Residential Districts – Architectural Design
Section 2.3.150:	Commercial Districts – Building Orientation and Commercial Block Layout
Section 2.3.170:	Commercial Districts – Pedestrian Amenities
Section 2.3.180:	General Commercial Design Standards
Section 2.3.200:	Downtown Commercial Design Standards
Section 2.3.210:	Downtown Commercial Fringe Design Standards
Chapter 3.2	Landscaping, Fences and Walls
Chapter 3.3	Parking

**B. Limitation.** Allowable adjustments under Section 4.2.510 are limited to the code provisions listed in subsection 4.2.510A. Land use, density, structure height, lot coverage, setbacks, and other provisions not listed above are not to be adjusted or modified under Section 4.2.510.

**C. Procedure.** An Adjustment request made under Section 4.2.510 must be made in writing and submitted with a Design Review application. Design Review applications involving Adjustment(s) are reviewed by the Planning Commission through a Type III (Quasi-Judicial) public hearing procedure, which is outlined in Section 4.1.400. In acting on an Adjustment request, the Commission shall approve, deny, or approve with conditions the request concurrently with the subject Design Review application. The decision body shall approve an adjustment only upon finding that it conforms to the criteria in subsection 4.2.510D.

**D. Review Criteria.** The City shall consider the following review criteria and may approve, approve with conditions or deny a design review adjustment based on the following::

1. Adjusting the subject code standard(s) – i.e., decreasing, increasing, waiving, or making a material substitution – will result in a design that is as good or better than what would likely result under the base standard;
2. The adjustment is consistent with the Code’s stated intent and is in the public interest; and
3. In interpreting the public interest, consideration shall be given to intended public benefits or protections such as compatibility with surrounding uses; pedestrian

safety and comfort; complementary development scale, materials, and detailing; street visibility; and/or aesthetic concerns.

#### **4.2.600 Review Criteria - Design Review**

The City shall consider the following review criteria and may approve, approve with conditions or deny a design review based on the following::

- A. Complete.** The application is complete, as determined in accordance with Chapter 4.1 - Types of Applications and Section 4.2.500, above.
- B. Zoning District.** The application complies with all of the applicable provisions of the underlying Zoning District (Article 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;
- C. Conformance.** The applicant shall be required to upgrade any existing development that does not comply with the applicable zoning district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;
- D. Design Standards.** The application complies with all of the Design Standards in Article 3:
  - 1. Article 2 – Design standards and special use standards of the applicable district;
  - 2. Chapter 3.1 - Access and Circulation;
  - 3. Chapter 3.2 - Landscaping, Street Trees, Fences and Walls;
  - 4. Chapter 3.3 - Parking and Loading;
  - 5. Chapter 3.4 - Public Facilities;
- E. Conditions of Approval.** Existing conditions of approval required as part of a prior Land Division (Chapter 4.3), Conditional Use (Chapter 4.4), Planned Development (Chapter 4.5) or other approval shall be met.

#### **4.2.700 Bonding and Assurances**

- A. Performance Bonds for Public Improvements.** On all projects where public improvements are required, The City shall require the developer to provide bonding or other performance guarantees acceptable to the Public Works Director to ensure completion of required public improvements. The bond or other assurance (e.g. letter of irrevocable credit) shall be equal to 110% of the of the total construction cost estimate for all public infrastructure to be provided, as approved by the Public Works Director, or designee. In addition, the construction cost estimate must either be an engineer's estimate, in writing, or a copy of the contractor's price agreement having sufficient detail for the Public Works Director, or designee, to verify reasonable unit pricing.

- B. Release of Performance Bonds.** The bond or other assurance shall be released when the Public Works Director, or designee, finds the public improvements are complete and conforms to the site development approval, including all conditions of approval. Upon acceptance of the completed public improvements, a one year warranty bond, deposit or other assurances approved by the Public Works Director, or designee, shall be required and, shall cover a minimum of 20 percent of the public improvements construction cost for the project.
- C. Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the Community Development Director or a qualified landscape architect is filed with the Community Development Director assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.
- D. Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

#### **4.2.800 Development in Accordance With Permit Approval; Modifications; Permit Expiration.**

Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., Design Review approval) and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.700. Annexation agreements, where applicable, must also be met. Development Review and Design Review approvals shall be subject to all of the following standards and limitations:

- A. Modifications to Approved Plans and Developments.** Minor modifications of an approved plan or existing development, as defined in Chapter 4.6, shall be processed as a Type I procedure and require only Land Use Review. Major modifications, as defined in Chapter 4.6, shall be processed as a Type II or Type III procedure and shall require Design Review. For information on Type I, Type II and Type III procedures, please refer to Chapter 4.1. For Modifications review criteria, please refer to Chapter 4.6.
- B. Approval Period.** Development Review and Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
1. A public improvement plan or building permit application for the project has not been submitted within one year of approval; or

2. Construction on the site is in violation of the approved plan.

**C. Extension.** The Planning Commission may, upon written request by the applicant, grant a written extension of the approval period not to exceed one year; provided that:

1. No changes are made on the original approved Design Review plan;
2. The applicant can show intent of initiating construction on the site within the one-year extension period;
3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new Design Review shall be required; and
4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

**D. Phased Development.** Phasing of development may be approved with the Design Review application, subject to the following standards and procedures:

1. A phasing plan shall be submitted with the Design Review application.
2. The Planning Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 2 years without reapplying for Design Review.
3. Approval of a phased Design Review proposal requires satisfaction of all of the following criteria:
  - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.2.700. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Engineer;
  - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and

- d. An application for phasing may be approved after Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).
4. All public improvements serving a particular phase must be complete and approved by the City Engineer prior to on-site building permits being issued. Temporary facilities will not be allowed.

## Chapter 4.3 Land Divisions and Property Line Adjustments

### Sections:

- 4.3.100 Purpose**
- 4.3.110 General Requirements**
- 4.3.112 Pre-planning for Large Sites**
- 4.3.115 Flexible Lot Size; Flag Lots; Mini-Subdivisions**
- 4.3.120 Approval Process**
- 4.3.130 Preliminary Plat Submission Requirements**
- 4.3.140 Review Criteria: Preliminary Plat**
- 4.3.150 Variances Authorized**
- 4.3.160 Final Plat Submission Requirements and Review Criteria**
- 4.3.170 Public Improvements**
- 4.3.180 Performance Guarantee**
- 4.3.190 Filing and Recording**
- 4.3.200 Re-platting and Vacation of Plats**
- 4.3.210 Property Line Adjustments**

### **4.3.100 Purpose**

The purpose of this chapter is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments:
  - 1. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
  - 2. Partitions are the creation of three or fewer lots within one calendar year.
  - 3. Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and

F. Encourage the conservation of energy resources.

#### **4.3.110 General Requirements**

**A. Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
2. The final plat must include all conditions of approval of the preliminary plat and construction plans must be approved before the final plat may be considered for approval.

**B. Compliance With ORS Chapter 92.** All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.

**C. Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted for large lots identifying:

1. Potential future lot division(s), consistent with the densities and lot sizes in Article 2;
2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;
3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.

**D. Lot Size Averaging.** Lot size may be averaged to allow lots less than the minimum lot size, as provided in Section 4.3.115, or when approved through a Planned Development under Chapter 4.5.

**E. Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 4.9.100, Temporary Uses.

**F. Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. See also, Chapter 2.5, Flood Plain Overlay.

**G. Determination of Base Flood Elevation.** See Chapter 2.5, Flood Plain Overlay.

**H. Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems. These systems shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.

**I. Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required.

**J. Flood Plain, Park, and Open Space Dedication**

1. Where land filling and/or development is allowed within or adjacent to regulatory flood plain in accordance with Chapter 2.5, and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area to accommodate planned improvements accordance with its facility plans.
2. The City may require a greenway and/or trail adjoining or within the flood plain for transportation, storm drainage/water quality, or park purposes, consistent with facility plans.
3. When practicable, such areas shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with applicable facility plans. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, or stormwater management requirements, consistent with Chapter 3.4.200 and 3.4.400, and may assist in obtaining any flood plain permit that may be required.
4. Where the City determines that required open space areas are not to be dedicated to the public, such areas shall be protected and maintenance assured through a conservation easement or other legal instrument approved by City Council.

**4.3.112 Pre-planning for Large Sites**

**A. Purpose.** The purpose of this Section is to require pre-planning of large sites (i.e., in conjunction with annexations, planned development approvals, and subdivision approvals) and ensure the development of fully integrated, mixed-use pedestrian-oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation, particularly as new development takes place on large parcels of land.

**B. Applicability.** This Section applies to parcels, and development sites with more than one parcel in Residential District(s) that are twenty (20) acres or larger.

- C. Area plan required.** When an annexation or land division site contains twenty (20) acres or more, prior to annexation and land division approval, the applicant shall prepare a specific area plan meeting the criteria in subsection D. For the purposes of this Section, the “site” shall be considered the area subject to an annexation request or land use application and any contiguous land under common ownership, except for land under common ownership that is located outside the Urban Growth Boundary.
- D. Land use and design standards.** The specific area plan required under subsection C, above, shall accommodate planned housing needs, employment uses, and public facilities, as applicable. Land needed for public use (e.g., schools, parks, fire stations, and other facilities) shall be designated on the master plan, in accordance with the City’s facility plans.
- E. Implementation.** Upon approval of a plan under the provisions of Section 4.3.112, the processing of development proposals shall follow the Land Division procedures in Chapter 4.3, and the Land Use Review and/or Design Review procedures in Chapter 4.2, as applicable. Any modifications to the approved master plan shall be subject to the standards and procedures in Chapter 4.6 – Modifications.

#### 4.3.115 Flexible Lot Size; Lots Without Street Frontage; Flag Lots; Mini Subdivisions

**A. Flexible Lot Size.** To allow creativity and flexibility in subdivision design and to address physical constraints, such as areas subject to the Hillside Protection Overlay, jurisdictional wetlands, flood plain, unusual parcel configuration, or similar constraint, the review body may grant a 10 percent adjustment to the lot area and/or lot dimension (width/depth) standards in Section 2.2.130 without the need for a variance under Chapter 5.1, provided that the overall density of the subdivision does not exceed the allowable density of the district based on the developable area exclusive or right-of-way areas and the review body finds that granting the modification allows for a greater variety of housing types or it improves development compatibility with natural features or adjacent land uses. The review body may require that standard size lots be placed at the perimeter of the development where the abutting lots are standard size or larger; except that this provision shall not apply where the abutting lots are larger than 15,000 square feet.

**B. Individual lots without street frontage.** Individual lots may be developed without frontage onto a public street when lot access is provided by an access easement approved by the city. Such access easements may be approved through the partitioning process when the review body finds that no other practicable alternative exists for accessing the lot and no new public street is required to meet the block length and street connectivity standards in Chapter 3.1. Access easements may be allowed as an alternative to requiring through streets where block lengths do not necessitate a through street. Such driveways and easements shall meet the driveway standards in Chapter 3.1. See also, subsection C, Flag Lots.

