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# CHAPTER 18 - ARTICLE 1

## DEFINITIONS AND USE CATEGORIES

### DEFINITIONS

**18.01.005 Definitions.** Additional specific definitions may also be found in specific Articles of this Chapter. Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary. The term “shall” is always mandatory and the word “may” is permissive. The masculine gender includes the feminine and neuter. In general, as used in this Code, the following words and phrases shall have the following meanings:

**Abatement of a Nuisance:** The act of removing, repairing, or taking other steps, as may be necessary in order to remove a nuisance.

**Abut:** Contiguous to; for example, two lots with a common property line. However, “abut” does not apply to buildings, uses, or properties separated by public right-of-way.

**Access:** The place, means, or way by which pedestrians or vehicles or both shall have safe, adequate and usable ingress and/or egress to a property, parking area or use. A private access is an access not in public ownership or control by means of deed, dedication or easement.

**Access Management:** City, County, or State regulations of access to streets, roads and highways from public roads and private driveways. Regulations may include but are not limited to restrictions on the siting of intersections, restrictions on the type, number and location of access to roadways, and use of physical controls, such as signals, channelization and raised medians.

**Accessory Apartment:** A self-contained living unit which is attached to or a part of a single-family dwelling, or constructed within an accessory structure built before December 1, 2005, and which is incidental and subordinate to the principal dwelling unit.

**Accessory Building:** A detached or semi-detached building the use of which is subordinate to and consistent with the principal use of the property. A residential accessory structure is not intended for human occupancy. Residential accessory structures may be attached to or detached from the residential structure. Examples of accessory structures include: garages, carports, sheds, and other non-dwelling buildings; decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs and walkways, and other exterior structures on the property.

**Accessory Structure or Use:** A structure or use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

**Access Driveway:** An unobstructed way of specified width containing a drive or roadway which provides vehicular access and connects to a public street.

**Accessway:** One or more connections that provide pedestrian and/or bicycle passage either between streets or between a street and a building, school, park, or other destination.

**Acreage, Net:** The net acreage for a site is defined as the proposal size expressed in acreage minus any unbuildable area. The following areas are deemed undevelopable for the purposes of calculating net acreage:

1. Street dedications and those areas used for private streets or alleys and common driveways; and
2. Environmentally constrained lands, such as open water areas or floodways.
3. Land set aside in separate tracts or dedicated to a public entity for schools, parks, or open space purposes.

**Active, Passive Solar Systems:** Active or indirect solar heating utilizes heat collection which is separate from the area being heated, with a mechanical method of transferring heat between the two areas. A passive solar system is any method which requires no external energy input to collect and disperse solar heat. In new building design, this means utilizing site design, building orientation, window placement, insulation, vegetation, etc. to heat and cool a building. Passive solar systems may also include the addition of such solar collectors as greenhouses, water traps, improved insulation, or other weatherization techniques.

**Added Traffic:** In terms of satisfying the analysis requirements of a Traffic Impact Analysis, “added traffic” is defined as traffic generated by developments or phases of developments that have received final development approval but are not yet occupied.

**Adjacent:** Near or close, but not necessarily abutting or contiguous to a property boundary. For example, a parcel next to, across an adjoining right-of-way from another parcel shall be considered “adjacent.”

**Adjoin:** See “Abut.”

**Adjustment:** A limited adjustment to provisions of this Code dealing with setbacks, spacing of trees, lot area, lot coverage, lot dimensions, parking and vision clearance (see Variance).

**Administrative Decision:** A decision made by applying the existing standards contained in this Code and without a public hearing.

**Adult Entertainment:** Adult entertainment uses are sexually-oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse. Such uses include but are not limited to, adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments which have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

**Affected Party, Type I Applications:** The person or party submitting the application (see Article 2, Type I Applications).

**Affected Party, Type II Applications:** The applicant, any party entitled to receive notice of the decision, anyone providing written comments within 14 days of the date of the notice, or anyone providing written comments prior to the decision (see Article 2, Type II Applications).

**Affected Party, Type III and IV Applications:** The applicant, any party entitled to receive notice of the hearing, anyone providing written or oral comments at the hearing(s), anyone providing written comments prior to the close of the hearing, or any Planning Commissioner or City Council member (see Article 2, Type III and IV Applications).

**Agricultural Use:** The term includes farming, dairying, pasturage, horticultural, floriculture, viticulture, apiaries, and animal and poultry husbandry; it does not include the operation of a feed lot or other commercial feeding of animals.

**Alley:** A public **or private** way not over 30 feet wide which provides a secondary means of access to private property.

**Alter, Alteration:** A change, addition, or modification in construction or occupancy of a building or structure. Where the term “alteration” is in reference to construction, it applies to a change, addition or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another.

**Amendment:** A change in the working, context, or substance of the Code, or a change in the zone boundaries or use district boundaries upon the zoning map or a change in the Comprehensive Plan.

**Apartment House:** See Dwelling, Multiple.

**Applicant:** The owner, or the authorized agent acting on behalf of the owner.

**Approved:** Meets the standards as set forth by applicable provisions of the Silverton City Code including any applicable regulations for electric, plumbing, building, or the sets of standards included by reference in this Chapter.

**Approval Authority:** The Director, Planning Commission, or City Council, whichever has jurisdiction for making a determination under the various provisions of this Code.

**Arcade:** A continuously covered area which functions as a weather-protected extension adjacent to a pedestrian way or sidewalk, with a minimum height of eight (8) feet above finished grade.

**Architectural Treatment.** Architectural treatment shall include, but is not limited to, scoring, changes in material texture, and the application of other finish materials such as wood, rock, brick, or tile wall treatment.

**Area:** The total area circumscribed by the boundaries of a lot or parcel, except that:

1. When the legal instrument creating the property shows the boundary extending into a public street right-of-way, then for purposes of computing the lot or parcel area shall be the street right-of-way line, or if the right-of-way cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street.
2. Private access easements, and the access strips to flag-lots, shall not be included when calculating the area.

**Area of Influence:** For purposes of fulfilling Traffic Impact Analysis requirements, “area of influence” is defined as, at a minimum, all points of access onto the public street system, all intersections of regional significance (arterials, collectors, and neighborhood routes) within 1,000 linear feet from all points of access onto the public street system, and all intersections where the traffic generated by the proposed development exceeds five (5) percent of existing a.m. or p.m. peak hour total intersection traffic volumes based on City-approved trip generation, assignment, and distribution calculations.

**Arterial Street:** A major street which functions primarily to move large amounts of traffic and is identified as such on the Master Street Plan.

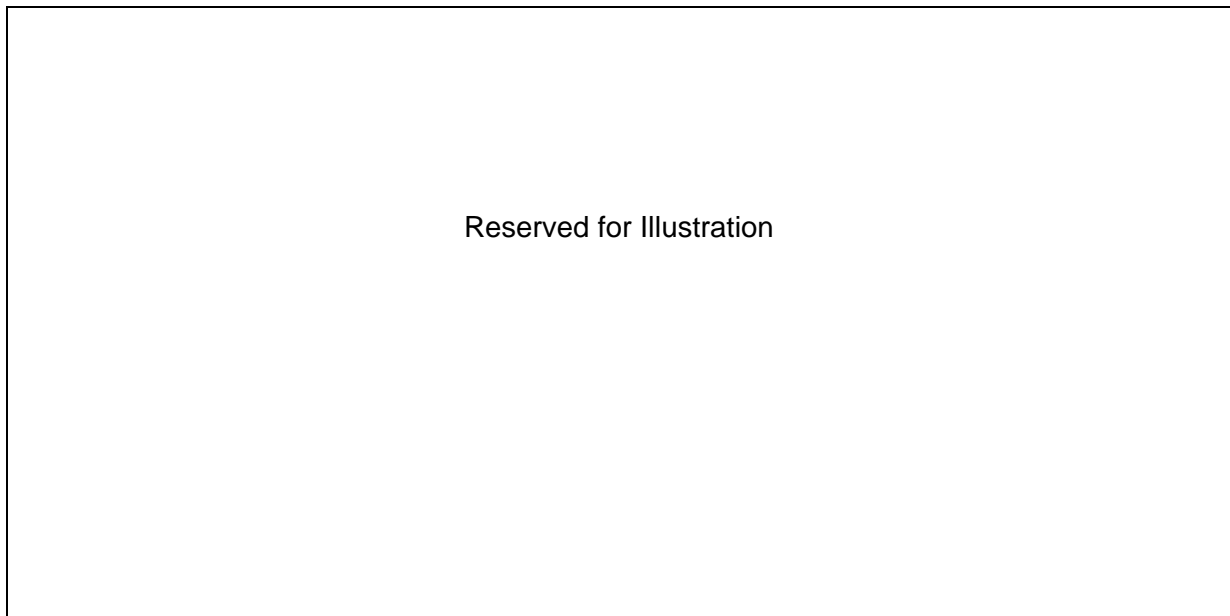
**Automotive Sales Area:** An open area, other than a street, used for the display, sale, or rental of new or used automobiles, and where no repair work is done, except minor incidental repair of automobiles to be displayed, sold, or rented on or from the premises.

**Automotive Services, Major:** Service or repair to motorized vehicles, which affect the body or frame. This term includes: painting, bodywork, steam cleaning, tire recapping, major engine or transmission overhaul or repair involving removal of a cylinder head or crankcase, and mechanical car washing.

**Automotive Services, Minor:** Service or repair to motorized vehicles, which does not affect the body or frame. This term includes: gasoline service stations; tire sales or installation, glass installation, radiator repair, detail shops, or other similar service or repair.

**Awning:** A roof like structure of fabric stretched over a rigid frame projecting from the elevation of a building designed to provide continuous overhead weather protection.

**Basement:** That portion of a building which is below the main entrance story and is partly or completely below grade, but is so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.



**Bed and Breakfast Establishment:** A structure designed and occupied as a residence in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid or to be paid for the rental or use of the facility.

**Bedroom:** A private room planned and intended for sleeping, separable from other rooms by a door and accessible to a bathroom without crossing another bedroom.

**Berm:** A mound of earth used to deflect sound or used as a buffer in landscaping provisions to separate incompatible areas or to provide aesthetic enhancement in site design.

**Bike Path, Lane, Way:** A bike path is completely separate from vehicular traffic and within an independent right-of-way or the right-of-way of another facility. A bike lane is part of the roadway or shoulder and delineated by pavement markings. A bikeway is any trail, path, or part of a highway, shoulder, sidewalk, or any other travelway specifically signed and/or marked for bicycle travel.

**Block:** An area of land containing one or more lots or parcels surrounded by streets, railroad rights-of-way, unsubdivided acreage, or a combination thereof or a parcel of land bounded by three or more streets in a subdivision.

**Block Length:** The distance measured along all that part of one side of a street which is between two intersecting or intercepting streets, or between an intersecting or intercepting street and a railroad right-of-way, water course, body of water, or undivided acreage.

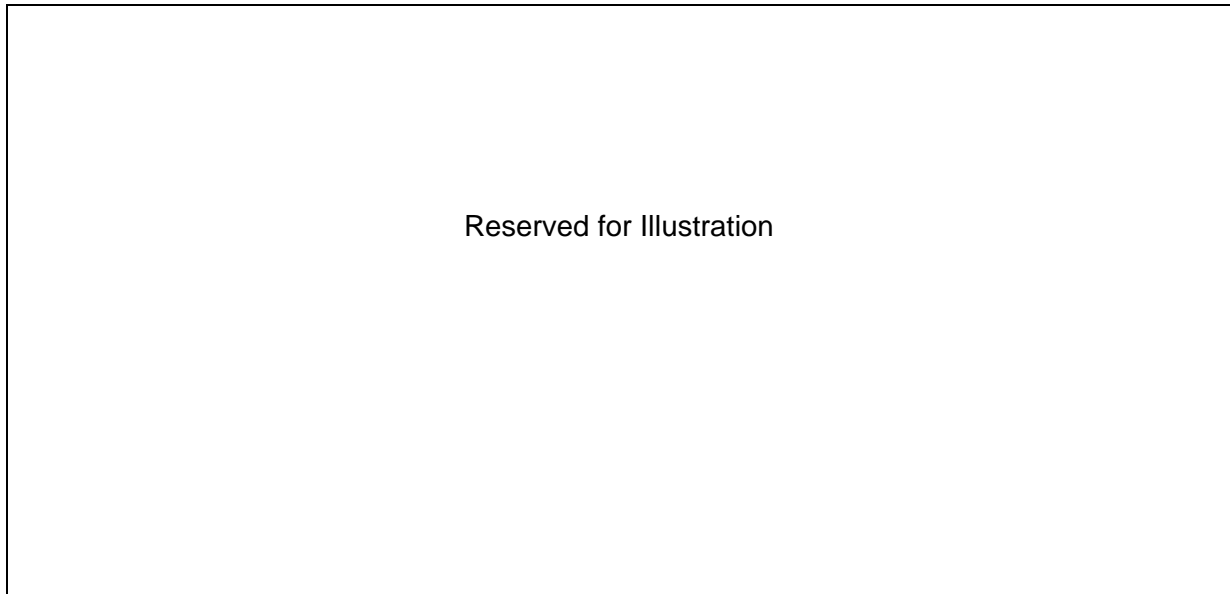
**Boarded:** Secured against entry by apparatus which is visible off the premises and is not both lawful and customary to install on occupied structures.

**Boarding House:** A building where lodging and meals are provided for more than two weeks for compensation, exclusive of bed and breakfast homes or other homes or institutions providing supervisory care.

**Bollard Luminares:** A luminaire that is attached to or incorporated into the design of bollards and are primarily used for the lighting of non-vehicular circulation areas, including but not limited to pedestrian pathways and bicycle pathways.

**Bond, Performance or Security:** Collateral security for the performance of a specific action or duty imposed by the City.

**Buffer, Buffering:** A landscaped area which provides a separation between potentially conflicting land uses.



**Buildable Area:** That portion of a property that can be occupied by the principal use, exclusive of the front, rear and side yard setbacks.

**Buildable Lot:** Any legal lot of record. Lots of record less than or meeting the minimum lot size for hillside development and having buildable areas with average slopes exceeding 34% shall be limited to no more than one dwelling unit. Parcels of record which contain areas with average slopes exceeding 34% slope shall be limited to lots meeting the minimum lots sizes as specified in the Hillside Overlay district.

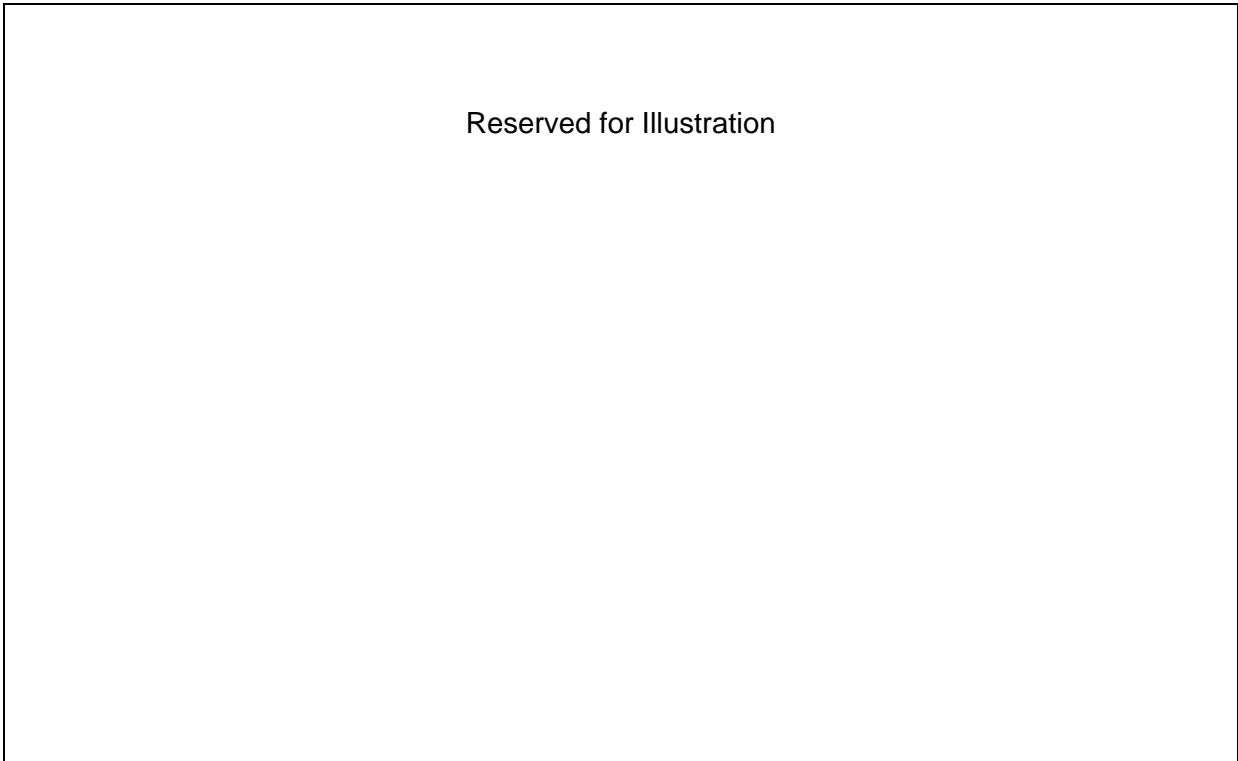
**Building:** Any structure used or intended for supporting or sheltering any use or occupancy. Recreational vehicles shall not be considered buildings.

**Building Coverage:** The portion of a lot or parcel covered or occupied by buildings and required parking lots or other structures with the exception of fences.

**Building Envelope:** The building pad site or the lot area exclusive of required setbacks.

**Building Face:** An exterior wall of a building that generally faces one direction and that is visible from the public right-of-way. A building face is broken by a change in building direction of 60 degrees or more, except for minor extensions or indentations that are shorter than 50 percent of the building frontage.

**Building Height:** The vertical distance measured from the lowest grade plane to the average height of the highest roof surface. See illustration on following page.



**Building, Principal:** A building within which is conducted a principal use permitted on a lot.

**Building Official:** The Superintendent of the Building Division or a person designated by the City Manager as such.

**Bulk Fuel Dealership:** A use which includes a refueling gas station that dispenses fuel without the aid of an onsite attendant, to a pre-approved credit customer through a special access card-lock system or its equivalent.

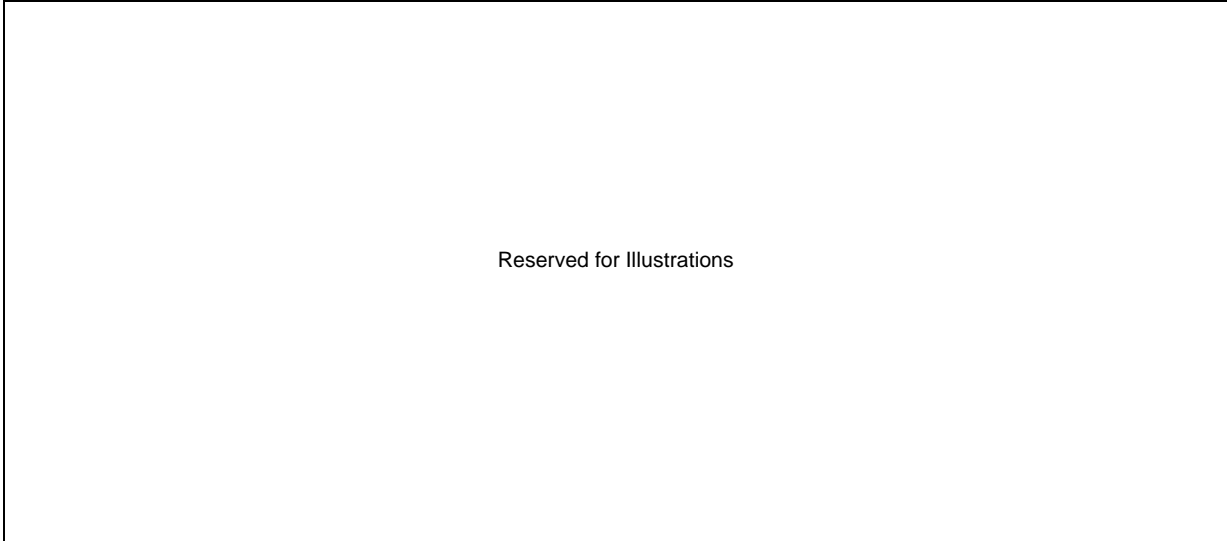
**Bulk Retail Use:** A retail use that is housed in a warehouse style building, is developed as a warehouse style building both on the interior and exterior, sells primarily institutional sized or multi-pack products in bulk quantities, has limited hours of operation and is not part of a larger shopping center.

**Buffer Area:** A landscaped area including a wall, berm, or fence used to separate and protect land uses.



**Cabana:** A stationary structure with two or more walls, used in conjunction with a manufactured home to provide additional living space and meant to be moved with the manufactured home.

**Caliper Measurement:** The thickness of trees measured in inches. A caliper measurement for trees shall be measured 12 inches above the soil line, or across the stump if the tree has been severed at less than 12 inches above the soil line.



**Candle Power:** The amount of light that will illuminate a surface one (1) foot distance from a light source to an intensity of one (1) foot candle. Maximum (peak) candle power is the largest amount of candle power emitted by any lamp, light source, or luminaire.

**Capacity:** The maximum sustainable flow rate at which vehicles or persons reasonably can be expected to traverse a point or uniform segment of a lane or roadway during a specified time period under given roadway, geometric, traffic, environmental, and control conditions; usually expressed as vehicles per hour, passenger cars per hour, or persons per hour.

**Canopy:** Area of the tree above ground including the trunk and branches measured in mass or volume.

**Canopy:** A roof-like structure projecting from the elevation of a structure designed to provide overhead weather protection that maintains at least an eight foot (8') clearance above the ground.

**Carport:** A structure consisting of a roof with its supports and which is entirely open on two or more sides and is used for sheltering a motor vehicle.

**Cemetery:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries.

**Certified Arborist:** An individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification, or who is a member of the American Society of Consulting Arborists.

**Child Care Home:** A residence or other facility within which day time care is provided for less than thirteen children (including the children of the provider) under the age of fifteen years and may require a license from the State of Oregon Children's Services Division.

**Child Care Institution:** An institution, establishment, or place in which are regularly received at one time thirteen or more children under the age of fifteen years, for a period not exceeding 12 hours, for the purpose of being given board, care, or training apart from their parents or guardians and which also requires a license from the State of Oregon Children's Services Division.

**Change in Use:** A change to a parcel of land, a premise or a building which creates a change in vehicular trip generation activities, which changes the minimum parking requirements of this Code, or which changes the use classification as defined by this Code or the Uniform Building Code.

**Channelization:** The improvement of a waterway to ensure containment of flow within a designated alignment. The purpose for such is to minimize erosion and retain a long range capability to convey the maximum flow discharge. This work may be accomplished with the use of native materials, vegetation, rip-rap, as well as structural improvements.

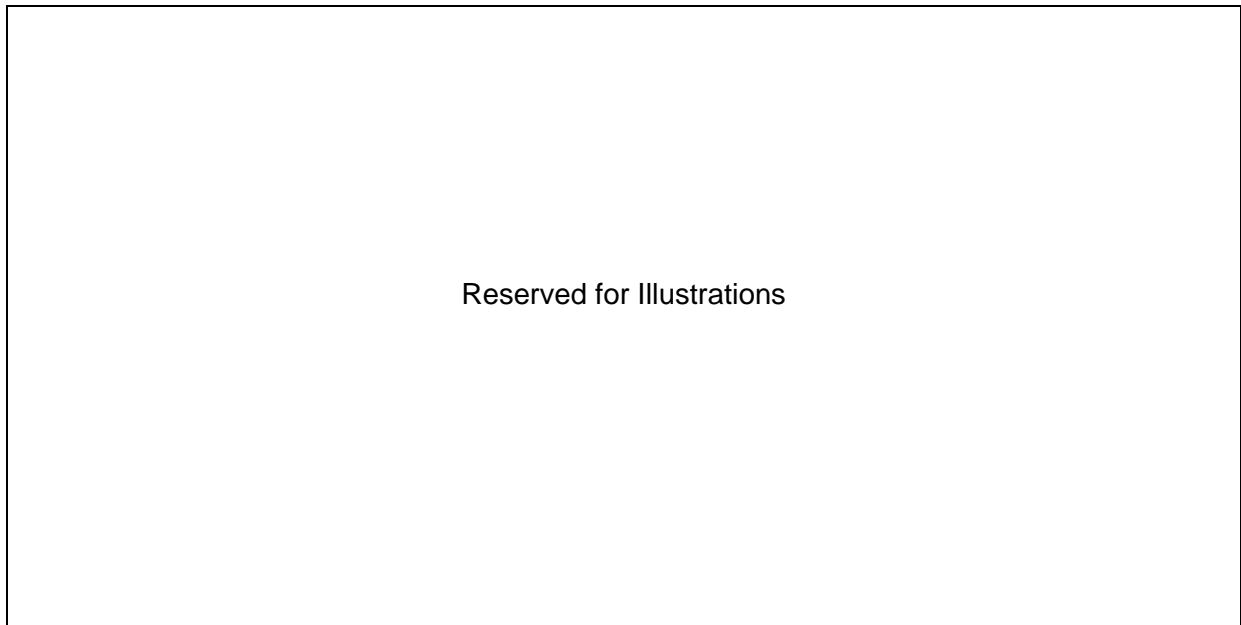
**City:** The City of Silverton.

**City Council:** The Council of the City of Silverton is composed of an elected body of officials responsible for overseeing the management of the city.

**City Engineer:** The Director of the Department of Engineering and Public Works of the City of Silverton or a person designated as such by the City Manager.

**City Recorder:** The Finance Director of the City of Silverton or the duly authorized representative.

**Clear-Vision Area:** A triangular area at the intersection of two rights-of-way, or a driveway and a right-of-way, two sides of which are lines measured from the corner intersection of the right-of-way lines for a specific distance. The third side of the triangle is a line across the corner of the lot adjoining the ends of the other two sides. Where the lines at the intersections have rounded corners, the right-of-way lines will be extended in a straight line to a point of intersection.



Reserved for Illustrations

**Clinic:** Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and members of the healing arts, including incidental and appropriate accessory uses including a dispensary to such offices to handle only merchandise customarily prescribed by occupants in connection with their practices.

**Code, This:** The short title of the City of Silverton Development Code which shall be deemed to include the text of this Code, the accompanying zoning map, and all amendments made hereafter to either.

**Collector Street:** A major street which transports traffic from local streets to the arterial street system and is identified as such on the Master Street Plan.

**Collector Street, Neighborhood:** Streets which are identified on Figure 27, page 87 of the Transportation System Plan. The intent of this designation is to recognize that certain segments of these streets have predominant characteristics such as street trees, narrow streets, substandard rights-of-way and/or substandard home setbacks located in well established neighborhoods.

**Co-Location:** The location of two or more antenna systems operated by the same or separate FCC licensees ("providers") on a tower dedicated solely to this use.

**Commercial Trade School:** Any private school or institution operated for profit that is not included in the definitions of an educational institution or school.

**Commission:** The City of Silverton Planning Commission.

**Common Open Space:** An area, feature, building or other facility within a development intended for the use by the residents of the development.

**Community Center:** A publicly-owned and/or publicly-operated facility that serves the community at-large and provides a venue for cultural events, entertainment, athletic, social, recreational, governmental and/or multi-purpose uses. Uses may include, but are not limited to commercial kitchens, classrooms, events involving social or fraternal gatherings, exercise

areas, gymnasiums, meeting rooms, multi-purpose rooms, office spaces, public and non-profit social service organizations, spectator sports, swimming pools, and areas for public display, such as a museum, auditorium, theater and/or stage.