**C. Flag lots.** Flag lots are discouraged and allowed only when absolutely necessary to provide adequate access to buildable sites in infill situations where the dedication and improvement of a public street cannot be provided or the lots take access from an access restricted roadway. Flag lots are generally not allowed in new subdivisions. A single flag lot may be allowed in a subdivision provided the Variance process is undertaken and all review criteria are met. The review body may approve a flag lot in conjunction with a partition approval only where all lots in the partition meet all of the following criteria. Where the following criteria conflict with requirements of the applicable land use district, the following criteria shall apply:

1. The minimum lot area standards for the district must be met for all lots in the partition;
2. Not more than three (3) parcels may receive vehicle access from the flag “pole” portion of the flag lot partition provided one of the lots has adequate street frontage;
3. An irrevocable reciprocal access and maintenance easement, subject to review and approval of the Community Development Director, shall be recorded on the plat;
4. The flag pole access must have a minimum width of 20 feet, except the City Engineer may require a minimum width of 25 feet where the pole provides access to two (2) or more lots;

5. A minimum building setback of five (5) feet from the flag pole access shall be maintained;
6. The maximum length of any flag pole access shall be 150 feet, unless a turn-around has been approved by the Silverton Fire Marshal and such turn-around shall be included with the reciprocal access easement recorded on the final plat;
7. Driveway widths and paved sections shall conform to the standards in Chapter 3.1;
8. The review body may require landscape or fence screening along property lines to promote compatibility with abutting uses;
9. Design and locations of buildings on flag lots shall be such that normal traffic will have sufficient area to turn around, rather than necessitating backing motions down the flag pole or onto a public street. The review body may require special setback requirements at the time of approving the flag lot partition for this purpose.

**D. Mini-Subdivisions.** The standards listed in this subsection are intended for use in subdividing residential infill parcels.

1. The review body may approve variations to the street standards contained in the City of Silverton Public Works Design Standards when the following criteria are met:
  - a. The property to be subdivided is less than two (2) acres in size and no more than eight (8) lots will be created or served by the subject street;
  - b. The proposed subdivision meets the standards for lot size and configuration for the land use district;
  - c. Surrounding parcels are developed or are so physically incapable of being subdivided so that combining the proposed subdivision with adjoining properties in a conventional subdivision is not feasible; and
  - d. The property is not needed for a continuation of the adjacent public street pattern, except that pedestrian connections may be required for the continuation of the pedestrian circulation system.
2. Upon meeting the criteria in subsection 4.3.115.D.1, the review body may modify the applicable street standards as follows:

Dedication & Maintenance	Paved Width Street/Cul-de-sac (b)	On-Street		Right-of-Way (c)	
		Curbs	Parking	Sidewalk	Street/Cul-de-sac
Public (a)	28 ft / 30 ft	Yes	one side	5 ft one side	35' / 35' radius (c)

- (a) A 10-foot public utility easement will be required on each side of the right-of-way.
- (b) Maximum street length is 400 feet.
- (c) A combination hammerhead/cul-de-sac may be required to promote neighborhood livability as well as satisfy Fire District turnaround requirements.

### 4.3.120 Preliminary Plat Approval Process

**A. Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed as a Type I procedure under Section 4.1.200, using the review criteria in Section 4.3.160.

**B. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of three (3) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within this period. The Planning Commission may approve phased projects, including planned developments, provided the time period between phases does not exceed three (3) years.

**C. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications. The Community Development Director shall, upon written request by the applicant and payment of the required fee, grant one written extension of the approval period not to exceed one year; provided that:

1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.

#### **D. Phased Development.**

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be more than three (3) years without reapplying for preliminary plat approval on those remaining un-recorded phases;
2. The criteria for approving a phased land division proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of

#### 4.3.120 – Preliminary Plat Approval Process

- required permanent public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard;
- c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
  - d. The proposed time schedule for phased development approval shall be reviewed concurrently with the preliminary plat application, and the decision may be appealed in the same manner as the preliminary plat.
3. All public improvements serving a particular phase must be complete and approved by the City Engineer prior to on-site building permits being issued. Temporary facilities will not be allowed.

**4.3.130 Preliminary Plat Submission Requirements.**

**A. General Submission Requirements.** For all partitions (three or fewer parcels) the application shall contain all of the information required for a Type II procedure under Section 4.1.300. For subdivisions, the Type III procedures under Section 4.1.400 shall be followed. Preliminary plats shall also provide the information in subsections 1 and 2, below:

1. **Traffic Estimate.** The application shall describe the proposed access to and from the site and estimate potential vehicle traffic increases resulting from the project. The Community Development Director may require a Traffic Impact Study, in accordance with Section 4.1.900; and
2. In situations where this Code requires the dedication of property to the City, the City shall either, (1) include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.

**B. Preliminary Plat Information.** In addition to the general information and number of required copies described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

1. General information:
  - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in County (please check with County Surveyor);
  - b. Date, north arrow, and scale of drawing;
  - c. Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;
  - d. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the designer, and engineer and surveyor if any, and the date of the survey if submitted; and
  - e. Identification of the drawing as a “preliminary plat”.

2. Site analysis:

- a. Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals, or less, for ground slopes of less than 10 percent or as required by the City Engineer. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. Where the site is within a Hillside Protection Overlay, contours shall be shown at intervals and using grade measurement methods as specified by the City Engineer;
- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;
- g. Wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, relevant portions of the Comprehensive Plan);
- h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
- i. Designated historic and cultural resources on the site and adjacent parcels or lots;
- j. The location, size and species of trees having a caliper (diameter) of 6 inches or greater at 4 feet above grade in conformance with Chapter 3.2;
- k. North arrow and scale;
- l. Name and address of project designer, if applicable; and
- m. Other information, as deemed appropriate by the Community Development Director. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed improvements:
  - a. Public streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All areas and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
  - b. Easements: location, width and purpose of all proposed easements;
  - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
  - d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use; potential location of future buildings;
  - e. Proposed improvements, as required by Article 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
  - f. The proposed source of domestic water;
  - g. The proposed method of sewage disposal;
  - h. Proposed method of surface water drainage and treatment if required;
  - i. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
  - j. Changes to navigable streams, or other watercourses. Status of public access to these areas shall be shown on the preliminary plat, as applicable;
  - k. Identification of the base flood elevation in accordance with Chapter 2.5;
  - l. Evidence of contact with the road authority for any development requiring access to its facility(ies); and
  - m. Evidence of written notice to the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands, and other areas requiring protection or conservation.

#### 4.3.140 Review Criteria: Preliminary Plat

**A. General Review Criteria.** The City shall consider the following review criteria and may approve, approve with conditions or deny a preliminary plat based on the following:

1. The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this Article, and the applicable chapters and sections of Article 2 (Land Use Districts) and Article 3 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 5;
2. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions already approved for adjoining property or to provide for logical extension to future properties as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;
3. If any part of the site is located within an, Overlay Zone, or previously approved Planned Development, it shall conform to the applicable regulations and/or conditions.
4. Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;
5. Evidence that improvements or conditions required by the City, road authority, County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and
6. If applicable, all proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat and appropriate Covenants, Conditions and Restrictions (CC&Rs) are provided; and

**B. Layout and Design of Streets, Blocks and Lots.** All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Article 2), and the standards of Section 3.4.100.G - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use district (Article 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. See Article 2 - Land Use Districts, and Chapter 3.2 - Landscaping.

5. In conformance with the International Fire Code, a 12-foot wide paved fire apparatus access drive within a 20-foot fire apparatus lane shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or other approved access drive. See also, Chapter 3.1- Access and Circulation.
6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement that will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.
7. All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.

**C. Open Space and Park Dedication.** Requirements for open space and/or park dedication, as provided in Section 3.4.200 (Public Use Areas) and Section 4.3.110.J (Flood Plain, Park, and Open Space Dedication), are met.

**D. Conditions of Approval.** The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See Chapter 3.4 (Public Facilities).

#### **4.3.150 Variances Authorized**

Variations to the standards of this Chapter shall be processed in accordance with Chapter 5.1 - Variations. Applications for variations shall be submitted at the same time an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

**4.3.160 Final Plat Submission Requirements and Review Criteria**

**A. Submission Requirements.** Final plats shall require review and approval by the City prior to recording with the County. The applicant shall submit the final plat within three (3) years of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Community Development Director. Extensions may be granted pursuant to Section 4.3.120 C.

**B. Approval Process and Review Criteria.** By means of a Type I procedure, the Community Development Director and City Engineer, or the Planning Commission, shall review the final plat and shall approve or deny it based on findings regarding compliance with the following criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All permit fees and deposits have been paid.
3. All public improvements required by the preliminary plat have been installed and approved by the City Engineer or appropriate service provider (*e.g.*, road authority). Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.180;
4. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
5. The areas and tracts held for private uses have been approved by the City as conforming to the preliminary plat;
6. The plat and deed contain a dedication to the public of all public use areas, public improvements, and associated easements, including but not limited to streets, public pathways and trails, access reserve strips, parks, open space, sewage disposal, storm drainage and water supply systems;
7. The applicant has provided copies of all recorded homeowners association Covenants, Conditions and Restrictions (CC&R's); deed restrictions; private easements and agreements (*e.g.*, for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
8. The plat complies with the applicable Sections of this code (*i.e.*, there have been no changes in land use or development resulting in a code violation since preliminary plat approval);

9. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.180. The amount of the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the City;
10. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by the County Surveyor for purposes of identifying its location.

#### **4.3.170 Public Improvements Required**

Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider/partitioner shall provide a performance guarantee, in accordance with Section 4.3.180. Temporary public facilities will not be allowed.

#### **4.3.180 Performance Guarantee**

- A. Performance Bonds for Public Improvements.** On all projects where public improvements are required, the City shall require the developer or subdivider to provide bonding or other performance guarantees acceptable to the Public Works Director to ensure completion of required public improvements. The bond or other assurance (e.g. letter of irrevocable credit) shall be equal to 110% of the of the total construction cost estimate for all public infrastructure to be provided, as approved by the Public Works Director, or designee. In addition, the construction cost estimate must either be an engineer's estimate, in writing, or a copy of the contractor's price agreement having sufficient detail for the Public Works Director, or designee, to verify reasonable unit pricing.
- B. Release of Performance Bonds.** The bond or other assurance shall be released when the Public Works Director, or designee, finds the public improvements are complete and conforms to the site development approval, including all conditions of approval. Upon acceptance of the completed public improvements, a one year warranty bond, deposit or other assurances approved by the Public Works Director, or designee, shall be required and, shall cover a minimum of 20 percent of the public improvements construction cost for the project.

- C. Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by a qualified landscape architect is filed with the Community Development Director assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.
- D. When Subdivider Fails to Perform.** In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- E. Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

**4.3.190 Filing and Recording**

- A. Filing Plat with County.** Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to the County for signatures of County officials as required by ORS Chapter 92.
- B. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and 5 paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to Recording the Plat.**
  - 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
  - 2. No plat shall be recorded until it is approved by the County Surveyor in the manner provided by ORS Chapter 92.