**Comprehensive Plan:** An official document which establishes the future land use pattern and land use policies for the City, as may be currently established by the City Council for guidance of physical, economic, and social growth of the city.

**Conceptual Master Site Development Plan:** A master development plan for an institution or other large development which describes anticipated development over time in general terms, in lieu of detailed descriptions of each proposed phase of development. Such a conceptual plan can contain generic site development and design elements with which all future development will comply including but not limited to general architectural standards and materials, on-site vehicular and pedestrian circulation, a sign program, and/or baseline traffic and parking studies and improvement programs.

**Conditional Use Permit:** A discretionary permit for a use requiring special consideration due to items such as the size of area affected, the nature of the use, the creation of potential traffic problems, or the affect on adjoining land uses.

**Condominiums:** A type of residential development offering individual ownership of units and common ownership of open spaces and other facilities and regulated, in part, by State Law (ORS 91.010.900).

**Conference Center:** A building or group of buildings operated primarily for the accommodation of people engaged in a group study project which may be known as "symposium," "seminary," "conference," "workshop," or "short course" and which may have such incidental uses as those customarily found in hotels to serve those engaged in such a project. Rentals of living accommodations within the building may be made available independent of any group study project.

**Continuing Care Retirement Community:** A facility which includes administrative offices, medical offices, ancillary services, independent living units, residential care facilities, assisted living facilities, adult foster care, and nursing and long term care.

**Controlled Access Street:** Encourages indirect access to abutting properties primarily by shared driveways, frontage drives, interconnecting parking lots, or some other means where practical, or some other means as needed to allow for efficient local circulation.

**Council:** The City of Silverton City Council.

**Court:** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

**Courtyard:** A landscape area enclosed by two or more walls.

**Coverage:** See lot coverage.

**Criteria:** A general rule or test on which a judgment or decision can be based.

**Crown Cover:** The area within the drip line or perimeter of a foliage of a tree.

**Cul-de-sac:** A short street which has one end open to traffic and usually terminated by a vehicle turnaround. Cul-de-sac length is measured along the centerline of the roadway from the near side right-of-way of the nearest through traffic intersecting street to the farthest point of the cul-de-sac right-of-way.

Reserved for Illustrations

**Cul-de-sac Bulb:** The circular radius at the end of a cul-de-sac.

**Dangerous Building or Structure:** Any building or structure which has any of the conditions or defects described in Section 15.08.380 of the Silverton Municipal Code.

**Day(s):** Shall mean calendar days, unless working days are specified which shall mean Monday through Friday or days that the City of Silverton Community Development Department is open for business.

**De Novo:** A new hearing usually without consideration of any previous hearing testimony and as if no decision previously had been rendered.

**Dead Tree:** A tree that is lifeless. Evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches, or lack of any growth during the growing season.

**Derelict Building:** Any building or structure which has any of the conditions or defects described in Section 15.08.370 of the Silverton Municipal Code.

**Decision, Effective Date of:** Unless otherwise provided, the date of the final written land use order.

**Decision Making Authority:** Either the Director, the Planning Commission, or the City Council, depending on the context in which the term is used.

**Denial:** The decision to deny a proposal by the appellate decision making authority.

**Design Plan:** A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes, but is not limited to, a land use and circulation plan, development standards, design guidelines, an open space plan, utilities plan and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the Subdivision or Design Review process.

**Density:** The intensity of dwelling units per unit of land expressed as the number of acres of land per dwelling unit. The net density for any lot or parcel is computed by dividing the net acreage of the parcel by the number of dwelling units.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to construction, installation, or change of a building or other structure, land division, establishment or termination of a right of access, storage on the land, drilling and site alteration such as that due to land surface mining, dredging, paving, excavation, site clearing or grubbing in amounts greater than ten cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 20% of the existing vegetation in a water quality resource area on a lot is defined as development.

**Development Permit:** A permit issued by the Director for a development which is in compliance with this Code and the Comprehensive Plan.

**Development Site:** A tract of land either unsubdivided or consisting of two or more contiguous lots of record which, on the effective date of this Ordinance or subsequently, came under single or common ownership and continued to be so owned at the time a development permit was applied for.

**Diameter at Breast Height (DBH):** The diameter of the trunk of a tree measured at forty-eight (48) inches above natural grade.

**Director:** Director of the City's Community Development Department or his/her designee.

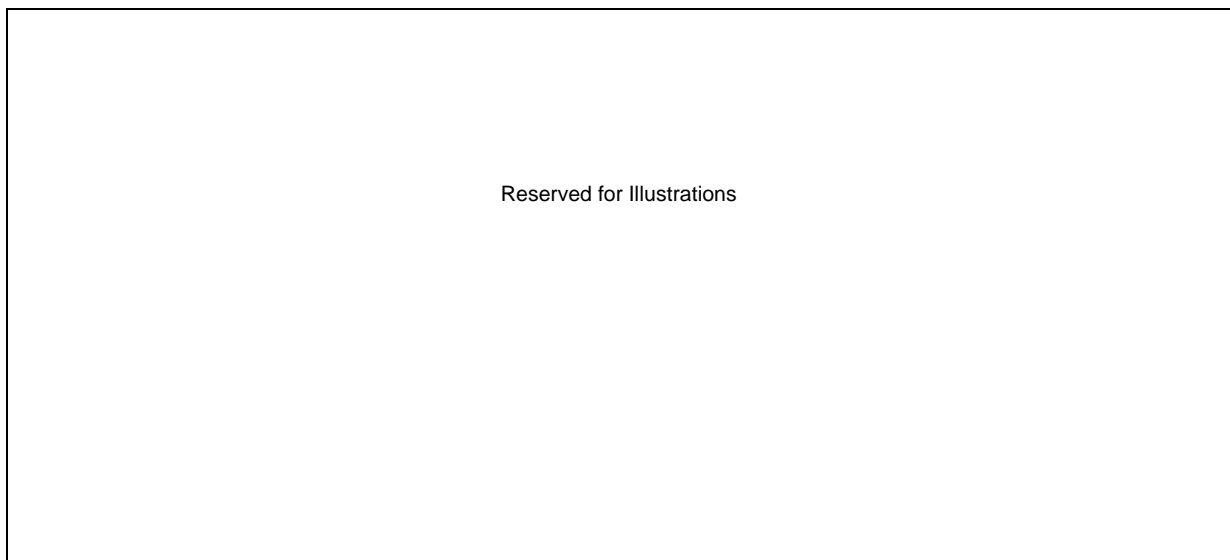
**Direct Access:** The provision for immediate ingress and egress of vehicles from an abutting property to an adjacent street.

**District:** A portion of territory of the city within which certain uniform regulations and requirements of this Code apply.

**Dividing Land:** See Land Divisions.

**Drainageway:** Any natural or manmade watercourse, trench, ditch, swale, or similar depression into which surface water flows.

**Drip Line:** A line on the ground below the edge of the maximum overhead canopy of a tree.



**Drive-in Use:** Any commercial use which permits the driver to transact business from an automobile.

**Drive-up Window:** A facility, whether it be a primary or accessory use, other than automobile service station, which is designed to allow patrons to make purchases or receive services at a window or service area while remaining in their motor vehicles.

**Duplex:** A building under single or common ownership designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

**Dwelling, Attached:** A dwelling that is attached to another dwelling, excluding accessory dwellings.

**Dwelling, Detached:** A dwelling that is not attached to any other dwelling, excluding accessory dwellings.

**Dwelling, Live/Work Unit:** A dwelling unit combining residential use types with commercial or limited industrial use types. This use classification includes, but it not limited to home office, live/work facilities or other similar uses.

**Dwelling, Multiple:** A building under single or common ownership designed and used for occupancy by two or more families, all living independently of each other, and having separate housekeeping facilities for each family.

**Dwelling, Single Family:** A building designed or used exclusively for the occupancy of one family including adult foster care homes, and having housekeeping facilities for only one family and, if attached, is under separate ownership from any attached dwelling.

**Dwelling Unit:** One or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, cooking, and eating.

**Dwelling Unit, Quad:** A dwelling, which for purposes of this Code shall count as two dwelling units, which has separate sleeping and living quarters for four individuals but which is centered around a common kitchen facility.

**Dwelling Unit, Quint:** A dwelling, which for purposes of this Code shall count as two and one-half dwelling units, which has separate sleeping and living quarters for five individuals but which is centered around a common kitchen facility.

**Dying Tree:** A tree with greater than 20 percent dead limbs during the growing season.

**Easement:** A recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

**Eating or Drinking Establishments:** An establishment where meals or drinks (either alcoholic or non-alcoholic) are prepared and served to the public for consumption. This use includes: Restaurants, Cafes, Delicatessens, Sandwich Shops, Coffee Houses, and Taverns or Bars or other establishments primarily engaged in serving alcoholic beverages.

**Educational Institution:** Any bona-fide place of education or instruction, including customary accessory buildings, uses, and activities, that is administered by a legally organized school district; church or religious organization; the State of Oregon; or any agency, college, and university operated as an educational institution under charter or license from the State of Oregon. An educational institution is not a commercial trade school.

**Employees:** All persons, including proprietors, working on the premises during the largest shift at peak season.

**Evergreen:** A plant which maintains year-round foliage.

**Ex-parte Contact:** Contact or information passed between a party with an interest in a quasi-judicial land use decision and a member of the City Council or Planning Commission, when such information is not generally available to other members of the Council or Commission, other interested persons. The member shall disclose any pre-hearing or ex-parte contacts with applicants, officers, agents, employees, or other parties to an application before the Council or Commission. Ex-parte contacts with a member of the Commission or Council shall not invalidate a final decision or action of the Commission or the Council, provided that the member receiving the contact indicates the substance of the content of the ex-parte communication and of the right of parties to rebut said content at the first hearing where action will be considered or taken.

**Extra Capacity Improvements:** Improvements that are defined as necessary in the interest of public health, safety and welfare of the citizens of Silverton to increase the capacities of collector or arterial streets; water, sewer, storm drainage or other utility facilities; and parks and open space.

**Family:** An individual or two or more persons related by blood or marriage or a group of unrelated individuals (at a density of not more than two people per bedroom) which is established in structure and appearance to resemble a traditional family unit. In cases where a Group Care Home takes on the appearance of a family, it shall be considered a Group Care Home and subject to all applicable regulations of this Code.

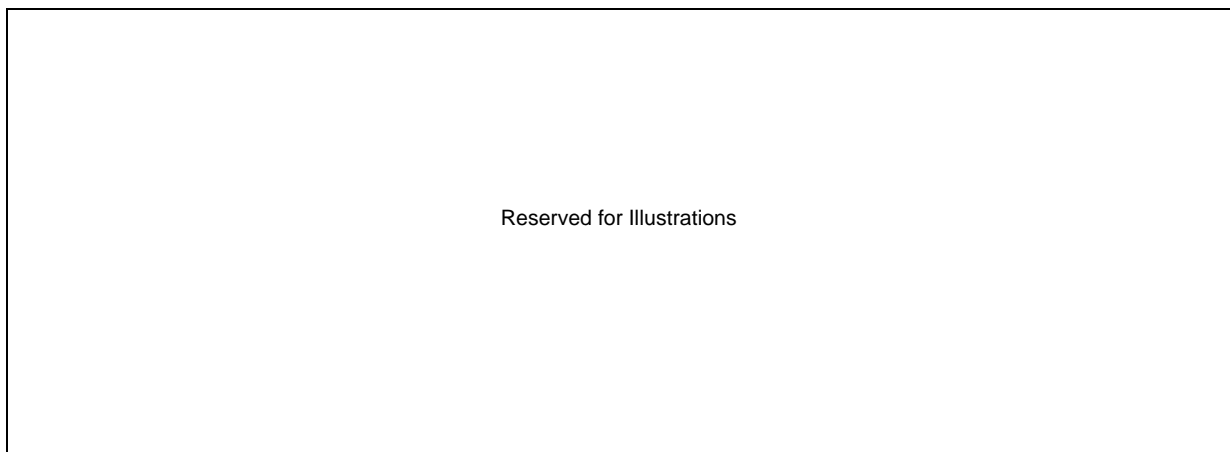
**Fence:** an unroofed barrier or an unroofed enclosing structure or obstruction constructed of any materials including but not limited to, wire, wood, cement, brick, and plastic.

**Fence, Sight-Obscuring:** A barrier grown, placed or constructed for the purpose of obstructing movement or vision.

**Fill:** Any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pulled or transported on the site and includes the conditions resulting there from. The placement of fill is development of land.

**Findings:** Written statements of fact, conclusions and determinations based on the evidence presented in relation to the approval criteria and accepted by the approval authority in support of a decision.

**Flag Lot:** A building lot which is provided access to a public street by means of a narrow strip of land with minimal frontage.





**Floor Area:** The combined floor area on each level or story of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, rooms designed and used for the purpose of storage and operation of maintenance equipment, and enclosed or covered parking area.

**Foot Candle:** A unit of illumination. One foot-candle is the intensity of illumination with a source of one (1) candlepower illuminates a screen one foot away.

**Frontage:** That portion of a property which abuts a street right-of-way and is ordinarily regarded as the front of the parcel, except that either side of a corner lot may be deemed the front of the parcel.

**Future Street Plan:** An approved street plan indicating the location of future streets within undeveloped or partially developed portions of the Urban Growth Area.

**Garage:** An accessory building or portion of a principal building used for the parking or storage of vehicles.

**Garage, Private Parking:** A structure having one or more tiers of height used for the parking of automobiles for the tenants, employees, or owners of the property for which the parking spaces contained in or on said garage are required by Article Seven and are not open for use by the general public.

**Garage, Public Parking:** A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons, or clients which are required by this Article provided said parking spaces are clearly identified as free parking space(s) for the building or use.