**4.3.200 Re-platting and Vacation of Plats and Easements.**

- A. Re-platting and Vacations.** Any plat or portion thereof or easement may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. Procedure.** All applications for a re-plat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to re-plat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures.) The road authority(ies)

shall be notified of all applications for re-plats and street vacations. All street vacations shall also conform to the ORS Chapter 271.

- C. Basis for Denial.** A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.
- D. Recording of Vacations.** All approved plat vacations shall be recorded in accordance with 4.3.190 and the following procedures:
1. Once recorded, a re-plat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
  2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications described on the plat.
- E. After Sale of Lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
- F. Street Requirement.** Except as prohibited by law (e.g., ORS 92.837, Manufactured Home Park), in approving a right-of-way vacation or re-plat, the City may require dedication of access ways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system. Such requirements shall be coordinated with the applicable road authority.

### 4.3.210 Property Line Adjustments

A Property Line Adjustment is the modification of lot boundaries, when no lot is created or removed. The application submission and approval process is as follows:

**A. Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type II application, as governed by Section 4.1.300. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; wetlands; flood plain; existing fences and walls; and any other information deemed necessary by the Community Development Director or designee for ensuring compliance with City codes.

#### **B. Approval Process.**

1. Decision-making process. Property line adjustments shall be reviewed by means of a Type II procedure, as governed by Section 4.1.300, using review criteria contained in Section 4.3.210.C below. The road authority(ies) shall be notified of lot line adjustments that may affect property access or traffic volumes or operations on their facilities.
2. Time limit on approval. The property line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
3. Lapsing of approval. The property line adjustment approval shall lapse if:
  - a. The property line adjustment is not recorded within the time limit in Section 4.3.210.B(2);
  - b. The property line adjustment has been improperly recorded with the County without the satisfactory completion of all conditions attached to the approval; or
  - c. The final recording is a departure from the approved plan.

**C. Review Criteria.** The Community Development Director or designee shall consider the following review criteria and may approve, approve with conditions or deny a request for a property line adjustment in writing based on all of the following:

1. Parcel Creation. No additional parcel or lot is created or removed by the lot line adjustment;
2. Lot standards. All lots and parcels conform to the applicable lot standards of the land use district (Article 2) including lot area, dimensions, setbacks, and coverage, and no resulting lot is wholly comprised of a flood hazard area or jurisdictional wetland;

3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Chapter 3.1 – Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made even less conforming by the property line adjustment;

**D. Recording Property Line Adjustments.**

1. Recording. Upon the City’s approval of the proposed property line adjustment, the applicant shall record the property line adjustment with the County within 1 year of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
2. Time limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

**E. Extension.**

The City 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 property line adjustment as approved by the City;
2. The applicant can show intent of recording 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.

## Chapter 4.4 Conditional Uses

### Sections:

- 4.4.100 Conditional Uses - Purpose**
- 4.4.200 Conditional Uses - Approvals Process**
- 4.4.300 Conditional Uses - Application Submission Requirements**
- 4.4.400 Conditional Uses - Criteria, Standards and Conditions of Approval**
- 4.4.500 Conditional Uses - Additional Development Standards**

#### **4.4.100 Conditional Uses - Purpose**

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses” in Article 2 - Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

#### **4.4.200 Conditional Uses - Approvals Process**

- A. Initial Application.** An application for a new conditional use shall be processed as a Type III procedure (Section 4.1.400). The application shall meet submission requirements in Section 4.4.300, and the review criteria contained in Section 4.4.400.
- B. Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 - Modifications.

#### **4.4.300 Conditional Uses - Application Submission Requirements**

An application for conditional use approval must include the following information (1-8), as applicable. For a description of each item, please refer to Section 4.2.500 - Design Review Application Submission Requirements. Five (5) copies of the application shall be submitted for the initial review by City staff. An additional seven (7) copies of the complete application shall be submitted by a date the Community Development Director requires (i.e., for the Planning Commission hearing):

1. Existing site conditions;
2. Site plan;
3. Preliminary grading plan;
4. A landscape plan;
5. Architectural drawings of all structures;

6. Sign concept plan (e.g., locations, general size, style and materials of signs);
7. A copy of all existing and proposed restrictions or covenants;
8. Narrative report or letter documenting compliance with all applicable review criteria in Section 4.4.400.

#### **4.4.400 Conditional Uses - Criteria, Standards and Conditions of Approval**

The review body shall consider the following review criteria and may approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the standards and review criteria in A-C.

##### **A. Review Criteria.**

1. The proposal satisfies the Conditional Use application submittal and content requirements;
2. The proposed use is listed as a conditional use in the zoning district, or the review body has determined it is similar to a use listed as such;
3. The proposed use will be compatible with existing and reasonable anticipated uses in the district, in terms of size and intensity of use; building scale, style, materials, and detailing; setbacks and lot coverage; landscaping; and other relevant code considerations; or the proposal provides for mitigation of difference in appearance, scale or intensity through such means as setbacks, screening, landscaping, or other design features that achieve the intended compatibility;
4. The proposed use will not have adverse noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, aesthetic or other similar impacts that would be out of character for permitted uses the district;
5. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other conditions of approval; and
6. The transportation system is capable of supporting the proposed use, in addition to the existing uses in the subject area. Evaluation factors include, but are not limited to, street capacity and level of service, on-street parking impacts, access requirements, and pedestrian safety and comfort.
7. Public services for water, sanitary and storm sewer, water management, and fire and police protection are capable of servicing the proposed use;

8. The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to noise, glare, litter, hours of operation, privacy and safety.
9. Any special features of the site such as topography, flood plain, wetlands, vegetation, historic resources, and any other similar features, have been adequately considered and safeguarded, and the characteristics of the site are suitable for the proposed use considering size, shape, location, topography and location of improvements and natural features.

**B. Site Design Standards.** Conditional Use applications must conform to the Design Review review criteria in Section 4.2.600.

**C. Conditions of Approval.** The review body may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building or structure height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of buildings, signs, or other physical improvements;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, wetlands, watercourses, habitat areas, drainage areas, historic resources, and/or cultural resources;
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans, or requiring the recording of a local improvement district non-remonstrance agreement for the same. Dedication of land and construction shall conform to the provisions of Chapter 3.1, and Section 3.1.300 in particular; and/or
14. Requiring financial security (bonds, petitions, etc) to ensure completion of the proposed development and/or removal of the improvements at the cessation of the development.
15. Establish a time table for periodic review and renewal, or expiration, of the conditional use subject to approval by the Planning Commission through a Type II Administrative Review.

**4.4.500 Conditional Uses - Additional Development Standards**

- A. Concurrent Variance Application(s).** A conditional use shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application, and both applications may be reviewed at the same hearing.
- B. Additional Development Standards.** Development standards for specific uses are contained in Article 2 - Land Use Districts.

## Chapter 4.5 Planned Developments

### Sections:

- 4.5.100 Planned Development - Purpose**
- 4.5.110 Planned Development - Applicability**
- 4.5.120 Planned Development - Review and Approvals Process**
- 4.5.130 Planned Development - Modification of District Standards (Article 2) and Design Standards (Article 3)**
- 4.5.140 Planned Development - Concept Plan Submission**
- 4.5.150 Planned Development - Concept Plan Review criteria**
- 4.5.160 Planned Development - Administrative Procedures**
- 4.5.170 Planned Development - Detailed Development Plan Submission Requirements**
- 4.5.180 Planned Development - Detailed Development Plan Review Criteria**
- 4.5.190 Planned Development - Land Use Review, Design Review, Final Plat, and Building Permit Approvals**
- 4.5.200 Nullification of an approved Planned Development**

### **4.5.100 Planned Development - Purpose**

The purposes of this Section are to:

- A. Implement the Comprehensive Plan and applicable land use district(s) by providing a means for master planning large development sites, or sites with unique physical or ecological attributes;
- B. Encourage innovative planning that results in projects that benefit the community (i.e., through compatible mixed use development, affordable housing, improved protection of open spaces, transportation options and consistent application of standards in phased developments);
- C. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified employment environments;
- D. Facilitate the efficient use of land;
- E. Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
- F. Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
- G. Encourage energy conservation and improved air and water quality and;
- H. Assist the City in planning infrastructure improvements.

#### **4.5.110 Planned Development - Applicability**

The planned development designation is a development process that may be applied to any of the City's land use districts. An applicant may elect to develop a project as a planned development in compliance with the requirements of this Chapter, or the City may require a development be processed as such when a project cannot otherwise meet the applicable Development Code requirements, contains significant natural features, or is subject to the Hillside Protection Overlay.

#### **4.5.120 Planned Development - Review and Approvals Process**

**A. Review Steps.** There are three required steps to planned development approval, which may be reviewed individually or combined into one package for concurrent review:

1. The approval of a planned development concept plan;
2. The approval of a detailed development plan; and
3. The approval of a preliminary subdivision plat(s) and/or Design Review application(s).

**B. Approval Process.**

1. The Planned Development (PD) Concept Plan shall be reviewed together using the Type III procedure in Section 4.1.400, the submission requirements in Section 4.5.170, and the review criteria in Section 4.5.150.
2. The detailed development plan shall be reviewed using the Type III procedure in Section 4.1.400, to ensure substantial compliance with the approved concept plan.
3. Preliminary subdivision plats and Design Review applications for approved planned developments shall be reviewed using a Type II procedure, as governed by Section 4.1.300.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows that in Section 4.5.120.A, above. Notification and hearings may be combined.

#### **4.5.130 Planned Development - Modification of District Standards (Article 2) and Design Standards (Article 3)**

The Planning Commission may approve modifications or adjustments to the standards in Article 2 and/or Article 3 through the Planned Development approval without the need for variances upon finding that all of the following criteria are met:

- A. **Comprehensive Plan.** The modification or adjustment equally or better meets the intent of the Comprehensive Plan and Development Code section(s) to be modified, as compared to a project that strictly conforms to code standards.
- B. **Public Benefit.** The modification or adjustment results in an overall net benefit to the public; e.g., clustering of smaller lots results in a greater variety of housing, greater affordability in housing, more open space or more usable open space, greater protection of natural features, avoidance of natural hazards (e.g., geological hazards or drainage ways), superior architecture, and/or improved transportation planning in new development.
- C. **Public improvement standards and engineering design criteria** shall not be modified without variance to such standards approved by the City Engineer. The City may grant such variances concurrently with the planned development;
- D. **Residential densities** shall not exceed those allowed under the Comprehensive Plan and where steep slopes exist, shall follow the procedures found in Chapter 2.6; and
- E. **Commercial and Mixed-Use Developments** may be approved in a Residential District Planned Development, provided the commercial component of the project, including building area, parking and landscape/commercial common area, does not exceed 20 percent of the subject Planned Development land area.
- F. **Industrial uses** shall not be allowed in a Residential District Planned Development.

**4.5.140 Planned Development - Concept Plan Submission**

The applicant shall submit five (5) copies of all of the following information (A-B) for the initial review by City staff. An additional seven (7) copies of the complete application shall be submitted for the Planning Commission hearing, by a date the Community Development Director specifies.

- A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required for a Type III procedure, as governed by Section 4.1.400. In addition, the applicant shall submit all of the following:
  1. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
  2. A development schedule indicating the approximate dates when construction of the planned development and its various phases are expected to be initiated and completed;
  3. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development.
  4. Narrative report or letter documenting compliance with the applicable review criteria contained in Section 4.5.150; and

5. Special studies prepared by qualified professionals (e.g., engineers or scientists) may be required by the Community Development Director, Planning Commission or City Council to determine potential traffic, geologic, stormwater, environmental, natural resource and other impacts, and required mitigation.

**B. Additional Information.** In addition to the general information described in Subsection “A” above, the concept plan, data, and narrative shall include the following exhibits and information:

1. Existing Conditions map, as defined in Section 4.2.500 - Design Review Application Submission Requirements;
2. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
3. Grading concept (for hillside or sloping properties, or where extensive grading is anticipated), consistent with the Hillside Protection Overlay, as applicable;
4. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);
5. Architectural concept (e.g., information sufficient to describe architectural styles, building heights, and general materials);
6. Sign concept plan (e.g., locations, general size, style and materials of signs); and
7. Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

#### **4.5.150 Planned Development - Concept Plan Review Criteria**

The City shall consider the following review criteria and may approve, approve with conditions or deny a planned development concept plan based on the following:

- A. Comprehensive Plan.** All relevant provisions of the Comprehensive Plan are met;
- B. Land Division Chapter.** All of the requirements for land divisions, including requirements for pre-planning large sites under Section 4.3.112;
- C. Article 2 and Article 3 Standards.** All of the land use, development, and design standards contained in Articles 2 and 3 are met, except as may be modified in Section 4.5.130
- D. Open Space.** Master plans shall contain a minimum of 15 percent usable common open space. Common open space shall be integral to the master plan. Plans shall emphasize public gathering places such as plazas, neighborhood parks, trails, and other publicly

accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:

1. The open space area shall be shown on and recorded with the final plat; and
2. The open space shall be conveyed in accordance with one of the following methods:
  - a. By dedication to the City as publicly owned and maintained open space. Open space proposed for dedication must be acceptable to the Community Development Director with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities;
  - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.

#### **4.5.160 Planned Development - Administrative Procedures**

**A. Time Limit on Filing of Detailed Development Plan.** Within three (3) years after the date of approval of the concept plan, the applicant or his or her successor shall file with the City a detailed development plan, in conformance with Section 4.5.170 through 4.5.180.

**B. Extension.** The City may, upon written request by the applicant and payment of the required fee, grant an extension of the approval not to exceed one year provided that:

1. No changes have been made on the original conceptual development plan as approved;
2. The applicant can show intent of applying for detailed development plan review within the one-year extension period;
3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based; and
4. The extension request is made before expiration of the original approval period.

#### **4.5.170 Planned Development - Detailed Development Plan Submission Requirements**

The contents of the detailed development plan shall follow the requirements specified for a Conceptual Plan incorporating any conditions of approval for the concept plan as well as contain the following:

- A. Location and floor area of existing and proposed structures and other improvements, including maximum heights, building types, and gross density per acre (for residential developments) and location of fire hydrants, overhead lines in the abutting right-of-way, easements and walkways;
- B. Typical elevations of buildings and structures (which may be submitted on additional sheets) sufficient to indicate the architectural intent and character of the proposed development;
- C. Landscape plan drawn to scale showing location of existing trees and vegetation proposed to be removed from or to be retained on the site, location and design of landscape areas, varieties and sizes of trees and plant materials to be planted, other landscape features including walls and fences, and irrigation systems required to maintain plant materials;
- D. Detailed utilities plan indicating how sanitary sewer, storm sewer, drainage, and water systems will function;
- E. Circulation plan showing street, driveway, parking area, service area, loading area, pedestrian way, and bikeway improvements and their dimensions;
- F. Location and dimensions of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic areas;
- G. Exterior lighting plan indicating the location, size, height, typical design, material, color, and method and direction of illumination.

The detailed development plan may combine land division, development review, Design Review, and/or other applications for concurrent review and approval. The detailed development plan shall be reviewed using a Type III procedure.

#### **4.5.180 Planned Development - Detailed Development Plan Review Criteria**

The City shall approve the detailed development plan upon finding that the final plan conforms to the concept plan and required conditions of approval. If the detailed plan request combines other land use and development applications, as provided in Section 4.5.180, those applications shall additionally be subject to the applicable review criteria in Article 4. Minor changes to the approved concept plan may be approved with the detailed plan, when the review body finds

that the modification(s) is/are consistent with the criteria in A-H, below. Changes exceeding those in subsections A-H, below, must be reviewed as major modifications under Chapter 4.6.

- A. Increased residential densities** (overall or reallocated between development phases) by no more than 10 percent from the concept plan, provided such increase conforms to the Comprehensive Plan and underlying District;
- B. Increase in lot coverage or impervious surface** (overall or reallocated between development phases) by no more than 10 percent over that which is approved;
- C. Reduction in open space or landscaping** by no more than 10 percent;
- D. Increase in overall automobile parking spaces** by no more than 10 percent;
- E. Land use.** No change in land use shall be permitted without a major modification to the concept plan;
- F. Proposals to add or increase lot coverage within areas subject to a potential hazard or requiring protection under the Comprehensive Plan** shall require a major modification to the concept plan;
- G. Major changes in the location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall require a Major Modification pursuant to Chapter 4.6.** “Major” in this subsection means by more than 100 feet, or 10 percent, relative to setbacks; and
- H. Other substantial modifications** not listed in A-G, above, shall require approval of a major modification, in conformance with Chapter 4.6.

#### **4.5.190 Planned Development - Land Use Review, Design Review, Final Plat, and Building Permit Approvals**

- A. Land Use and Design Reviews.** For projects requiring land use or Design Review, all such approvals must be final and appeal periods expired before the City issues building permits. Chapter 4.2 applies to Design Review.
- B. Land Divisions.** For projects requiring a land division, the preliminary land division plats must be final and appeal periods expired before a final plat is approved and building permits issued. Chapter 4.3 applies to land divisions.
- C. Streamlined Review Option.** Applications for preliminary land division plats, land use reviews, and Design Review applications that are part of an approved Planned Development may be reviewed using a Type II procedure, rather than the conventional Type III procedure. This shall be the applicant’s option. The variation from the standard procedures of Chapter 4.2 - Design Review, and Chapter 4.3 - Land Divisions is intended to streamline review of projects that have received Planned Development approvals, since those projects have previously been subject to public review and hearings.

**4.5.200 Nullification of an approved Planned Development**

- A. Property owner(s) or their authorized agents may apply to nullify an approved Planned Development (conceptual or detailed) by filing an application form provided by the Director through a Type III procedure.
- B. The burden of proof is on the applicant to justify Nullification of an approved Planned Development (conceptual or detailed) by giving substantial evidence that:
  - 1. Developing the property under conventional zoning standards and regulations will not create Nonconforming Development;
  - 2. Special circumstances such as building relationships, drainageways, public improvements, topography, etc., that were to be addressed through the Planned Development process can be dealt with as effectively through conventional standards.
  - 3. Conditions of Approval attached by the hearing authority to the approved Planned Development can be met or are no longer necessary; and
  - 4. Prior commitments arising from the Planned Development approval involving the subject property or impacting adjacent properties or City interests (i.e. sewer, water streets parks, drainage or other interests) will not be adversely affected by the nullification. In the case of density transfers, phasing of public infrastructure, provisions of open space and/or recreational amenities, the nullification may not provide a greater benefit or burden than would have remained had the planned development not been approved and utilized.
- C. Action. The approval body may approve or deny a Planned Development nullification.

## **Chapter 4.6 Modifications to Approved Plans and Conditions of Approval**

### **Sections:**

- 4.6.100 Modifications - Purpose**
- 4.6.200 Modifications - Applicability**
- 4.6.300 Major Modifications**
- 4.6.400 Minor Modifications**

### **4.6.100 Modifications - Purpose**

The purpose of this Chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

### **4.6.200 Modifications - Applicability**

- A. This Chapter applies to all development applications approved through the provisions of Chapter 4, including:
  - 1. Land Use Review approvals;
  - 2. Design Review approvals;
  - 3. Subdivisions, Partitions, and Property Line Adjustments;
  - 4. Conditional Uses;
  - 5. Planned Developments; and
  - 6. Conditions of approval on any of the above permit types.
- B. This Chapter does not apply to Comprehensive Plan amendments, land use district changes, text amendments, annexations, temporary use permits, or other permits not listed in subsection A.

**4.6.300 Major Modifications**

**A. Major Modification Defined.** The Community Development Director shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:

1. A change in land use;
2. An increase in density by more than 10 percent, provided the resulting density does not exceed that allowed by the land use district;
3. A change in setbacks or lot coverage by more than 10 percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;
4. A change in the type and/or location of access-ways, drives or parking areas affecting off-site traffic;
5. An increase in the floor area proposed for non-residential use by more than 15 percent where previously specified;
6. A reduction of more than 10 percent of the area reserved for common open space; or
7. Change to a condition of approval, or a change similar to items 1-6, that could have a detrimental impact on adjoining properties. The Community Development Director shall have discretion in determining detrimental impacts warranting a major modification.

**B. Major Modification Applications; Review Criteria.** An applicant may request a major modification using a Type II or Type III review procedure, as follows:

1. Upon the Community Development Director determining that the proposed modification is a major modification, the applicant shall submit an application form, non-refundable filing fee and narrative, and a site plan using the same plan format as in the original approval. The Community Development Director may require other relevant information, as necessary, to evaluate the request.
2. The application shall be subject to the same review procedure (Type II or III), decision making body, and review criteria used for the initial project approval, except that adding a conditional use to an approved project shall be reviewed using a Type III procedure.
3. The scope of review shall be limited to the modification request. For example, a request to modify a parking lot shall require Design Review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping. Notice shall be provided in accordance with Chapter 4.1.

#### 4.6.300 – Major Modifications

4. Due to the inter-related nature of Planned Developments, modifications to approved Planned Developments may be reviewed in the context of the entire approved Planned Development allowing for adjustments, mitigation and redesign to ensure the intent of the original Planned Development approval is achieved as a whole or the modification is an improvement on the original approval
5. The decision making body shall approve, deny, or approve with conditions an application for major modification based on written findings on the criteria.

**4.6.400 Minor Modifications**

- A. Minor Modification.** Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Section 4.6.300.A, above.
- B. Minor Modification Review Procedure.** An application for approval of a minor modification shall be reviewed by the Community Development Director using a Type I or a Type II review procedure under Section 4.1.200 or 4.1.300. The Community Development Director is responsible for determining the appropriate review procedure based on the following criteria:
1. Minor modifications that involve only clear and objective code standards may be reviewed using a Type I procedure;
  2. Minor modifications that involve one or more discretionary standards shall be reviewed through Type II procedure; and
- C.** When the code is unclear on whether the application should be a Type I or Type II review, a Type II procedure shall be used.
- D. Minor Modification Applications.** An application for minor modification shall include an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The Community Development Director may require other relevant information, as necessary, to evaluate the request.
- E. Minor Modification Review Criteria.** The Community Development Director shall approve, deny, or approve with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code and conditions of approval on the original decision, and the modification is not a major modification as described in Section 4.6.300.A, above.