**Garage, Repair Major:** Service or repair to motorized vehicles, which affect the body or frame. This term includes: painting, bodywork, steam cleaning, tire recapping, major engine or transmission overhaul or repair involving removal of a cylinder head or crankcase, and mechanical car washing.

**Garage, Repair Minor:** Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: gasoline service stations; tire sales or installation, glass installation, radiator repair, detail shops, or other similar service repair.

**Glare:** The brightness of a light source, which may cause eye discomfort.

**Goals:** Statements identified as such in the Comprehensive Plan.

**Governmental Bodies:** Shall mean city, county, state and federal boards, councils, commissions, and agencies and the like.

**Grade (Adjacent Ground Elevation):** The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from and parallel to the building.

**Grade, Existing:** The grade prior to grading.

**Grade, Rough:** The stage at which the grade approximately conforms to the approved grade.

**Grade, Finished:** The final grade of the site which conforms to the approved plan.

**Gross Floor Area:** The combined floor area on each level or story of a building as measured within the exterior walls of such building, except areas used exclusively for the service of the building such as mechanical equipment spaces and shafts; elevators, stairway, escalators and ramps; public rest rooms, loading docks or ramps.

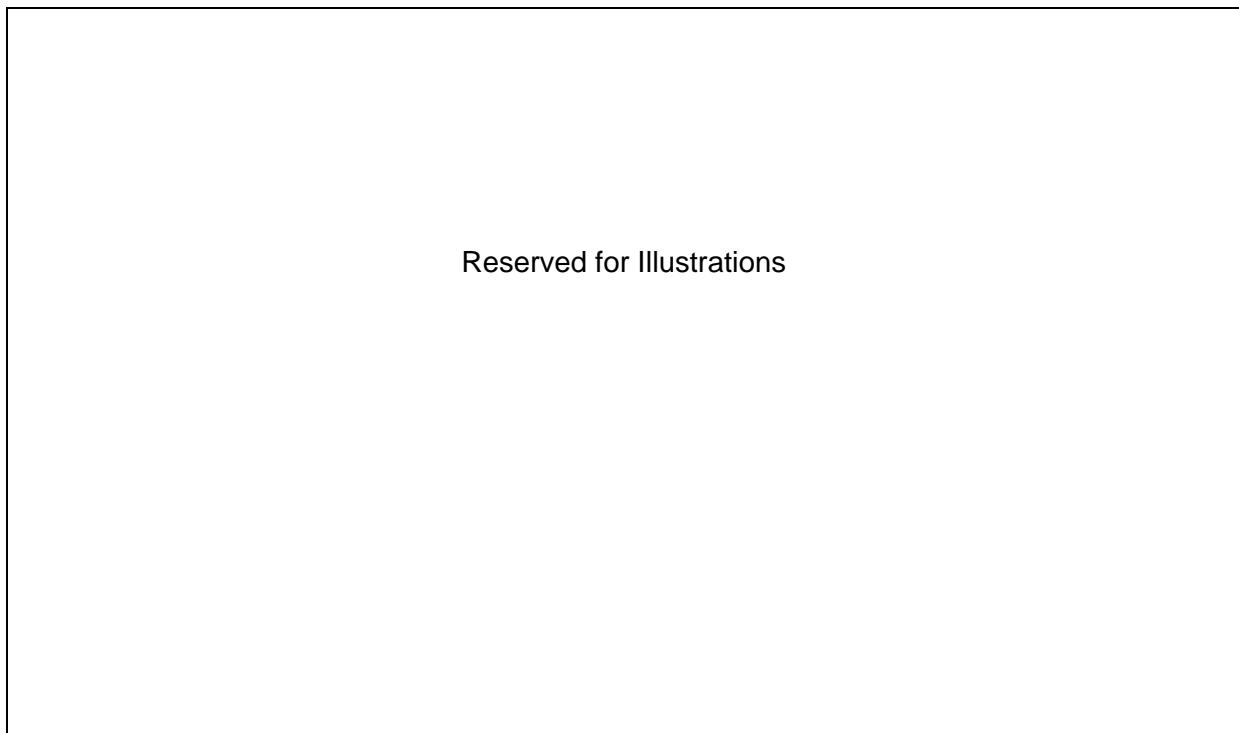
**Ground Floor Area:** The total area of a building measured by taking the largest outside dimensions of the buildings, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

**Group Care Home:** Any private or public institution maintained and operated for the care, boarding, housing, or training of five or fewer physically, mentally, or socially handicapped or delinquent, elderly or dependent persons by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of such persons.

**Guest House:** An accessory building used for the purpose of providing temporary living accommodations, and containing no kitchen facilities.

**Half or Three-quarters Street:** A portion of the width of a street, usually along the side of a subdivision where the remaining portion of the street could be provided in another subdivision.

**Hammerhead:** Hammerhead: A type of turn-around that is comprised of a short pair of opposed or angled sections of roadway at the terminus of a street or private access drive designed to allow emergency vehicles, service vehicles, or passenger vehicles to turn around. Hammerheads shall meet City of Silverton Public Works Department and Silverton Fire District approval standards.

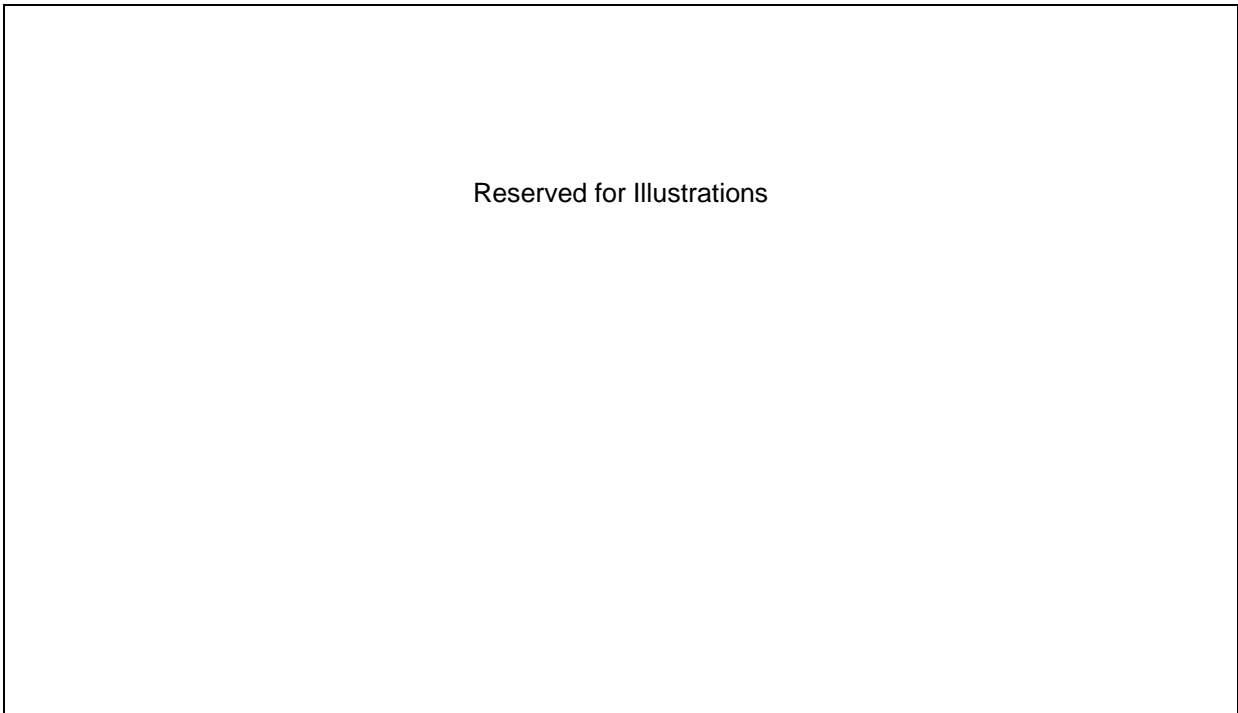


**Hard Surface:** Any man-made surface that prevents or retards the saturation of water into land, or that causes water to run-off in greater quantities or increased rates, than existed

under natural conditions prior to development. Common hard surfaces include but are not limited to: roofs, streets, driveways, sidewalks, and graveled, oiled, macadam or concrete surfaces. Also referred to an impermeable surface.

**Hazardous Materials:** Materials defined by the current adopted Fire Code.

**Height of Building:** The vertical distance above “Grade” as defined herein to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The measurement may be taken from the highest adjoining sidewalk to ground surface within a five-foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.



**High Volume Traffic Generation:** All uses involving the sales, rental, and servicing of goods, merchandise, and equipment which cannot be classified as Low Volume Traffic Generation (see definition of Low Volume Traffic Generation).

**Historic District:** A geographic area with a high concentration of historical, architectural, archeological or cultural Landmarks and/or a high concentration of contributing resources.

**Home Occupation:** An occupation carried on within a dwelling provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

**Homeowners Association:** A formally organized group of homeowners within a single housing development having shared responsibility for portions of the development such as building, landscaping, or parking maintenance, or other activities provided for by covenant or legal agreement.

**Hospitals:** Institutions devoted primarily to the rendering of healing, curing, and/or nursing care which maintain and operate facilities for the diagnosis, treatment, and care of two or more non-related individuals suffering from illness, injury, or deformity, or where other healing, curing, and/or nursing care is rendered over a period exceeding 24 hours.

**Hospital, Small Animal:** A building, together with animal runs, in which veterinary services, clipping, bathing, boarding, and other services are rendered to dogs, cats, and other small animals and domestic pets.

**Hotel (Motel, Motor Hotel, Tourist Court):** A building or group of buildings used for transient residential purposes containing six or more rental units which are designed to be used, or which are used, rented, or hired out for sleeping purposes on a day-to-day basis. Such rooms customarily do not contain full kitchen facilities, but may include kitchenettes.

**Household:** All persons occupying a group of rooms or a single room which constitutes a dwelling unit.

**Indirect Access:** The provision for ingress and egress of vehicles from an abutting property to an adjacent street that is shared by two or more properties or is channeled by some means indirectly to the adjacent street.

**Indoor Recreation Area:** A room or rooms within an enclosed building which is designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided for within an indoor recreation area may include, but are not limited to, the following: indoor swimming pools, saunas, gymnasiums, exercising rooms, dance floors, tennis or handball courts, and games such as pool, ping pong, shuffleboard, etc.

**Intersection:** The meeting or crossing of public and/or private streets or accessways at a common space.

**Junk:** Materials stored or deposited in yards and open areas for extended periods, including inoperable or abandoned motor vehicles, inoperable or abandoned machinery, motor vehicle and machinery parts, broken or discarded furniture and household equipment, yard debris and household waste, scrap metal, used lumber, and other similar materials.

**Junkyard:** Any premises upon which any of the following are kept outside an enclosed building:

1. The principal components of more than one (1) inoperable and unregistered vehicle.
2. The principal components of more than five (5) inoperable washers, dryers, hot water heaters, stoves, ranges, televisions, video cassette recorders, radios, stereos, or other major appliances.
3. More than six (6) inoperable bicycles or lawnmowers.

This definition is not intended to include salvage yards, which are separately defined in this Code.

**Kennels:** A lot or premise on which four or more adult dogs are kept, whether by the owner(s) of the dogs or by person(s) providing facilities and care, whether or not for compensation. An adult dog is one that has reached the age of six months or has canine teeth.

**Land Divisions:** The creation of a lot or parcel of land through the process of subdividing or partitioning land or through the leasing of land for more than three years, or less than three years if the lease may be renewed under the terms of the lease for a total period more than

three years; or through the sale of interest in a condominium as that term is defined in ORS Chapter 91; or through sale of any security interest under a land sales contract, trust deed, or mortgage.

**Landscaping:** The term “landscaping” includes ground cover, trees, grass, bushes, shrubs, flowers, and garden areas and any arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas and artificial turf or carpeting creating an attractive and pleasing environment and screening unsightly views.

**Landmark:** Those buildings, structures, objects or sites that are fifty (50) years old or older that are significant or important because of historic, architectural, archeological, or cultural value as shall be designated by the Silverton City Council. All designated Landmarks shall have a location, a physical description, photograph and a discussion of the landmark’s significance. Buildings, structures, objects or sites that are less than 50 years old may be designated if they are exceptional in terms of historic, architectural, archeological or cultural value.

**Landscape Area(s):** An open area unoccupied except for landscaping. Pathways sufficient to provide access to buildings are permitted within a landscape area.

**Legislative:** A land use decision that applies to an entire zoning district or a large number of individuals or properties or that establishes or modifies policy or procedure.

**Level of Service (LOS):** A measure of the overall comfort afforded to motorists as they pass through a roadway segment or intersection, based upon such things as impediments caused by other vehicles number and duration of stops, travel time, and the reserve capacity of a road or an intersection (i.e., that portion of the available time that is not used). LOS generally is referred to by the letters “A” through “F”. with LOS “E” or “F” being generally unacceptable.

**Limited Access Street:** A street which allows only indirect access to abutting properties primarily by distributing traffic to intersecting lesser volume streets or some other means as needed to allow for efficient local circulation.

**Loading Space:** An off-street space or berth on the same lot with a main building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading which abuts a street, alley, or other appropriate means of ingress and egress.

**Local Wetland Inventory:** An inventory of the City’s wetland resources adopted pursuant to Statewide Planning Goal 5.

**Lot:** A portion of a subdivision intended as a unit for transfer of ownership or for development. Lots may be occupied by principal and accessory structures, together with the yards or open spaces required, and must have legal access to public right-of-way. Lots are exclusive of units of land created solely to establish a separate tax account.

**Lot Area:** The computed area contained within the lot lines, exclusive of street or alley rights-of-way and easements of access to other properties.

**Lot, Corner:** A lot abutting two intersecting streets, other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

**Lot, Coverage:** That portion of a lot which, when viewed directly from above, would be covered by a building, or any part of a building, except any area covered by a structure where fifty percent or more of the perimeter of such structure is open from grade.