## **Chapter 4.7 Zoning Map and Development Code Text Amendments**

### **Sections:**

- 4.7.100 Amendments - Purpose**
- 4.7.200 Legislative Amendments**
- 4.7.300 Quasi-Judicial Amendments**
- 4.7.400 *Reserved***
- 4.7.500 Record of Amendments**
- 4.7.600 Transportation Planning Rule Compliance**

### **4.7.100 Amendments - Purpose**

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the zoning map. These will be referred to as “map and text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

### **4.7.200 Legislative Amendments**

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.

### 4.7.300 Quasi-Judicial Amendments

**A. Applicability of Quasi-Judicial Amendments.** Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial zone map amendments shall follow the Type III procedure, as governed by Section 4.1.400, using standards of approval in Section 4.7.300.B. The approval authority for such actions shall be as follows:

1. The Planning Commission shall review and recommend zoning map changes that do not involve comprehensive plan map amendments;
2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and
3. The Planning Commission shall make a recommendation to the City Council on a zoning change application that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

**B. Criteria for Quasi-Judicial Amendments.** The City shall consider the following review criteria and may approve, approve with conditions or deny a quasi-judicial amendment based on the following; if the application for an amendment originates from a party other than the City, the applicant shall bear the burden of proof.

1. Approval of the request is consistent with the Statewide Planning Goals;
2. Approval of the request is consistent with the relevant Comprehensive Plan policies and on balance has been found to be more supportive of the Comprehensive Plan as a whole than the old designation;
3. The requested designation is consistent with any relevant area plans adopted by the City Council;
4. The requested designation is consistent with the Comprehensive Plan map pattern and any negative impacts upon the area resulting from the change, if any, have been considered and deemed acceptable by the City;
5. A public need will be met by the proposed change that is not already met by other available properties, or the amendment corrects a mistake or inconsistency in the comprehensive plan or zoning map regarding the property which is the subject of the application;
6. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
7. The amendment conforms to other applicable provisions of this Code, such as the Transportation Planning Rule requirements incorporated into Section 4.7.600.

8. Any amendment involving a change to the City’s urban growth boundary shall conform to applicable State planning rules for such amendments.

**4.7.400**      *Reserved*

**4.7.500**      **Record of Amendments**

The City Recorder shall maintain a record of amendments to the text of this Code and the zoning map.

**4.7.600**      **Transportation Planning Rule Compliance.**

**A. Review of Applications for Effect on Transportation Facilities.** When a development application includes a proposed comprehensive plan amendment or zoning change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – TPR) and the Traffic Impact Study provisions of Section 4.1.900. “Significant” means the proposal would:

1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a proposal causes future traffic to exceed the levels associated with a “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the City’s Transportation System Plan (TSP); or
2. Change the standards implementing a functional classification system; or
3. As measured at the end of the planning period identified in the road authority’s adopted TSP allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
4. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the road authority’s TSP; or
5. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the road authority’s TSP.

**B. Amendments That Affect Transportation Facilities.** Except as provided in subsection C, amendments to the comprehensive plan and land use regulations that significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one of the following:

#### 4.7 – Land Use District Map and Development Code Text Amendments

1. Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or
2. Amending the TSP to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or,
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or
4. Amending the planned function, capacity or performance standards of the transportation facility; or
5. Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

**C. Exceptions.** Amendments to the Comprehensive Plan or land use regulations with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the road authority's transportation system plan (TSP), may be approved when all of the following criteria are met:

1. The amendment does not include property located in an interchange area, as defined under applicable law;
2. The currently planned facilities, improvements or services are not adequate to achieve the standard;
3. Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and
4. The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid further degradation to the facility.

## Chapter 4.8 Code Interpretations

### Sections:

#### 4.8.100 Interpretations - Purpose

#### 4.8.200 Code Interpretation Procedure

#### 4.8.100 Interpretations - Purpose

Some terms or phrases within the Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

#### 4.8.200 Code Interpretation Procedure

- A. Requests.** A request for a code interpretation shall be made in writing to the Community Development Director.
- B. Decision to Issue Interpretation.** The Community Development Director shall have the authority to interpret the code, or refer the request to the Planning Commission for its interpretation. The Community Development Director shall advise the person making the inquiry in writing within 14 days after the request is made, on whether or not, and how, the City will make an interpretation.
- C. Written Interpretation.** If the City decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy. The written interpretation shall be issued within 14 days of the request. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E below.
- D. Type II Procedure.** Code Interpretation reviews shall follow a Type II procedure under Section 4.1.300. Alternatively, the Community Development Director may initiate a code interpretation (i.e., without an application being filed by a property owner) and ask the Planning Commission to ratify the decision, in which case the City shall provide notice of the decision to affected property owner(s) with an opportunity to appeal the decision to City Council. Such appeals must be filed in accordance with Section 4.1.400.
- E. Appeals.** The applicant and any party who received notice or who participated in the proceedings through the submission of written or verbal evidence may appeal the decision to the Planning Commission for a Type III decision. The appeal must be filed within 14 days after the interpretation was mailed or delivered to the applicant. Initiating an appeal requires filing a notice of appeal with the Community Development Director pursuant to Section 4.1.300 Type II appeal.
- F. Interpretations On File.** The City shall keep on file a record of all code interpretations.

## Chapter 4.9 Miscellaneous Permits

### Sections:

#### **4.9.100 Temporary Use Permits**

#### **4.9.200 Outdoor Seating Areas within the Public Right-of-Way**

#### **4.9.100 Temporary Use Permits**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C):

**A. Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using the Type II procedure under Section 4.1.300, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:

1. The use is permitted in the underlying zone and does not violate any conditions of approval for the property (e.g., prior development permit approval);
2. The applicant has proof of the property-owner's permission to place the use on his/her property;
3. No parking will be utilized by customers and employees of the temporary use that is needed by the property owner to meet their minimum parking requirement under Chapter 3.3 – Parking and Loading;
4. The use provides adequate vision clearance, as required by Section 3.1.200, and shall not obstruct pedestrian access on public streets;
5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation;
6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use; and
7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)

**B. Temporary Sales Office or Model Home.** Using a Type I procedure under Section 4.1.200, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office for a period not to exceed one (1) year, or as approved by the Community Development Director, for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. Temporary sales office:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold and not interfere with traffic on any street or public way;
- b. The property to be used for a temporary sales office for dwellings or lots within the subject property shall not be permanently improved for that purpose, except as approved by the Community Development Director (e.g., model home);
- c. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare;
- d. The subject site shall be kept clean and neat; and
- e. Hours of operation for a sales office shall follow those for home occupations, except as approved by the Community Development Director for a caretaker.

2. Model house:

- a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
- b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements, including landscaping.

**C. Temporary Building, Trailer, Kiosk, or Structure.** Except as approved for mobile food vendors in a commercial or industrial district under Chapter 2.3.160., temporary or permanent placement of a building, trailer, kiosk, or structure, including but not limited to prefabricated building(s), for use on any real commercial or industrial property within the City shall require a land use permit. Using a Type II procedure, the City may approve, approve with conditions or deny an application for a placement of a building, trailer, kiosk, or structure for temporary use, or temporary placement, such as a temporary commercial or industrial use or space associated with the primary use on the property, for a period of not more than one year, based on following criteria:

1. The temporary trailer or building shall be located within the specified property line setbacks of the parcel of land on which it is located;

2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate as demonstrated by an approach permit approved by the road authority, as applicable. See also, Section 3.1.200 - Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 – Parking and Loading;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no impediment or hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner that other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed six (6) months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit. A temporary use permit shall be renewed no more than two (2) times, and shall expire no later than eighteen (18) months from the first approval date; and
11. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.

**D. Garage Sales.** Garage sale signs shall conform to the applicable provisions of the Silverton Sign Code. Garage or yard sales shall be permitted in any residential zoning district subject to the following:

1. Limited to the sale of household goods and equipment, plants, clothing, furniture, and the like.
2. Limited to three (3) such sales per year per individual address.
3. The duration of an individual sale shall not exceed three (3) days.
4. The hours of operation shall be limited to 7:00 a.m. to 5:00 p.m.

**E. Outdoor Swimming Pools.** Swimming pools, spas and hot tubs (in-ground and above ground) that contain 24” or more of water shall comply with the following:

- 1 Conform to the setback requirements of the primary structure except that there shall be a minimum of 5’ from all interior lot lines.
- 2 Be equipped with locking cover fenced or equipped with electric alarm systems that will prevent entry or alarm upon entry.
- 3 Required fencing shall be a minimum of 5’ in height and be equipped with a self-locking gate which closes automatically.

**4.9.200 Outdoor Seating Areas within the Public Right-of-Way.**

- A. Where outdoor seating areas are desired by restaurants or other business establishments they must comply with the following procedures and criteria:
1. Submit a written request to the Community Development Department identifying the area involved, a site plan of the area, a description of the operating characteristics of the proposed use or other pertinent information.
  2. Accompanying the written request shall be a completed City of Silverton application to occupy the right-of-way and the associated review fee.
  3. The Community Development Director within 45 days of receipt will review the application and make a final decision
  4. In some cases the request may be forwarded to the City Council for final approval.
  5. Approval may be given provided the Community Development Director or City Council determine there will be no negative impact to the public, the right-of-way or near-by businesses or property owners.
  6. Compliance with other applicable provisions of the City's Municipal Code, including permits for using the public right-of-way where sidewalk cafes are allowed.
  7. Design review approval where the outdoor eating area includes seating for more than eight (8) patrons.
  8. Where adjacent or abutting a residential use and/or zoning district, the outdoor eating area shall only be allowed between the hours of 8:00 a.m. and 10:00 p.m.
  9. The outdoor eating area shall contain a trash receptacle within 10 feet of the use, which shall be maintained by the owner or operator of the restaurant.
  10. At least 4 feet of open passageway is maintained on the sidewalk.

## Chapter 4.10 Annexations

### Sections:

- 4.10.100 Background**
- 4.10.110 Purpose**
- 4.10.120 Application and Fee**
- 4.10.130 Filing Procedure**
- 4.10.140 Review Criteria**
- 4.10.150 Annexation Applications Involving Comprehensive Plan Amendments**
- 4.10.160 Council Initiated Annexation**
- 4.10.170 Zoning**
- 4.10.180 Annexation Zoning Matrix**
- 4.10.190 Action by the Planning Commission**
- 4.10.200 Action by the City Council**
- 4.10.210 Advertisement of Pending Election**
- 4.10.220 Election Procedures**
- 4.10.230 Annexation Reports**
- 4.10.240 Effective Date of Annexation**

### **4.10.100 Background**

Oregon Statewide Planning Goals require that each City be surrounded by a boundary which is called an Urban Growth Boundary (UGB). The UGB defines the area which the city has identified as being eligible to be included within the city limits sometime during the 20-year planning period. Lands within the UGB may be considered for annexation consistent with the review criteria within Section 4.10.140. Timely annexation of lands in an orderly and efficient manner avoids urban sprawl, and retains surrounding natural resources, and at the same time avoids the unnecessary development of agricultural and timber-producing lands.