**Lot, Depth:** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line excluding any “panhandles.”



**Lot, Depth Average:** The horizontal distance measured from the midpoint of the front lot line to the midpoint of the rear lot line.

**Lot, Flag:** A lot that is either accessed by an easement or accessed by a strip of land.

**Lot, Frontage:** That portion of a lot nearest the street. For the purpose of determining yard requirements, all sides of a lot adjacent to a street shall be considered frontage and yards shall be provided as required.

**Lot, Interior:** A lot other than a corner lot.

**Lot Line:** Any property line bounding a lot.

**Lot Line Adjustment:** The adjustment of a lot line of a recorded lot or parcel by the relocation of a common boundary where an additional lot or parcel is not created and where an existing lot or parcel is not reduced below the minimum requirements established by the zoning ordinance.

**Lot Line, Front:** A property line contiguous with any street line.

**Lot Line, Interior:** Any lot line other than a front lot line.

**Lot Line, Rear:** A lot line which is opposite and most distant from the front lot line and in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

**Lot Line, Side:** A lot line which extends from any front lot line to a rear lot line, or in the case of a corner, triangular or irregular shaped lot, to another side lot line.

Reserved for Illustration

**Lot of Record:** A lot shown as part of a recorded subdivision or approved partition map; or any parcel of land described by metes and bounds in a recorded deed, record of survey, or other appropriate document recorded in the Office of the County Recorder prior to December 12, 1956. No lot or parcel of land created without complying with the provisions of the Land Division Requirements of the State of Oregon and the City Subdivision Ordinance is recognized as a lot of record.

**Lot, Through:** A lot having frontage on two (2) parallel or approximately parallel streets.

**Lot, Width:** The average horizontal distance between the side lot lines, ordinarily measured parallel to the rear lot line (excluding lot “panhandles”) at the front and rear setbacks.

**Low Volume Traffic Generation:** Uses such as furniture stores, floor covering stores, major appliance stores, wholesale sales, equipment rental stores, equipment servicing, etc. that sell or service items that are large and bulky that need a relatively large amount of storage, display, or service area per item, or that provide customer services primarily off-site, and that, therefore, generate substantially less customer traffic per square foot of usable space than stores or services dealing in smaller items or onsite services.

**Luminaire:** A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

**Main Entrance:** The principle building entrance intended for the use by the general public, employees or residences. A main entrance door may not be a door that is locked during normal business hours.

**Maintain:** To cause or allow to continue in existence; when the context indicates, maintain shall mean to preserve and care for a structure, improvement, conditions or area so that it remains attractive, safe and presentable, and carries out the purposes for which it was installed, constructed, or required.

**Major Partition:** A partitioning of property into 2 or 3 parcels in a calendar year including the creation of a road or street.

**Major Zoning District:** The primary zone designation of property within the City such as R-1 or RS-7.

**Manager:** The City Manager of the City of Silverton or his designee or person otherwise appointed by the City Council.

**Manufactured Home:** A dwelling unit constructed on one or more chassis in an off-site manufacturing facility and designed to be used with a foundation as a dwelling unit on a year-round basis with approved connections to water, sewer, and electric utility systems. A commercial coach, motor home, camper, or other unit originally designed as a recreation vehicle is not a mobile or manufactured home for purposes of this Code and is not permitted for occupancy purposes outside of approved locations for such units.

**Manufactured Home Park:** A parcel of land under common ownership on which four or more manufactured homes are occupied as residences and which conforms to the regulations of this Code.

**Manufactured Home Space or Lot:** A plot of ground within a home park or subdivision designed for the accommodation of one manufactured home, its accessory structures, parking spaces, and required yard areas.

**Manufactured Home Subdivision:** A subdivision developed under the provisions outlined in Article 13 in this Code and that meets the standards for conventional subdivisions as prescribed by State Statutes and this Code. Manufactured home subdivisions are designed for sale of lots for residential occupancy by manufactured homes.

**Marginal Access (or Frontage Street):** A minor street parallel and adjacent to a major arterial street providing access to abutting properties and protection from through traffic.

**Master Plan:** A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes a land use and circulation plan, development standards, design guidelines, an open space plan, utilities plans and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the land use review processes of this Chapter.

**Maximum Permitted Illumination:** The maximum illumination measured in foot-candles at the property line or, if required, at the interior buffering line at ground level.

**Mini Storage Units:** A facility designed and intended to be used for the rental of storage units to individuals for the safekeeping of personal items.

**Minor Partition:** A partitioning of property into 2 or 3 parcels in a calendar year that does not include the creation of a road or street.

**Minor or Local Street:** A street used exclusively for access to abutting properties.

**Mobile Home:** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

**Modular Home:** A factory fabricated transportable building designed to meet the Uniform Building Code to be used by itself or incorporated with similar structures or units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include buildings constructed at a site from prefabricated panels, trusses, and other prefabricated supplements.



**Motel or Tourist Court:** A transient occupancy use with external pedestrian access to rental rooms and with or without vehicular access to rooms and with or without cooking facilities and in which each lodging unit has a separate entrance from the exterior.

**Motor Vehicle and Trailer Sales Area:** A lot used for display, sale, or rental of new or used motor vehicles or trailers where no repair work is done except minor, incidental repairs of motor vehicles or trailers to be displayed, sold, or rented for use off the premises.

**Multiple Use Development:** A building or groups of buildings under one ownership, designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: residential, office, retail, recreational, light industrial, and other miscellaneous uses.

**Native Under-story or Vegetation:** Foliage layer located between the floor and the canopy of a forest, wood, or grove containing plant materials that have origins in the Willamette Valley Region of the state of Oregon.

**Natural Areas:** Natural areas may include, but are not limited to wetlands, riparian areas, Significant Natural Resource Areas, and significant groves of trees.

**Nonconforming Building:** Any building which lawfully existed prior to the effective date of this Code but which due to the requirements adopted herein, no longer complies with the height, yard, area, and coverage regulations, off-street parking requirements, or other provisions of this Code.

**Nonconforming Development:** Any physical development of land which lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the site development standards of this Code for the zoning district in which the development is located.

**Nonconforming Lot:** A parcel of land which lawfully existed as a lot on the effective date of this Code or which is legally created after the effective date of this Code, but which in either case does not conform to the lot area and lot dimension standards for the zone in which it is located.

**Nonconforming Situation:** An inclusive term for nonconforming lot, nonconforming use, nonconforming building, and/or nonconforming development.

**Nonconforming Use:** Any use which lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the schedule of permitted uses and which has not been deemed terminated under the provisions of this Code. Uses allowed in certain use districts by Conditional Use Permit but which were existing on the effective date of this Code without a Conditional Use Permit shall also be considered as nonconforming.

**Notification Area:** An area bounded by a line, parallel to the boundary of a subject lot. As used in this section "subject lot" includes not only the lot that is the subject of the proceeding for which notice is required, but also includes any contiguous lot in which any applicant or owner of the subject lot has either sole, joint, or common ownership, or an option to purchase, in whatever form. In the event that the application does not apply to the entire lot, the boundary of the notification area shall be measured from the lot line, not the boundary of the portion of the lot.

**Notification List:** A certified list prepared not more than 30 days prior to the submission of an application by a Title Company, the Marion County Assessor's Office or the City which

includes the names and addresses of all property owners within the notification areas as shown in the Marion County Assessor's records.



**Nuisance Vegetation:** Plant species that invade natural areas eventually resulting in their domination of native plant species.

**Nursing Home:** A home, place or institution which operates and maintains facilities providing convalescent and/or nursing care for periods exceeding 24 hours. Convalescent care may include, but is not limited to, the procedures commonly employed in the nursing and caring for the aged and includes rest homes and convalescent homes, but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility licensed under ORS.

**Official Zoning Map:** The map which indicates the zones in the City of Silverton.

**Open Space, Active:** Open space where human activities occur which include recreational and social opportunities such as play fields, playgrounds, swimming pools, plazas, and other recreational facilities. Parking lots and storage areas for vehicles and materials shall not be considered open space.

**Open Space, Passive:** Open space where human activities are limited to defined walking and seating areas. Passive open space does not include environmentally sensitive areas such as a wetland.

**Outdoor Living Area:** Outdoor or semi-outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, landscaped areas, balconies, porches, patios, terraces, verandas, outdoor swimming pools, play areas, tennis courts, walkways, and similar areas developed for active or passive recreational activities. Outdoor living area does not include accessways, parking and loading areas, strips between buildings less than ten feet in width, storage areas, and other areas not usable for outdoor activities.

**Oversized Lot:** A lot which is greater than twice the required minimum lot size allowed by the subject zoning district.

**Owner:** Where used in relationship to real property, "owner" means the legal owner of record or, where there is a recorded land sales contract in force, the purchaser thereunder.

**Parking Area, Private:** Privately or publicly owned property, other than streets and alleys, on which parking spaces are defined, designated, or otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required and not open for use by the general public.

**Parking Area, Public:** Privately or publicly owned property other than streets or alleys, on which parking spaces are defined, designated, or otherwise identified for use by the general public, either free or for remuneration.

**Parking Space:** A permanently maintained paved surface with proper access for one standard-size automobile.

**Partition:** To divide an area or tract of land into two or three lots within a calendar year when such an area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. Partitioned land does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and partition land does not include any adjustment of a lot line. Partition land does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

**Pedestrian Connection:** A continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, shared-use paths, accessways, ramps, stairways and pedestrian bridges.

**Pedestrian Way:** A right-of-way through a block to facilitate pedestrian access to adjacent streets and properties. Pedestrian ways include but are not limited to sidewalks, walkways, shared-use paths, accessways, ramps, stairways and pedestrian bridges. Pedestrian ways include any paved public or private route intended for pedestrian use, including a bicycle/pedestrian path and/or esplanade, regardless of use by other transportation modes.

**Pedestrian Scale:** Site and building design elements that are dimensionally smaller than those intended to accommodate automobile traffic flow and buffering. Examples include ornamental lighting no higher than twelve feet; brick, pavers or other paving modules with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the perception of the height of walls; and signage and signpost details designed for viewing from a short distance.

**Person:** A natural person, his/her heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid and the singular includes the plural.

**Person of Record:** A person who makes an appearance before the decision making authority in a proceeding through the submission of either written or oral testimony.

**Plan Map:** An officially adopted map of the City, including urban growth boundary, showing land use designations in the Comprehensive Plan.

**Planned Unit Development (PUD):** A tract of land having singular ownership and developed under provisions of this Code which provide for flexibility and innovation in design and placement of structures and which provide for detailed Planning Commission involvement in review and approval of such developments. The terms Planned Development (PD) and Planned Unit Development (PUD) may be used interchangeably.

**Planning Commission:** The Planning Commission of the City or any subcommittee thereof.

**Plat:** The map, drawing, or chart on which the subdivider's plan of subdivision is presented and which he/she submits for approval and intends in final form to record.

**Preservation:** The identification, study, protection, restoration, rehabilitation, or enhancement of designated Landmarks.

**Primary Entrance:** A building entry where a majority of building users, including employees, customers and visitors, enter the structure. A primary entry is typically differentiated from other entries by weather protection, directional signage, special features such as lobbies, reception areas, and other semi-public interior spaces designed to receive building users.

**Private Driveway:** A driveway to serve residential premises.

**Private Park:** A park, playground, swimming pool, tennis court, or other recreational facility which is under the control, operation or management of a Homeowner's Association or other non-governmental agency.

**Professional Office:** An office occupied by an accountant, architect, attorney-at-law, engineer, surveyor, land use planner, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts, or other professional business similar in type, scale and character.

**Pruning, Major:** Removal of greater than 20% of the tree's canopy or disturbance of over 10% of the root system.

**Pruning, Minor:** Removal of 5% and up to and including 20% of the tree's canopy or disturbance of 10% or less of the root system.

**Public Facilities and Services:** Projects, activities, and facilities which are necessary for the public health, safety, and welfare of the citizens of Silverton. These may include, but are not limited to, water, sanitary sewer, storm sewer, gas, electricity, telephone and wire communication service, cable television service lines, mains, pumping stations, reservoirs, poles, underground transmission facilities, substations, and related physical facilities which do not include buildings regularly occupied by employees, parking areas, or vehicle, equipment or material storage areas.

**Public Need:** A conclusion based on presentation of factual evidence which demonstrates that a particular request for a change is in the best public interest for economic, social, and environmental reasons.

**Public Right-of-way:** Any sidewalk, planting strip, alley, street or pathway, improved or unimproved, that is dedicated to public use.

**Public Park:** A park, playground, swimming pool, reservoir, athletic field, or other recreational facility which is under the control, operation or management of the City or other government agency.

**Public Place:** Any premise whether, privately or publicly owned, which by physical nature, function, custom, or usage, is open to the public at times without permission being required to enter or remain.

**Qualified Professional:** As the term applies to trees, a professional with academic and field experience that demonstrates expertise in urban forestry. This may include arborists certified by the International Society of Arboriculture, foresters, certified by the Society of American Foresters, a registered landscape architect, or silvaculturalist. A qualified professional must possess the ability to evaluate the health and hazard potential of existing trees, and the ability to prescribe appropriate measures for preservation of trees during land development.

**Ramada:** A structure having a roof extending over a manufactured home or manufactured home space which is designed for protection of the manufactured home from sun and rain.

**Recreational Vehicle:** A boat, camper, motor vehicle, or portable vehicular structure capable of being towed on the highways by a motor vehicle, designed and intended for casual or short-term human occupancy for travel, recreational and vacation uses. If identified in some manner as a recreational vehicle by the manufacturer or registered as such with the State, it is prima facie a recreational vehicle.

**Residential Care Facility:** Any private or public institution maintained and operated for the care, boarding, housing, training, or rehabilitation of six or more physically, mentally, or socially handicapped or delinquent, elderly, or drug or alcohol dependent persons in one or more buildings on contiguous properties but not including jails or other criminal detention facilities. Residential care facilities include but are not limited to nursing homes, rehabilitation centers, residential care and training facilities for the mentally and socially handicapped, delinquent youth care centers, and specialized health care homes.