### **4.10.110 Purpose**

It is the purpose and general intent of this chapter to delineate the appropriate procedures to be followed to annex territory to the city and to undertake other major and minor boundary changes. It is recognized that annexations to the corporate limits are major land use actions affecting all aspects of city government, and that other boundary changes and extensions of services must also be regulated. Unless mandated by state law, annexation, delayed annexations, and/or extension of city services, may only be approved by a majority vote among the electorate.

- A. With respect to annexations, the procedures and standards established in this chapter are required for review of proposed annexations in order to:
1. Provide adequate public information and sufficient time for public review before an annexation election;
  2. Maximize citizen involvement in the annexation review process;

3. Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and
  4. Ensure adequate time for staff review.
- B. With respect to major and minor boundary changes or extensions of services other than annexations, it is the purpose and general intent of this chapter to provide a method by which such changes or extensions may be reviewed in a rational way and in accordance with applicable comprehensive plans.

**4.10.120 Application and Fee**

- A. An application for annexation shall be filed with the city and accompanied by the appropriate fee. Additional land use applications may be filed concurrently with an annexation application contingent on approval of the annexation. At a minimum the application shall include:
1. A complete application signed by each property owner or a signed notarized letter of authorization from the property owner allowing the city to process an application received from a third party; and
  2. Signed notarized statements by any one leasing or renting the property stating that they have no objection to the annexation.
  3. A mailing list of all current property owners within 500 feet of the subject, as certified by a Title Company or by the Marion County Tax Assessor's office, property as accurate and complete as found on the most recent property tax assessment roll where the subject property is located; and
  4. A copy of the current deed(s); and
  5. A legal description of the territory to be annexed, meeting the relevant requirements of ORS Chapter 308. If such a description is not submitted, a boundary survey may be required. A lot and block description may be substituted for the metes and bounds description if the area is platted. If the legal description contains any deed or book and page references, legible copies of these shall be submitted with the legal description; and
  6. Two full quarter-section county tax assessor's maps, with the subject property(ies) outlined; and
  7. A written applicant's statement addressing each review criteria. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria listed in Section 4.10.140. Upon determination that the application is complete, a public hearing shall be scheduled before the Planning Commission followed by a public hearing before the City Council; and

8. Eighteen (18) full sized and one reduced (11" x 17") conceptual site plan for properties to be developed with a Subdivision or Planned Development. The scale of the full size plan must be large enough that all dimensions and distances can easily be measured for accuracy. Make sure that the plan is prepared so that it is at least 8 ½" x 11 inches in size and the scale is standard: 10, 20, 30, 40 or 50, 60, or 100 feet to one inch. The plan must include all the required items. If any item listed for inclusion on the plan is not provided, please include a written explanation. The following items are required on the plan:
  - a. The location of existing structures (if any); and
  - b. The location of streets, sanitary sewer, storm drainage, water, electric and other utilities, on or adjacent to the property to be annexed;
  - c. The location and direction of all water features on and abutting the subject property. Approximate location of areas subject to inundation, stormwater overflow or standing water. Base flood data showing elevations of all property subject to inundation in the event of one hundred year flood as shown.
  - d. Label and show the locations of all existing structures, wells, septic tanks and drain fields, and distances between them and the existing property lines and each other. Indicate what is to be removed, moved, and/or retained.
  - e. Natural features, such as rock outcroppings, marshes or wetlands (as delineated by the Division of State Lands), wooded areas, isolated preservable trees (trees with trunks over six inches in diameter as measured four feet above the ground), and significant areas of vegetation.
  - f. Label and show *existing* and *proposed* contour (topography) lines drawn at the following intervals:
    - (1) One-foot intervals for ground slopes less than five percent.
    - (2) Two-foot intervals for ground slopes between five and ten percent.
    - (3) Five-foot intervals for ground slopes exceeding ten percent.
  - g. General land use plan indicating the types and intensities of the proposed, or potential development.
9. If applicable, a double-majority worksheet, certification of ownership and voters. Certification of legal description and map on forms provided by the City.
10. A narrative statement explaining the conditions surrounding the proposal and addressing the factors contained in the Review Criteria, as relevant, including:
  - a. Statement of availability, capacity and status of existing water, sewer, drainage, transportation, park and school facilities; and
  - b. Statement of increased demand for such facilities to be generated by the proposed development; and
  - c. Statement of additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand.

- d. Statement outlining method and source of financing required to provide additional facilities, if any; and
  - e. Statement of overall development concept and methods by which the physical and related social environment of the site, surrounding area and community will be enhanced; and
  - f. Statement of potential physical, aesthetic, and related social effects of the proposed, or potential development on the community as a whole and on the small sub-community or neighborhood of which it will become a part; and proposed actions to mitigate such negative effects, if any; and
  - g. Statement indicating the type and nature of any comprehensive plan text or map amendments that may be required to complete the proposed development.
11. Annexation agreement. There may be instances in which an applicant may offer additional considerations in support of an annexation application. Such considerations shall be considered as part of an annexation application. These considerations shall be formalized through a development agreement.
12. The application fee for annexations and a deposit, which is adequate to cover any and all costs related to the election as established by resolution of the City Council.

**4.10.130 Filing Procedure**

Whenever an application for annexation is filed, it shall be reviewed in accordance with the following procedures:

- A. Determination of Annexation Type.** The Community Development Director shall determine whether an application is for a major or minor annexation as follows:
- 1. **Major Annexation.** An annexation shall be considered major if one or more of the following exist:
    - a. More than one property is involved;
    - b. City services do not abut the site;
    - c. The land is vacant and the request involves more than one district designation;
    - d. The land is developed with more than one type of existing land use and more than one district designation is needed or requested or
    - e. The request for annexation involves more than two acres.

However, if the Community Development Director determines measuring the physical, environmental and related social effects of the proposal will be similar in difficulty to that of a minor annexation, a major annexation can follow the time line for minor annexation.

- 2. **Minor Annexation.** Any annexation not meeting the description provided above for a major annexation and containing less than two acres is considered a minor annexation.

In general, an annexation is considered minor if measurement of the physical, environmental and related social effects is easier than a major annexation.

**B. Application Filing Deadlines.** Annexation elections are scheduled for May and November. Special elections may be scheduled outside of May or November if all election costs are paid for by the applicant. Application deadlines are established to permit public hearings by both the Planning Commission and the City Council in time to meet state requirements for submitting ballot information for these election dates. Application deadlines for major and minor annexations are as follows:

1. A major annexation must be filed with the Community Development Department before 5:00 p.m. on the last working day in September for a ballot election in May and the last working day in March for a ballot election in November.
2. A minor annexation must be filed with the Community Development Department before 5:00 p.m. on the last working day in October for a ballot election in May and the last working day in April for a ballot election in November.
3. Major or minor annexations can be scheduled for a special election provided that all costs associated with the special election are covered by the applicant. Special elections will be scheduled by the City Council following the required Planning Commission and City Council hearings on the application.

**C. Exceptions.** The City Council may authorize an exception to any of the requirements of this chapter. An exception shall require a statement of findings that indicates the basis for the exception. Exceptions may be granted for reasons including, but not limited to: identified health hazards, parcels of land that are less than two (2) acres in size, land that is being annexed for a public purpose, a parcel with limited potential, and for all other matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process.

#### **4.10.140 Review Criteria**

When reviewing a proposed annexation of land, the Planning Commission and City Council will consider the following standards and criteria:

- A. Adequacy of access to the site; and
- B. Conformity of the proposal with the City's Comprehensive Plan; and
- C. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property. If extensions or upgrading of any improvement is necessary to serve the area, such extension must be consistent with the city's infrastructure plans and must be an orderly and efficient arrangement for the extension of public services; and

- D. The new area will meet city standards for any public improvements which may be necessary to serve the area (including but not limited to streets, including sidewalks, sanitary sewer, water, storm drainage); and
- E. The area to be annexed is contiguous to the city and represents a logical direction for city expansion; and
- F. The area is within the urban growth boundary, unless a health hazard due to failing septic systems or groundwater supplies is found to exist; and
- G. The proposed use of the property is consistent with the applicable comprehensive plan designation; and
- H. The proposed annexation shall be consistent with all applicable goals and policies of the Silverton Comprehensive Plan; and
- I. Shall be in compliance with applicable sections of ORS Chapter 222; and
- J. Natural hazards identified by the City, such as wetlands, floodplains and steep slopes have been addressed; and
- K. Urbanization of the subject property shall not have a significant adverse effect on areas identified or designated in the Comprehensive Plan as open space or as significant scenic, historic or natural resource areas; and
- L. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole.

**4.10.150 Annexation Applications Involving Comprehensive Plan Amendments**

Applications for Annexation involving Comprehensive Plan amendments submitted by property owners shall be reviewed semi-annually in April and October by the Planning Commission with a recommendation to the Council. The City Council, Planning Commission, or Community Development Director may also initiate Plan amendments. Such initiations are made without prejudice towards the outcome.

**4.10.160 Council Initiated Annexation**

It is within the power and authority of the city to annex land which is surrounded by the corporate limits or boundaries of the city, with or without consent of the property owners or residents in the territory. Notice and procedures for a public hearing shall be pursuant to the provisions of Section 4.1.

**4.10.170 Zoning**

Upon annexation, the zoning of annexed property shall be compatible with the Comprehensive Plan designation as provided on the annexation zoning matrix. Zoning other than that shown on the matrix requires approval of a Comprehensive Plan map amendment and/or a zoning map amendment.

**4.10.180 Annexation Zoning Matrix**

Plan Designation	Compatible Zoning Districts
Industrial	Industrial Park (IP) Light Industrial (LI) Industrial (I)
Commercial	General Commercial (GC) Downtown Commercial (DC) Downtown Commercial Fringe (DCF)
Single Family Residential	Single Family Residential (R-1) Low Density Residential (R-5) Acreage Residential (A-R)
Multiple Family Residential	Multiple Family Residential (RM-10) Multiple Family Residential (RM-20)
Agricultural/Urban Reserve	Single Family Residential (R-1) Low Density Residential (R-5) Acreage Residential (A-R)

**4.10.190 Action by the Planning Commission**

The Planning Commission shall conduct a public hearing to evaluate the proposed annexation and make a recommendation to the City Council regarding how the proposal has or has not complied with the review criteria set forth in Section 4.10.140. The Planning Commission shall provide findings in support of its recommendation.

**4.10.200 Action by the City Council**

Upon receipt of the Planning Commission's recommendation, the City Council shall endeavor to review all proposals prior to the city application deadline for submitting ballot measures to the voters. The City Council shall only set for an election annexations consistent with a positive balance of the annexation factors contained in Section 4.10.140. The City Council shall adopt findings in support of its decision to schedule an annexation for an election.