**Residential Care Home:** A residence for five (5) or fewer unrelated physically or mentally handicapped persons and for the staff persons who need not be related to each other or any other home resident.

**Residential Local Street:** A street that is not intended to provide direct access to abutting residential properties and discourages through traffic movements not related to the neighborhood in which the local street is located.

**Residential Neighborhood Route:** A residential neighborhood route is a street that is usually long relative to local streets and provides connectivity to collectors or arterials. Neighborhood routes generally have more traffic than local streets and are used by residents in the area to get into and out of the neighborhood, but do not serve city wide/large area circulation.

**Residential Street:** A public way, land, cul-de-sac, local street or neighborhood route serving primarily access functions, directly or indirectly, that are predominantly residential in character or zoned for residential uses.

**Reserve Strip:** A strip of land located between a subdivision and other property and not dedicated to public use, but conveyed to the City for the purpose of giving the City control over development of adjacent property.

**Restrictive Covenant:** A legally binding limitation on the manner in which a tract of land or lot can be used, usually a condition placed on the deed.

**Retaining Wall:** A structure constructed of stone, concrete, steel or other material designed to retain or restrain earth or rock.

**Retail Trade:** The process of selling of goods to the consumer for direct consumption and not for resale.

**Right-of-way:** The area between boundary lines of a street.

**Roadway:** The portion or portions of a street right-of-way available for vehicular traffic.

**Root Zone:** Area of the ground around the base of the tree measured from the trunk to five (5) feet beyond the outer base of the branching system.

**Salvage Yard:** Any premises upon which any type of material is dismantled, stored, and disposed of for the purpose of recycling the base material or its components. It is the intention of this definition to include the type of operation commonly known as an auto wrecking yard but not including rummage, yard or garage sales of no more than four (4) days of duration. Three or more dismantled or inoperable vehicles on one lot shall constitute a salvage yard.

**Satellite Dish Antenna:** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive signals. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVRO's, and satellite microwave antennas.

**Scrap and Waste Materials Establishment:** A business that is maintained, operated or used for storing, keeping, buying or selling old or scrap copper, brass, rope, rags, batteries, paper, rubber, or debris; waste or junked, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts (except wrecking yards), iron, steel, or other old scrap metal or non-metal materials. Scrap and waste material establishments do not include drop stations, solid waste transfer stations, or recycling depots.

**Service Station:** A place or station selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping, and mechanical car washing which necessitates equipment to wash more than one car at a time and at which accessory sales or incidental services are conducted.

**Service Driveways:** Any driveway constructed, installed, maintained in or over any portion of the public streets for the purpose of ingress and egress of vehicles from the street to the property abutting the street.

**Setback Line:** The minimum allowable horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a principal building or structure as defined herein. The point of line of reference will be the lot line following any required dedication, or a special or reservation line if one is required pursuant to this Chapter.

**Shall:** As used in this Chapter, is mandatory.

**Sight Clearance or Vision Clearance Area:** A triangular shaped area in the vicinity of an intersection that must be kept clear of visual obstruction in order to maintain safe operation of the intersection. Sight clearance or vision clearance areas are identified in Article 5, Public Improvements. (See illustrations under Clear Vision Area.)

**Site Plan:** A plan, prepared to scale, showing accurately and with complete dimensions all the uses proposed for a parcel of land, and other information as required by specific sections of this Chapter.

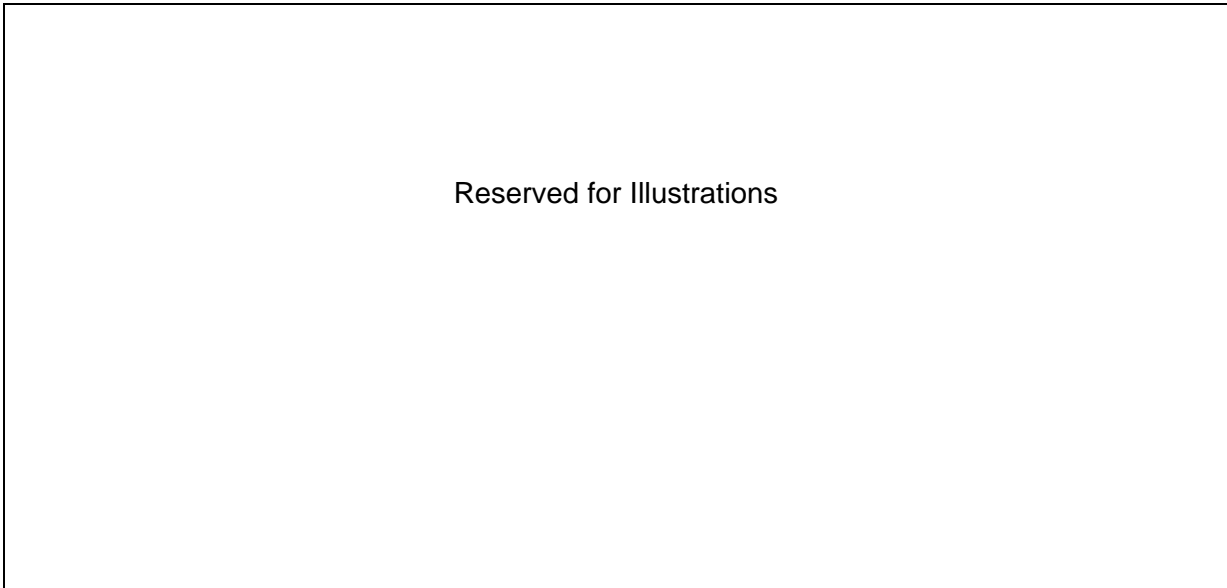
**Special Purpose District:** Overlay zone designations which set forth specific land use regulations in addition to the standards of the underlying major zoning district.

**Staff:** An employee or employees of the City of Silverton.

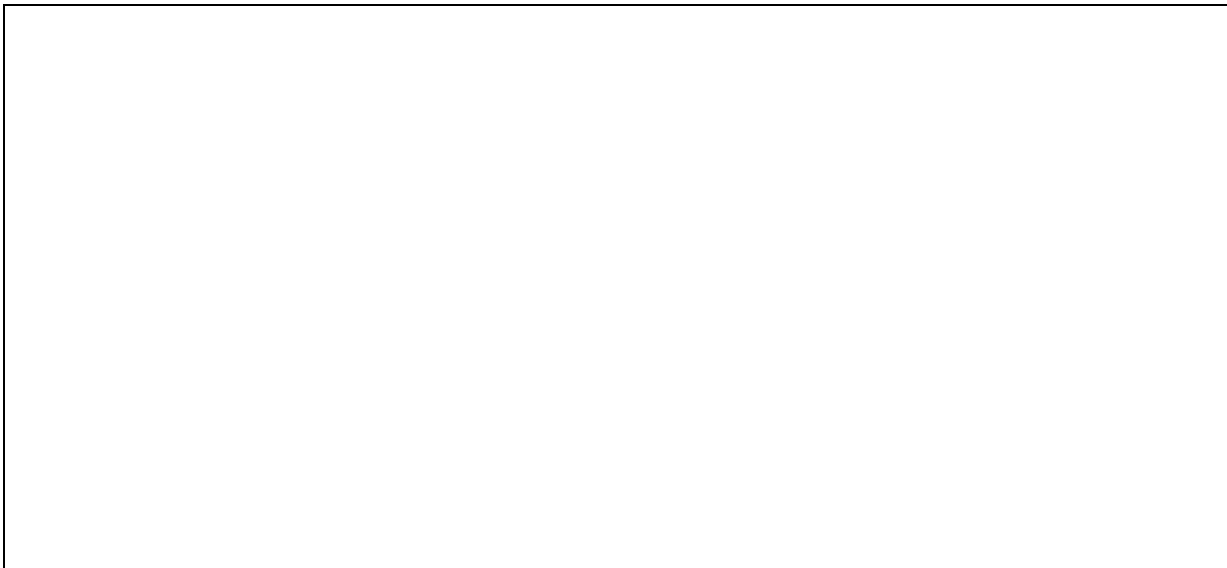
**Stand:** A hard surfaced area within a manufactured home space or lot designed for placement of a manufactured home.

**Storage Yard:** Any lot, or portion of a lot, which is used for the sole purpose of the outdoor storage of fully operable vehicles, construction equipment, construction materials or other tangible materials and equipment.

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.



**Story, Half:** A basement or cellar, except as provided in this Code, which has less than six feet of its height above grade.



**Street:** A public thoroughfare or right-of-way dedicated, deeded or condemned; other than an alley, which affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road, and other thoroughfares except as excluded in this Code. The word “street” shall include all arterial highways, freeways, traffic collector streets, and local streets.

**Street Line:** A lot line abutting a street.

**Street Tree:** Any tree located within the public right-of-way or private right-of-way or easement for vehicular access or within 10 feet of any private right-of-way or easement.

**Structure:** Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Subdivide Land:** Means to divide a parcel of land into four or more parcels of less than five acres each for the purpose of transfer of interest or ownership, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the division.

**Subdivision:** Means either an act of subdividing land or a tract of land subdivided as defined in this Code.

**Substantial Action:** Means that the use authorized by the approval has commenced and that substantial erection, alteration, excavation, demolition, or similar work necessary before the commencement of construction of the building has taken place or more than ten percent (10%) of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized has been completed on the site.

**Substantial Construction:** Any physical improvement of a property, the cost of which equals or exceeds fifty percent of the fair market value of the property before the improvement was started.

**Temporary Residence:** A residence (which may be a manufactured home) that is: a) located on the same property as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or b) located on the same property as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed, or c) located on a nonresidential site and occupied by persons having construction or security responsibilities over such site.

**Temporary Use:** A use of land, buildings, or structures not intended to exceed twelve (12) months, unless otherwise permitted by this Code.

**Total Traffic:** In terms of satisfying the analysis requirements of a Traffic Impact Analysis, “total traffic” is broadly defined as the sum of existing traffic, added traffic, and site-generated traffic at build out of the proposed development.

**Townhouse:** Two or more common wall single family dwelling units, each unit of which is built upon an individually owned subdivided or partitioned lot or parcel.

**Traffic:** In terms of satisfying the analysis requirements of a Traffic Impact Analysis, “ traffic” is broadly defined as circulation of people and goods by all surface transportation modes –



automobiles, transit, trucks, pedestrians, and bicycles – in the vicinity of the proposed development.

**Traffic Calming:** The installation of speed humps, traffic circles or similar devices intended to discourage speeding or to discourage through traffic.

**Traffic Impact Analysis:** An analytical and informational document professionally prepared by a licensed professional Traffic Engineer or Civil Engineer in connection with a specific proposed land use application that forecasts the impacts of the proposed land use on the transportation system and suggests ways of off-setting the traffic impacts of the proposed new activities within a geographic area. A Traffic Impact Analysis is intended as a means to furnish evidence and discussion for the decision-making authority to adequately evaluate the criteria for approval.

**Traffic Management Plan:** A Traffic Management Plan is an analytical and informational document in connection with a specific proposed land use application that describes the impacts of added trips on residential streets and suggests ways of offsetting the impacts. A Traffic Management Plan is intended as a means to furnish evidence and discussion for the decision-making authority to adequately evaluate the criteria for approval.

**Travel Trailer:** A portable structure capable of being towed or driven, having a width of less than ten feet, and which is designed to be used as a temporary dwelling unit (see Recreational Vehicle).

**Trailer:** See Travel Trailer.

**Turn-Around:** See cul-de-sac or Hammerhead.

**Two-Family Dwelling:** A single family dwelling unit under single ownership with an accessory apartment containing not more than 600 square feet and with the accessory apartment designed for independent living and separate housekeeping facilities.

**Undevelopable Area:** An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slope, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or manmade conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

**Urban Growth Boundary:** An adopted boundary around the City which defines the area in which the City expects to grow, where public facilities will be extended, and where joint planning responsibilities are exercised with Marion County.

**Urban Services:** The term includes the following services and facilities: a public sanitary and storm sewer system, a public water supply, a street system, police and fire protections, public schools, public parks and library service.

**Use, Principal:** The purpose for which land or a building is arranged, designed, or intended or for which either land or a building is or may be occupied or maintained.

**Utility:** For the purposes of this Code, a utility includes but is not limited to a local exchange carrier or an electric, gas, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire or cable communications.

**Vegetation:** Any woody, perennial plant, deciduous, evergreen or coniferous which is not defined as a tree.

**Warehouse:** A structure or part of a structure used for storing and securing goods, wares or merchandise.

**Water-Dependent:** A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production, or source of water.

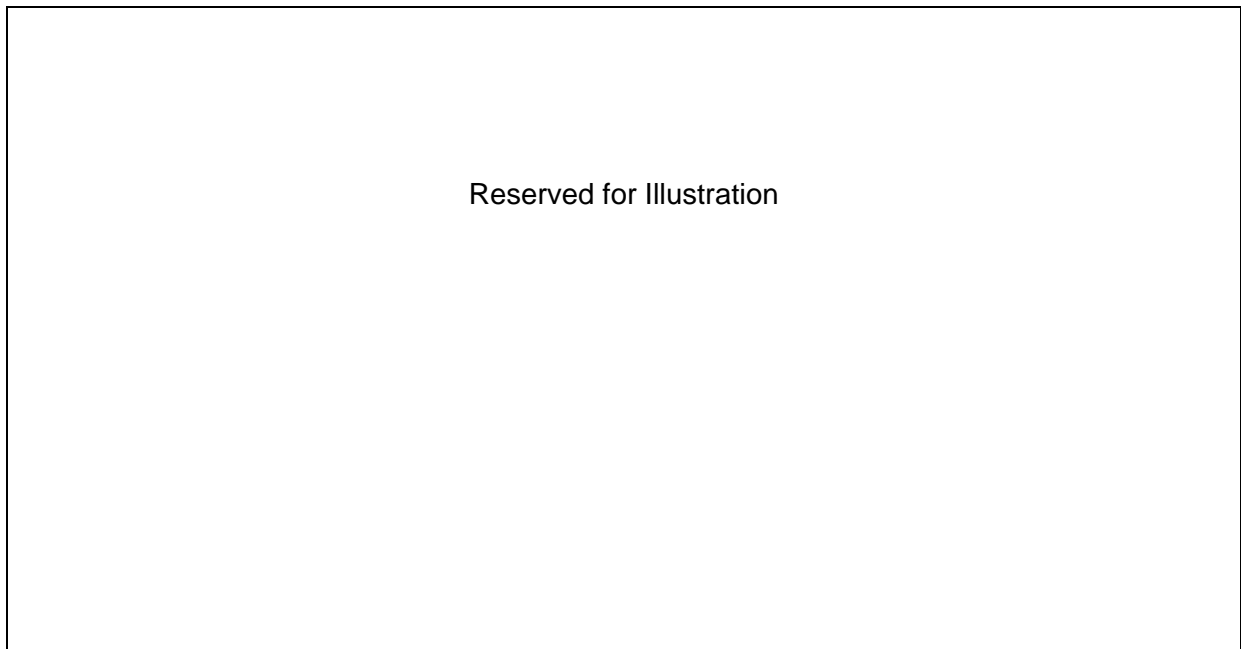
**Water-Oriented Use:** Any use which received a demonstrable benefit from being located with a view to a body of water. Examples might include restaurants, residential structures, and commercial structures when body of water views is incorporated into the design of the building.