**4.10.210 Legal Advertisement of Pending Election**

After City Council review and approval, the City Manager shall cause a legal advertisement describing the proposed annexation and pending election to be published in at least one newspaper of general circulation in the city in the manner provided by State Election Law. The advertisement shall be placed at least fourteen (14) days prior to the election. The size of the advertisement shall be determined by the City Manager. The advertisement shall contain:

a description of the location of the property, size of the property, its current zoning and any proposal for zone changes upon annexation, a general description of the potential land uses allowed, any required comprehensive plan text or map amendment or zoning ordinance text or map amendment, and where the City Council's evaluation of the proposed annexation may be found. Any statement regarding development of the property proposed for annexation that is dependent upon future action by the city shall be accompanied by a disclaimer to the effect that such development would not be affected by the annexation vote.

**4.10.220 Election Procedures.**

- A. Pursuant to ORS 222.130(1), the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed one hundred fifty words. The City Attorney shall prepare the ballot title wording.
- B. Pursuant to ORS 222.130(2), the notice of an annexation shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.
- C. Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.

**4.10.230 Annexation Reports**

Upon approval by the voters of the proposed annexation, the City Council, by ordinance, shall set the boundaries of the area to be annexed by a legal description, adopt findings, and proclaim the results of the election. Within twenty (20) days of Council approval of the annexation, the city shall report all changes in the boundaries or limits of the city to the county clerk and county assessor and Secretary of State's office.

**4.10.240 Effective Date of Annexation**

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, and 111.900. Thereafter, the annexed territory shall be and shall remain part of the city. The date of such filing shall be the effective date of annexation, provided such filing is not made later than 90 days prior to a general or primary election; otherwise the effective date of such annexation shall be the day after the primary or general election.

## Chapter 4.11 Urban Growth Boundary Amendments

### Sections:

- 4.11.100 Purpose**
  - 4.11.200 Urban Growth Boundary Change**
  - 4.11.300 Simultaneous Urban Growth Boundary Change with Comprehensive Plan Change.**
  - 4.11.400 Initiation of Urban Growth Boundary Change by City Council**
  - 4.11.500 Initiation of Urban Growth Boundary Change by Planning Commission**
  - 4.11.600 Initiation of Urban Growth Boundary Change by the Marion County Board of Commissioners**
  - 4.11.700 Initiation of Urban Growth Boundary Change by the Petition**
  - 4.11.800 Criteria to be Used in Considering an Urban Growth Boundary Change**
- 4.11.100 Purpose.**

This section states the initiation process and criteria to be used in considering an urban growth boundary change.

### **4.11.200 Urban Growth Boundary Change.**

An Urban Growth Boundary change is an alteration of any portion of the adopted boundary line from one location to another after the proposed change has been reviewed and a recommendation made by the Planning Commission, and enacted by Ordinance by the City Council and the Marion County Board of Commissioners in accord with the following provisions. All boundary amendments shall be simultaneously adopted as changes to the Comprehensive Plan in accordance with Section 4.11.300.

### **4.11.300 Simultaneous Urban Growth Boundary Change with Comprehensive Plan Change.**

If Urban Growth Boundary changes are adopted in accordance with Section 4.11.200 the resulting Comprehensive Plan change can be adopted simultaneously. No additional conditions must be set for a Comprehensive Plan Change.

### **4.11.400 Initiation of Urban Growth Boundary Change by City Council.**

- A. An urban growth boundary change may be initiated by the City Council only when the change proposed is for some governmental, educational, religious or philanthropic purpose, or is in the public interest and of general interest.
- B. Proceedings to alter the boundary initiated by the City Council shall be by resolution, and the resolution shall be referred to the Planning Commission. The Community Development Director shall thereupon fix a date for hearing by the Planning Commission, give notice of such hearing and a hearing shall be conducted as provided in Article 4 for Type IV applications.

- C. After the hearing by the Planning Commission, the Planning Commission shall make a recommendation in the form of a resolution to the City Council.
- D. If the City Council approves the boundary amendment it shall adopt it by resolution and forward it to the Marion County Board of Commissioners along with all exhibits and findings thereon and a written request for the Board to consider the boundary change and adopt it.
- E. If the Marion County Board of Commissioners approves the boundary amendment, both the City Council and Board of Commissioners shall adopt the change by Ordinance. If the Board of Commissioners does not approve the boundary amendment, it shall convene a meeting with the City Council to further consider the change.
- F. If no mutual agreement is reached, the City Council may appeal to the Oregon State Land Conservation and Development Commission or seek judicial remedy.

**4.11.500 Initiation of Urban Growth Boundary Change by Planning Commission.**

- A. An urban growth boundary change may be initiated by resolution by the Planning Commission only when the proposed change is in the public interest and of general interest. Proposals for boundary revisions resulting from comprehensive plan review proceedings as provided in Section 4.12.600 may be initiated by the Planning Commission.
- B. When the proceedings are initiated by the Planning Commission, the Community Development Director shall fix a date for hearing before the Planning Commission, give notice of such hearing Planning Commission, give notice of such hearing and a hearing shall be conducted as provided in Article 4 for Type IV applications.
- C. After the hearing, the Planning Commission may refer its recommendation to the City Council in the form of a resolution.
- D. If the City Council approves the boundary amendment it shall adopt it by resolution and forward it to the Marion County Board of Commissioners along with all exhibits and findings thereon and a written request for the Board to consider the boundary change and adopt it.
- E. If the Marion County Board of Commissioners approves the boundary amendment, both the City Council and Board of Commissioners shall adopt the change by Ordinance. If the Board of Commissioners does not approve the boundary amendment, it shall convene a meeting with the City Council to further consider the change.
- F. If no mutual agreement is reached, the City Council may appeal to the Oregon State Land Conservation and Development Commission or seek judicial remedy.

**4.11.600 Initiation of Urban Growth Boundary Change by the Marion County Board of Commissioners.**

- A. The Marion County Board of Commissioners may forward proposed boundary amendments to the City Council along with all exhibits and findings thereof and a written request for the City Council to consider the boundary change and adopt it.
- B. The City Council shall forward such request to the Planning Commission for consideration.
- C. The Planning Commission shall automatically initiate the requested amendment and the Community Development Director shall fix a date for hearing before the Planning Commission, give notice of such hearing Planning Commission, give notice of such hearing and a hearing shall be conducted as provided in Article 4. Unless required by state law, this hearing is optional at the discretion of the Planning Commission if Marion County had held a hearing in Silverton with notification to potentially affected citizens within three months previous to the receipt of the request by the City Council.
- D. The Planning Commission shall refer its recommendation in the form of a resolution to the City Council.
- E. The City Council shall either adopt the boundary amendment by Ordinance or request a joint meeting with the Marion County Commissioners to further consider the change.

**4.11.700 Initiation of Urban Growth Boundary Change by the Petition.**

Property owners or persons purchasing property under contract, if they state in writing that they are purchasing property under contract, may file an urban growth boundary change petition. In addition to the application submittal requirements listed under Article 4 for Type IV applications, the following information shall be included:

- A. An explanation of the reasons for which the boundary amendment is being sought together with any sketches or plans the petitioner feels will illustrate the proposal and the potential impact upon the area resulting from the proposed change shall be addressed.
- B. Written Findings of Fact and Conclusions for the review criteria listed in Section 4.11.800
- C. Within ten (10) days of the petition being filed with the Community Development Director, the application shall be checked for completeness and if the petition is sufficient, the Community Development Director shall refer the petition to the Planning Commission and a hearing date shall be set. The Community Development Director shall give notice of such hearing and a hearing shall be conducted as provided in Article 4 for Type IV applications.
- D. The Planning Commission shall hold a public hearing and shall refer its recommendation to the City Council in the form of a resolution.

- E. If the City Council approves the boundary amendment it shall adopt it by resolution and forward it to the Marion County Board of Commissioners along with all exhibits and findings thereon and a written request for the Board to consider the boundary change and adopt it.
- F. If the Marion County Board of Commissioners approves the boundary amendment, both the City Council and Board of Commissioners shall adopt the change by Ordinance. If the Board of Commissioners does not approve the boundary amendment, it shall convene a meeting with the City Council to further consider the change.
- G. If no mutual agreement is reached, the City Council may appeal to the Oregon State Land Conservation and Development Commission or seek judicial remedy.

**4.11.800 Criteria to be Used in Considering an Urban Growth Boundary Change.**

- A. Changes in the urban growth boundary will be limited to those cases in which the land in question is needed to provide for:
  - 1. Accommodation of additional population;
  - 2. Housing and employment opportunities;
  - 3. Orderly and economical provision of public facilities and services;
  - 4. Maximum efficiency of land uses;
  - 5. Retention of agricultural lands;
  - 6. Compatibility of the proposed urban use with nearby agricultural activities; and
  - 7. Improvement of the area's environmental, energy, economic and social well being.
- B. All urban growth boundary amendments must be in accordance with the goals, objectives and policies of the Comprehensive Plan.
- C. If the request for an urban growth boundary change originates from a petition, the petitioner will bear the burden of proof.

## Chapter 4.12 Comprehensive Plan Amendments

### Sections:

- 4.12.100 Purpose**
- 4.12.200 Frequency of Plan Amendments**
- 4.12.300 Procedure**
- 4.12.400 Review Criteria**
- 4.12.500 Comprehensive Plan Map Corrections**
- 4.12.600 Comprehensive Plan Map Reviews**

#### **4.12.100 Purpose**

The Comprehensive Plan is the official and controlling land use document of the City, providing guidance to both public and private activities which affect the growth, development, and livability of the community. The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process whereby the Comprehensive Plan may be amended without violating the integrity of the Plan or frustrating its basic purposes. This process applies to proposed changes to the Comprehensive Plan map designations, text and the Urban Growth Boundary.

#### **4.12.200 Frequency of Plan Amendments**

Applications for Comprehensive Plan amendments submitted by property owners shall be reviewed semi-annually in April and October by the Planning Commission. The City Council, Planning Commission, or Community Development Director may also initiate Plan amendments. Such initiations are made without prejudice towards the outcome.

#### **4.12.300 Procedure**

Requests for Plan amendments determined by the Community Development Director to be legislative in nature are reviewed through the legislative procedures stated in Article 4. Quasi-judicial requests are reviewed through the Type IV procedures of Article 4. Area specific amendments, including map amendments outside of the city limits, are processed in accordance with the City-Marion County Urban Growth Management Agreement.

#### **4.12.400 Review Criteria.**

Amendments to the Comprehensive Plan will be approved if the Council finds that the applicant has shown that the following applicable criteria are met:

- A. A legislative 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. A legislative amendment is needed to meet changing conditions or new laws.

- C. The result of the legislative amendment will result in an improvement to the Comprehensive Plan that furthers the adopted goals, policies or needs of the community above the current Comprehensive Plan.
- D. The requested designation for a quasi-judicial map amendment meets all of the following tests:
  - 1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be more supportive of the Comprehensive Plan as a whole than the old designation.
  - 2. The requested designation is consistent with any relevant area plans adopted by the City Council.
  - 3. The requested designation is consistent with the Comprehensive Plan map pattern and any negative impact upon the area resulting from the change has been considered and deemed acceptable by the City.
  - 4. An identified public need will be met by the proposed change that is not already met by other available property.
  - 5. The requested designation is consistent with the Statewide Planning Goals.
- E. If the request for a Comprehensive Plan Map or Text Amendment originates from a petition, the petitioner will bear the burden of proof.

**4.12.500 Comprehensive Plan Map Corrections**

The Director may initiate a review through the Type I procedure for the types of corrections to the Comprehensive Plan Map listed below:

- A. The correction may be made for mapping errors such as:
  - 1. A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches.
  - 2. The line on the map does not match the legal description or map shown or references in the ordinance which applied the designation; or
  - 3. When there is a discrepancy between maps and there is clear legislative intent for where the line should be.
- B. The correction may be made when a map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar items. Map line changes in these cases must not be more than

a minor change to the map pattern and must not result in any significant impacts to abutting lots.

**4.12.600 Comprehensive Plan Map Reviews**

- A. **Five-year Review.** The Comprehensive Plan shall be reviewed at a minimum of five-year intervals. These reviews will be thorough in nature and shall consider in depth the statement of goals, objectives, findings of fact and policies in each element of the plan. Special attention shall be directed toward a review of population increases and the projection of future land requirements.
- B. **Interim Review.** Interim revisions can result from special circumstances or information that justifies the public need for a plan change or from a petition for a plan change.
- C. The Planning Commission will coordinate these various reviews as the committee for citizen involvement in accordance with ORS Chapter 197.

## Chapter 4.13 Vacations

### Sections:

- 4.13.100 Purpose**
- 4.13.200 Initiation**
- 4.13.300 Procedure**
- 4.13.400 Review Criteria**
- 4.13.500 Zoning of Vacated Right-of-Way**
- 4.13.600 Conditions of Approval**

#### **4.13.100 Purpose**

This section states the procedures and review criteria for the vacation of a public easement or public right-of-way. For vacations of plats or re-platting see section 4.3.200.

#### **4.13.200 Initiation**

A vacation proposal may be initiated by the City Council or by petition of adjoining and area owners in accordance with ORS 271.080.

#### **4.13.300 Procedure**

Type IV procedures as outlined in Article 4 shall be used as supplemented by the provisions of ORS Chapter 271. State law defines the affected area and mandates notice requirements that are more stringent than the City's Type IV procedure.

#### **4.13.400 Review Criteria**

- A. Vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:
1. The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation, or public facility plan.
  2. The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.
  3. The requested vacation will not have a negative effect on traffic circulation or emergency service protection.
  4. The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.

5. The public interest, present and future, will be best served by approval of the proposed vacation.

**4.13.500 Zoning of Vacated Right-of-Way**

Except as otherwise provided within the vacation ordinance or where the official City zoning map is not clear as to the zoning of vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the adjoining property to which the ownership of the parcel automatically reverts.

**4.13.600 Conditions of Approval**

The City may attach conditions to the approval of a vacation request to ensure that the proposal will conform to the review criteria and City policy for the vacation of public land.

# Article 5 - Exceptions to Code Standards

## Chapters:

<b>5.1 Adjustments and Variances</b>	<b>5-3</b>
5.1.100 Adjustment – Purpose	5-3
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## Chapter 5.1 Adjustments and Variances

### Sections:

- 5.1.100 Adjustment - Purpose**
- 5.1.200 Adjustment - Procedure**
- 5.1.300 Adjustment – Review Criteria**
- 5.1.400 Variance – Purpose**
- 5.1.500 Variance - Procedure**
- 5.1.600 Regulations Which May and May Not be Varied**
- 5.1.700 Variance – Review Criteria**
- 5.1.800 Appeals of Adjustment and Variance Decisions**

### **5.1.100 Adjustment - Purpose**

The adjustment review process provides a mechanism by which the Director may make limited modifications to the application of regulations in the Development Code. Adjustment reviews provide limited flexibility for unusual situations, while continuing to provide certainty and rapid processing for land use applications. Requests for changes from a numerical development standard of ten percent (10%) or less of the standard are processed as adjustments. Requests for changes to standards which are not numeric or which are for more than ten percent (10%) of the standard, are processed as variances.

### **5.1.200 Adjustment – Procedure**

Adjustment requests are processed through a Type II procedure using the review criteria listed in 5.1.300 below in addition to the applicable requirements contained in Chapter 4.1.

### **5.1.300 Adjustment – Review Criteria**

All adjustment requests will be approved if the Director finds that the applicant has shown that the following criteria have been met:

1. The requested adjustment is for ten percent (10%) or less of the numerical development standard.
2. The need for the requested adjustment is created by the configuration of an existing or proposed structure on the site; or
3. The need for the requested adjustment is created by the configuration of the existing lot boundaries or topography of the site.
4. The design and operating characteristics of the proposed structure are reasonably compatible with the placement of surrounding development and land uses, and any negative impacts have been sufficiently minimized.

5. If more than one Adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zoning district.

#### **5.1.400 Variances - Purpose**

This Section provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this Code as exceptions to code standards. This Code cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, require flexibility. Chapter 5.1 provides that flexibility, while maintaining the purposes and intent of the Code. The variance procedure provides relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The variance procedure is intended to provide flexibility while ensuring that the purpose of each development standard is met. Variances are necessary when the applicant requests a deviation from numerical standards of more than ten percent (10%), or a variance from non-numerical development standards.

#### **5.1.500 Variance - Procedure**

A Variance is processed as a Type III procedure using the review criteria listed in 5.1.700 below in addition to the applicable requirements contained in Chapter 4.

#### **5.1.600 Regulations Which May and May Not be Varied.**

- A. Unless listed in Subsection (B) below, all regulations in this Code may be modified using the Variance process.
- B. Variances are prohibited for the following items:
  1. To allow a primary or accessory use that is not allowed within the zoning district.
  2. As an exception to any restrictions on uses or development which contain the word "prohibited".
  3. As an exception to a threshold for a review, such as the size of accessory structures.
  4. As an exception to a definition or classification.
  5. As an exception to the procedural steps of a procedure or to change assigned procedures.

**5.1.700 Variance – Review Criteria**

The City shall approve an application for a variance if the review body finds that the applicant has shown that all of the following criteria have been met:

1. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same zoning district or in the vicinity;
2. A hardship to development exists that is peculiar to the lot size or shape, topography, wetlands, flood plains, or other similar circumstances related to the property over which the applicant has no control, and that are not applicable to other properties in the vicinity;
3. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
4. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
5. The hardship is not self-imposed; and
6. The variance request is the minimum variance that would alleviate the hardship.

**5.1.800 Appeals of Adjustment and Variance Decisions.**

Appeals of adjustment and variance decisions shall be processed in accordance with the provisions of Chapter 4.1, as applicable.

## Chapter 5.2 Non-Conforming Uses and Developments

### Sections:

**5.2.100 Non-Conforming Uses and Developments - Purpose**

**5.2.200 Non-Conforming Uses**

**5.2.300 Non-Conforming Lot or Development**

### **5.2.100 Non-Conforming Uses and Developments Purpose**

This Chapter provides standards and procedures for non-conforming situations (i.e., existing uses or development that do not comply with the Code). The standards for non-conforming uses and development are intended to allow these non-conformities to continue but not to encourage their perpetuation. In allowing these situations to continue, some relief from code requirements for uses and developments that were established prior to the effective date of this Code and do not comply with current standards has been provided.

### **5.2.200 Non-Conforming Uses**

Uses that were lawfully established in accordance with the code regulations in place at the time the use was established, but would not be permitted by the regulations imposed by this Code, may be continued as long as it remains otherwise lawful, provided:

- A. Expansion Prohibited.** No such nonconforming use is enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;
- B. Location.** No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code;
- C. Discontinuation or Abandonment.** The nonconforming use may continue, provided it is not discontinued for any reason for a period of more than 12 continuous months. For purposes of calculating the 12-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
  1. On the date when the use of land is physically vacated;
  2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
  3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or

4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

**D. Application of Code Criteria and Standards.** If the use is discontinued or abandoned for any reason for a period of more than 12 continuous months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

**E. Loss of Non-Conforming Status.**

1. If the use is changed to a conforming use for any period of time, any non-conforming rights are lost and a non-conforming use may not be re-established.
2. Any nonconforming use dependent upon a building or structure which is substantially damaged or destroyed by any cause to the extent that the cost of repair or restoration of the building or structure would exceed 70 percent of its fair market value shall be deemed terminated.

**5.2.300 Non-conforming Lot or Development**

Where a development exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. Alterations.** No such nonconforming development may be enlarged or altered in a way that increases its nonconformity by more than 20 percent cumulatively (e.g., floor area and/or lot coverage and/or height and/or amount of measurable impact as in noise, glare, vibration) as of *[effective date of code]*, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity;
- B. Destruction.** Should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than 70 percent of its current value as assessed by the County Assessor, it shall be reconstructed only in conformity with this Code;
- C. Deterioration.** Should such nonconforming development or nonconforming portion of development become deteriorated to the extent that it has been declared a “dangerous building” and ordered demolished pursuant to Silverton’s Dangerous and Derelict Structures Code (Chapter 15.08.360), the non-conforming status shall be deemed terminated upon such declaration and order.

- D. Roadway Access.** The owner of a non-conforming access connection (i.e., street or highway access) may be required to bring the non-conforming access into conformance with this Code and other applicable standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use.
- E. Vehicular Parking Spaces.** When a development is non-conforming in the number of required vehicular parking spaces and changes to a use or building are made that increase the number of required vehicular parking spaces, only the number of vehicular parking spaces related to the increase in square footage of the building need to be provided.
- F. Relocation or Removal.** Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of this Code.
- G. Remedy Non-Conforming Development or Lot.** Prior to occupancy after discontinuation or abandonment of a non-conforming development or lot, the subject development or lot, as applicable, must be brought up to current Code standards or be removed.

## Chapter 5.3 Lots-of-Record

### Sections:

- 5.3.100**    **Lots of Record - Purpose**
- 5.3.200**    **Lots of Record - Applicability**
- 5.3.300**    **Lots of Record - Procedure**

### **5.3.100**        **Lots of Record - Purpose**

The purpose of Chapter 5.3 is to establish criteria and a process for determining when a lot of record exists.

### **5.3.200**        **Lots Record - Criteria**

A lot of record is a plot of land that was not created through an approved subdivision or partition, was created and recorded before *[effective date of City's first subdivision ordinance]*, and for which the deed, or other instrument dividing the land, is recorded with the County. A lot of record shall be entitled to development of no less than one single family dwelling and, provided all applicable Code standards are met, additional land use or development may be approved.

### **5.3.300**        **Lots of Record - Procedure**

A lot of record determination shall be made by the Community Development Director through a Type I procedure (Chapter 4.1.200). It shall be the property owner's responsibility to demonstrate that his or her plot of land is meets the lot of record criteria in Section 5.3.200.