**Water-Related:** Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

**Wetland:** Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**Wrecking Yard, Motor Vehicles, and Building Materials:** Any premises used for the storage, dismantling, or sale of used motor vehicles, trailers, machinery and/or building materials, or parts.

**Yard:** Any open space which is required, created, or is maintained on a lot and which is not obstructed from the ground up by any structure or building.



**Yard, Front:** The area which extends the full width of the lot between the front property line and the nearest point of any building on that same parcel.

**Yard, Interior:** Any yard, required or otherwise, which is not a front yard and which is adjacent to an interior lot line.

**Yard, Rear:** A yard, unoccupied except by a building or structure of an accessory type as provided by this Code, extending the full width of the lot between the rear lot line and the extreme rear line of a building.

**Yard, Side:** The yard along the side line of a lot and extending from the front setback line to the rear setback line.

**Zero-Lot-Line:** Attached or detached dwelling units which are constructed with only one side yard or no rear yard setback.

**Zoning District:** A classification of land in which only uses specified by this Code are allowed, except for nonconforming uses, and for which specific requirements are set forth pertaining to height, yard, area, coverage, landscaping, parking, and other land use restrictions.

## **USE CATEGORIES**

**18.01.010 Overview.** This section classifies land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain site factors. The use categories provide a systematic basis for assigning present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the goals and policies of the Comprehensive Plan.

The Schedules of Permitted Uses (by zoning district), special conditions and the development standards are located in Article 9, Residential Zoning Districts; Article 10, Commercial Zoning Districts; Article 11, Industrial Zoning Districts and Article 12, Public Zoning Districts. The environmental performance standards in Article 7, On-site Improvement and Environmental Standards, may limit the placement of certain uses in some zoning districts.

## **INDUSTRIAL USE CATEGORIES**

- 18.01.010.020 Contractors and Industrial Services
- 18.01.010.030 Manufacturing and Production
- 18.01.010.040 Railroad Yards
- 18.01.010.050 Warehousing and Distribution
- 18.01.010.060 Waste and Recycling Related
- 18.01.010.070 Wholesale Sales

## **COMMERCIAL USE CATEGORIES**

- 18.01.010.080 Adult Entertainment
- 18.01.010.090 Entertainment and Recreation, Indoor and Outdoor
- 18.01.010.100 Offices
- 18.01.010.110 Parking
- 18.01.010.120 Restaurants
- 18.01.010.130 Retail Sales and Service
- 18.01.010.140 Self-Serve Storage

- 18.01.010.150 Vehicle Repair
- 18.01.010.160 Vehicle Service, Quick (gas, oil, wash)

## **INSTITUTIONAL USE CATEGORIES**

- 18.01.010.170 Basic Utilities
- 18.01.010.180 Community Services
- 18.01.010.190 Daycare
- 18.01.010.200 Educational Institutions
- 18.01.010.210 Hospitals
- 18.01.010.220 Jails and Detention Facilities
- 18.01.010.230 Parks, Open Areas and Cemeteries
- 18.01.010.240 Religious Institutions

## **RESIDENTIAL USE CATEGORIES**

- 18.01.010.250 Group or Residential Care Facilities
- 18.01.010.260 Assisted Living
- 18.01.010.270 Single Family, Two Family
- 18.01.010.280 Live Work
- 18.01.010.290 Three or More Units
- 18.01.010.300 Units Above a Business
- 18.01.010.310 Residential Accessory Buildings

## **OTHER USE CATEGORIES**

- 18.01.010.320 Agriculture
- 18.01.010.330 Communication Towers and Poles
- 18.01.010.340 Kennels
- 18.01.010.350 Passenger Terminals
- 18.01.010.360 Rail and Utility Corridors

**18.01.020 Considerations.** 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 category. Developments may have more than one primary use. Developments may also have one or more accessory uses. The following are considered in determining what category the use is in, and whether the activities constitute primary uses or accessory uses:

1. The description of the activity(ies) in relationship to the characteristics of each use category;
2. The relative amount of site or floor space and equipment devoted to the activity;
3. Relative amounts of sales from each activity;
4. The customer type for each activity;
5. The relative number of employees in each activity;
6. Hours of operation;
7. Building and site arrangement;

8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the activity;
10. Signs;
11. How the use advertises itself; and
12. Whether the activity would be likely to be found independent of the other activities on the site.

**18.01.030 Developments with Multiple Primary Uses.** When all of the primary uses of a development fall into one use category, the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all of the primary uses are in that category. When the primary uses of a development fall into different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

**18.01.040 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. Common accessory uses are listed as examples with the categories.

**18.01.050 Use of Examples.** The “Use Examples” subsection of each use category provides a list of examples of uses that are included in the 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.

## INDUSTRIAL USE CATEGORIES

### **18.01.010.020 Contractors and Industrial Services.**

1. ***Characteristics:*** Contractors are engaged in mostly off-site activities. These include building construction and the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Industrial service uses serve businesses and industries; relatively few general public customers come to the site.
2. ***Accessory Uses:*** Accessory uses may include offices, parking, storage, rail spur or lead lines. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.
3. ***Use Examples:*** Types of uses include, but are not limited to: building, heating, plumbing or electrical suppliers and contractors; printing, publishing and lithography; tool repair; exterminators; laundry, dry-cleaning, and carpet cleaning plants; photo-finishing laboratories; bulk landscape materials including rocks, bark chips or compost; welding shops; machine shops; electric motor repair; repair of scientific or professional instruments; rental of equipment; sales, rental, repair, equipment storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; overnight or long-term equipment storage; heavy truck servicing and repair; tire

retreading or recapping; truck fueling stations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards.

4. **Exceptions:** If fabrication is not carried on at the site and equipment and materials are not stored on site, contractors and others who perform services off-site are included in the Office category.

#### **18.01.010.030 Manufacturing and Production.**

1. **Characteristics:** Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of products or energy. 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 the site. If they are, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
2. **Accessory Uses:** Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, truck fleets, or caretaker living quarters. Other living quarters are subject to the regulations for residential uses in the base zones.
3. **Use Examples:** Types of uses include, but are not limited to: the manufacturing, researching, testing, experimentation and development of products, including engineering and laboratory research, pharmaceuticals, medical and dental devices and instruments; manufacturing, assembly, or packaging of products from previously prepared materials (excluding vehicle repair shops); weaving or production of textiles or apparel; manufacture or assembly of machinery, equipment, instruments, including musical instruments, appliances, precision items, and other electrical items; movie production facilities; production of artwork and toys; printing, publishing and book binding; catering establishments; processing of food, beer, wine and related products, including slaughterhouses and meat packing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; sign making; crematoriums; wood products manufacturing; concrete and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; production of prefabricated structures, including manufactured homes; and energy production.
4. **Exceptions:**
  - A. Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service.
  - B. Small-scale manufacturing or assembly that is compatible with an office building is classified as Office.
  - C. Manufacturing and production of goods from composting organic material is classified as Waste and Recycling Related uses.

#### **18.01.010.040 Railroad Yards.**

1. **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.

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

#### **18.01.010.050 Warehousing and Distribution.**

1. **Characteristics:** Warehousing and Distribution firms are involved in 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.
2. **Accessory Uses:** Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.
3. **Use Examples:** Types of uses include, but are not limited to: 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; major wholesale distribution centers; trucks or trucking terminals; bus barns and rail barns; parcel services; major post offices; the overnight or long-term storage of vehicles or equipment (e.g., RV storage, contractor equipment storage) as the primary use; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.
4. **Exceptions:**
  - A. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste and Recycling Related uses.
  - B. Mini-warehouses are classified as Self-Serve Storage uses.

#### **18.01.010.060 Waste and Recycling Related.**

1. **Characteristics:** Waste-Related uses are 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.
2. **Accessory Uses:** Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by-products.
3. **Use Examples:** Types of uses include, but are not limited to: sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites.
4. **Exceptions:**
  - A. Disposal of dirt, concrete, asphalt, and similar non-decomposable materials is considered a fill.
  - B. Sewer pipes that serve a development are considered a Basic Utility.

#### **18.01.010.070 Wholesale Sales.**

1. **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. Products may be picked up on site or delivered to the customer.

2. **Accessory uses:** Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.
3. **Use Examples:** Types of uses include, but are not limited to: the 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, or building hardware.
4. **Exceptions:**
  - A. Firms that engage primarily in sales to the general public or on a membership Basis, are classified as Retail Sales and Service.
  - B. Firms that primarily store goods with little on-site business activity are classified as Warehousing and Distribution.

## COMMERCIAL USE CATEGORIES

### 18.01.010.080 Adult Entertainment.

1. **Characteristics:** Adult entertainment uses are sexually-oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse.
2. **Accessory Uses:** Accessory uses may include parking and general office.
3. **Use Examples:** Types of uses include, but are not limited to: adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments which have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

### 18.01.010.090 Entertainment and Recreation, Indoor and Outdoor.

1. **Characteristics:** Entertainment uses are characterized by activities that provide entertainment and recreational activity either indoors or outdoors. Activities are both spectator and participatory. Some entertainment uses are characterized by activities and structures that draw large numbers of people to specific events or shows.
2. **Accessory Uses:** Accessory uses may include food sales, offices, maintenance facilities and parking.
3. **Use Examples.**
  - A. **Indoor:** Types of uses include, but are not limited to: public or private athletic, exercise and health clubs or gyms; bowling alleys; skating rinks; game arcades; pool halls; theaters; indoor firing ranges.
  - B. **Outdoor:** Types of uses include, but are not limited to: miniature golf, driving ranges; drive-in theaters; fairgrounds; convention centers; sports complexes, ball fields,



coliseums or stadiums; equestrian centers and animal arenas; theme and water parks.

4. **Exceptions:**

- A. Golf courses are classified as Parks, Open Areas and Cemeteries.
- B. Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Retail Sales and Service.
- C. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
- D. Adult Entertainment is its own use category.

**18.01.010.100 Offices.**

- 1. **Characteristics:** Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.
- 2. **Accessory uses:** Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.
- 3. **Use Examples:**
  - A. Offices with limited customer traffic: Types of uses include, but are not limited to: corporate offices, company headquarters or financial and operational divisions; insurance headquarters; financial headquarters for brokerage houses, banks or other lenders; data processing; public utility offices; newspaper, television and radio offices and studios; and research labs.
  - B. Offices intended to provide personal or professional services to customers on-site: Types of uses include, but are not limited to: professional services such as lawyers, accountants, employment services, insurance and travel agencies; financial and investment services such as banks, lenders, or brokerage houses; real estate agents; sales offices; some government offices; medical and dental clinics or labs; veterinarians and animal hospitals; and blood collection facilities.
- 4. **Exceptions:**
  - A. Offices that are part of and 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 use category.
  - B. Contractors and others who perform 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. Otherwise, contractor offices are included in the Contractors and Industrial Services category.

**18.01.010.110 Parking.**

- 1. **Characteristics:** The Parking use category includes facilities that provide both accessory parking for a specific use and regular fee parking for people not connected to the use. The

Parking use category does not include parking that is required for a primary use on the same or adjacent property as the primary use. A fee may or may not be charged.

2. **Accessory Uses:** In a parking structure only, accessory uses may include gasoline sales, car wash, and vehicle repair activities if these uses provide service to autos parked in the garage, and not to the general traffic.
3. **Use Examples:** Types of uses include, but are not limited to: off-site parking lots for commercial, education, religious, and institutional uses; fee parking facilities, commercial district shared parking lots, park-and-ride lots, and mixed parking lots (partially for a specific use, partly for rent to others).
4. **Exceptions:**
  - A. Parking facilities that are accessory to a use, but which charge the public to park for occasional events nearby, are not considered Parking.
  - B. The overnight or long-term storage of vehicles or equipment (e.g., RV storage, contractor equipment storage) as an accessory use is not Parking. Overnight or long-term storage of vehicles or equipment as the primary use is classified as Warehousing and Distribution.

#### **18.01.010.120 Restaurants.**

1. **Characteristics:** Restaurants are involved in the sale of food and/or beverages to the general public. Businesses may also provide entertainment in addition to food sales.
2. **Accessory Uses:** Accessory uses may include offices, storage of goods and packaging of goods for sale on site, and parking.
3. **Use Examples:** Types of uses include, but are not limited to: cafes and delicatessens; restaurants with sit-down, carry-out, and fast food (with or without drive-through window), taverns, bars and night clubs.
4. **Exceptions:** Food sales at events and entertainment centers are accessory uses to the primary use type.

#### **18.01.010.130 Retail Sales and Service.**

1. **Characteristics:** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. Businesses may also provide personal services, or provide product repair or services for consumer and business goods. For the most part, operations are conducted within enclosed buildings, and outside storage is screened.
2. **Accessory Uses:** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.
3. **Use Examples:** Types of uses include, but are not limited to, uses from the four subgroups listed below:
  - A. **Convenience-oriented:** Retail items generally necessary or desirable for everyday living and usually purchased at a convenient nearby location. Because these goods cost relatively little compared to income, they are often purchased without comparison shopping.

- B. **Personal service-oriented:** Branch banks; urgent medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; private lodges or clubs; business and other trade schools; galleries; martial arts, dance or music studios; taxidermists; mortuaries; veterinarians; and animal grooming.
  - C. **Sales and service-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, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles; and hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days.
  - D. **Repair-oriented:** Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailors; locksmiths; and upholsterers.
4. **Exceptions:**
- A. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
  - B. Bulk sales of landscape materials, including bark chips and compost, is classified as Contractor and Industrial Services.
  - C. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair.
  - D. Repair and service of industrial vehicles and equipment and heavy trucks is classified as Contractor and Industrial Services.
  - E. Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
  - F. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop, which is classified as Contractor and Industrial Services.
  - G. In certain situations, such as short-term housing or mass shelter, hotels and motels may be classified as Community Services.
  - H. Public or private athletic, exercise and health clubs or gyms are classified as Entertainment and Recreation, Indoor.

**18.01.010.140 Self-Serve Storage.**

1. **Characteristics:** Self-Serve 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 or removing personal property.
2. **Accessory Uses:** Accessory uses may include security and leasing offices and caretaker living quarters. Other living quarters are subject to the regulations for Residential uses in the base zones. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Serve Storage use. Rental of trucks or equipment is also not considered accessory to a Self-Serve Storage use.

3. **Use Examples:** Examples include single-story and multi-story facilities that provide individual storage areas for rent. These uses are also called mini-warehouses.
4. **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.

#### **18.01.010.150 Vehicle Repair.**

1. **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.
2. **Accessory Uses:** Accessory uses may include offices, sales of parts, and vehicle storage.
3. **Use Examples:** Types of uses include, but are not limited to: vehicle repair, transmission or muffler shop, auto body and paint shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
4. **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.

#### **18.01.010.160 Vehicle Service, Quick (gas, oil, wash).**

1. **Characteristics:** Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits while the service is performed. Full-serve and mini-serve gas stations are always classified as primary uses (Vehicle Service, Quick), rather than accessory uses, even when they are in conjunction with other uses.
2. **Accessory Uses:** Accessory uses may include auto repair, oil change, tire and other retail sales.
3. **Use Examples:** Types of uses include, but are not limited to: full-serve and mini-serve gas stations, unattended card key stations, car washes, quick lubrication services, tire repair and Department of Environmental Quality vehicle emission test sites.
4. **Exceptions:**
  - A. Truck stops are classified as Contractors and Industrial Services.
  - B. Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) and which are on the site where the vehicles are kept, are accessory to the use.

## **INSTITUTIONAL USE CATEGORIES**

#### **18.01.010.170 Basic Utilities.**

1. **Characteristics:** Basic Utilities uses provide community infrastructure, including water and sewer systems, telephone exchanges, power substations and transit. Utility uses generally do not have regular employees at the site. Services may be public or privately provided.

2. **Accessory Uses:** Accessory uses may include parking, control, monitoring, data or transmission equipment.
3. **Use Examples:** Types of uses include, but are not limited to: 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; storm water facilities and conveyance systems; telephone exchanges; mass transit stops, transit centers, park-and-ride facilities for mass transit; and emergency communication broadcast facilities.
4. **Exceptions:**
  - A. Public Works projects, such as streets, utility lines, and pump stations.
  - B. Services where people are generally present, other than transit stops and park-and-ride facilities, are classified as Community Services or Offices.
  - C. Utility offices where employees or customers are generally present are classified as Offices.
  - D. Bus and light-rail barns are classified as Warehousing and Distribution.
  - E. 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 and Utility Corridors.
  - F. Energy production facilities are classified as Manufacturing and Production uses; see Section 18.01.010.030.

#### **18.01.010.180 Community Services.**

1. **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 that 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 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.
2. **Accessory Uses:** Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; daycare uses; and athletic facilities.
3. **Use Examples:** Types of uses include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, public safety facilities including fire and police stations, ambulance stations, drug and alcohol centers, social service facilities, 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 distribution centers.
4. **Exceptions:**
  - A. Private lodges, clubs, and private or commercial athletic or health clubs are classified as Retail Sales and Service.

- B. Parks and cemeteries are classified as Parks, Open Areas and Cemeteries.
- C. Uses where tenancy is arranged on a month-to-month basis (except at hotels/motels) or for a longer period are residential, and are classified under Residential use categories.

### **18.01.010.190 Daycare.**

1. **Characteristics:** A daycare facility is operated with or without compensation, and is certified by the state for the daytime care of children, teenagers or adults who need assistance or supervision, located in a building constructed as other than a single-family dwelling.
2. **Accessory Uses:** Accessory uses include offices, play areas, and parking.
3. **Use Examples:** Types of uses include, but are not limited to: nursery schools, preschools, kindergartens, before- and after-school care facilities, child development centers and adult daycare programs.
4. **Exceptions:**
  - A. Daycare use does not include care given by the parents, guardians, or relatives of the children, or by babysitters.
  - B. Daycare use also does not include care given by a “family daycare” provider as defined by ORS 657A.250 if the care is given to 12 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. Family daycare homes are allowed outright in residential, mixed use and commercial districts without site plan review. These homes may require a license from the State of Oregon Children's Services Division.

### **18.01.010.200 Educational Institutions.**

1. **Characteristics:** This category includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. They are certified by the State Board of Higher Education or by a recognized accrediting agency.
2. **Accessory Uses:** Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, support commercial uses, play areas, cafeterias and meals programs, recreational and sports facilities, auditoriums, and before- or after-school daycare.
3. **Use Examples:** Types of uses include, but are not limited to: universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools and military academies.
4. **Exceptions:**
  - A. Business, trade and vocational schools are classified as Retail Sales and Service.
  - B. Preschools are classified as Daycare uses.

### **18.01.010.210 Hospitals.**

1. **Characteristics:** Hospitals include uses providing medical or surgical care to patients and offering overnight care. Hospitals tend to be on multiple blocks or in campus settings.
2. **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.
3. **Use Examples:** Examples include hospitals and medical complexes that include hospitals or emergency care facilities.
4. **Exceptions:**
  - A. 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.
  - B. Medical clinics that provide care where patients are generally not kept overnight are classified as Office.
  - C. Urgency medical care clinics are classified as Office.

### **18.01.010.220 Jails and Detention Facilities.**

1. **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.
2. **Accessory Uses:** Accessory uses include offices, recreational and health facilities, therapy facilities, maintenance facilities, and hobby and manufacturing activities.
3. **Use Examples:** Types of uses include, but are not limited to: prisons, jails, probation centers, and juvenile detention homes.
4. **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.

### **18.01.010.230 Parks, Open Areas And Cemeteries.**

1. **Characteristics:** Parks, Open Areas and Cemeteries uses focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Land that tends to have few structures.
2. **Accessory Uses:** Accessory uses may include clubhouses, maintenance facilities, ball fields, concessions, caretaker's quarters, and parking.
3. **Use Examples:** Types of uses include, but are not limited to: parks, golf courses, cemeteries or mausoleums, public squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.

### **18.01.010.240 Religious Institutions.**

1. **Characteristics:** Religious Institutions are primarily intended to provide meeting areas for religious worship and activities.
2. **Accessory Uses:** Accessory uses include Sunday school facilities, parking, social halls, gymnasiums and other recreational activities, soup kitchens, caretaker's housing, group living facilities such as convents, and temporary shelter.
3. **Use Examples:** Churches, temples, synagogues, and mosques.

## **RESIDENTIAL USE CATEGORIES**

### **18.01.010.250 Group or Residential Care Facilities.**

1. **Characteristics:** A public or private facility for six or more unrelated persons who are physically, mentally or socially handicapped, delinquent, or drug- or alcohol-dependent; with a person residing on site who is not related by blood, marriage, legal adoption or guardianship to the residents, and who may be responsible for supervising, managing, monitoring them and/or providing care, training or treatment to them. The residents may or may not receive any combination of care, boarding, training, or treatment, as long as they also reside at the site. Larger facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month. Group or Residential Care Facilities include the state definition of residential care facility (in the Definitions).
2. **Accessory Uses:** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
3. **Use Examples:** Types of uses include, but are not limited to: group homes (for six or more residents); residential programs for drug and alcohol treatment; and alternative or post incarceration facilities.
4. **Exceptions:**
  - A. "Residential Homes" boarding, caring for or housing five or fewer physically, mentally or socially handicapped, delinquent persons or persons in need of treatment by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of, such persons are allowed in zones that allow single-family homes.
  - B. Child or adult foster homes, where residential care is provided in a homelike environment for five or fewer non-related individuals are classified under Single- and Two-Family Homes.
  - C. Hospitals and medical treatment facilities with overnight care are classified as Hospitals.
  - D. Nursing homes are classified as Assisted Living.
  - E. Lodging where tenancy may be arranged for periods of 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 on a short-term basis may be classified as a Community Service use (such as short-term housing or mass shelters).



- F. Lodging where the residents meet the definition of a household, and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as Single or Two-Family, Live Work, or Three or More Units.
- G. Correctional or detention facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Jails and Detention Facilities category.

#### **18.01.010.260 Assisted Living.**

- 1. **Characteristics:** Assisted Living facilities are characterized by unrelated elderly or disabled persons, and at least one person residing on the site who is responsible for providing daytime care, protection, supervision, monitoring and/or training or treatment of residents. Larger group-living facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month.
- 2. **Accessory Uses:** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
- 3. **Use Examples:** Types of uses include, but are not limited to: nursing and convalescent homes; residential care/treatment facilities, lifecare or continuing care services, and assisted living facilities.
  - A. Retirement housing units that are separate units and ownership are classified as Single Family, Two Family or Three or More Units.
  - B. Lodging where tenancy may be arranged for periods of 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 on a short-term basis may be classified as a Community Service use (such as short-term housing or mass shelters).
  - C. 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 Single Family, Two Family, Live Work, or Three or More Units.

#### **18.01.010.270 Single Family and Two Family.**

- 1. **Characteristics:** Single-family units are characterized by the residential occupancy by a household of a dwelling unit on one lot. Single units may be attached or detached, with the opportunity to be owner-occupied. A two-family unit (duplex) is defined as a building with two separate households on the same property.
- 2. **Accessory Uses:** Examples of accessory uses include parking, home occupations, accessory dwelling units, and bed and breakfast facilities. For Accessory Buildings, see Section 18.01.010.310 below.
- 3. **Use Examples:** Single-family units, two-family units, duplexes, manufactured housing, and other structures with self-contained dwelling units on individual lots.
- 4. **Exceptions:** In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or mass shelter, may be classified as Community Service uses.

### **18.01.010.280 Live Work.**

1. **Characteristics:** Live Work units are units that contain both a household and a business **but are not home occupations**. The business may have up to 3 employees in addition to the resident employee.
2. **Accessory Uses:** Accessory uses include recreational activities, raising of pets, hobbies, and parking.

### **18.01.010.290 Three or More Units.**

1. **Characteristics:** Three or More Units are characterized by the residential occupancy of three or more dwelling units on one lot by three or more households. A structure containing at least three dwelling units in any vertical or horizontal arrangement, located on a single lot or development site, but excluding single-family attached building types on two or more contiguous lots.
2. **Accessory Uses:** Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
3. **Use Examples:** Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units.
4. **Exceptions:**
  - A. Lodging in a dwelling unit or Single Room Occupancy (SRO) unit 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.
  - B. SROs that contain programs that include common dining are classified as Group or Assisted Living.

### **18.01.010.300 Units Above a Business.**

1. **Characteristics:** Two or more residential dwelling units located above a business or office on the ground floor(s).
2. **Accessory Uses:** Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
3. **Use Examples:** Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.
4. **Exceptions:**
  - A. Lodging in a dwelling unit or Single Room Occupancy (SRO) unit 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.
  - B. SROs that contain programs that include common dining are classified as Group or Residential Care Facilities.

### **18.01.010.310 Residential Accessory Buildings.**

1. **Characteristics:** A detached or semi-detached building that is subordinate to and consistent with the principal use of the property. Accessory buildings are permitted outright in residential zones if they meet the following conditions:
  - A. Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than eleven feet in height.
  - B. Attached accessory buildings, garages or carports are less than 1,000 square feet.
  - C. Accessory apartments have special conditions. See zoning district Articles.

## **OTHER USE CATEGORIES**

### **18.01.010.320 Agriculture.**

1. **Characteristics:** Agriculture includes activities that raise, produce or keep plants or animals.
2. **Accessory Uses:** Accessory uses include seasonal sales of produce or plants, animal training, parking and storage.
3. **Use Examples:** Types of uses include, but are not limited to: breeding or raising of fowl or other animals; dairy farms; stables; riding academies; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.
4. **Exceptions:**
  - A. Kennels and animal boarding facilities are classified separately under Kennels.
  - B. Processing of animal or plant products, including milk, and feedlots, is classified as Manufacturing and Production.
  - C. Livestock auctions are classified as Wholesale Sales.
  - D. Plant nurseries oriented to retail sales are classified as Retail Sales and Service.

### **18.01.010.330 Communication Towers and Poles.**

1. **Characteristics:** Communication Towers and Poles include all devices, equipment, machinery, structures or supporting elements necessary to produce signals or messages. Towers may be self-supporting, guyed, or mounted on poles or buildings.
2. **Accessory Uses:** Accessory use may include transmitter facility buildings.
3. **Use Examples:** Types of uses include, but are not limited to: broadcast towers, telecommunication towers, and point-to-point microwave towers.
4. **Exceptions:**
  - A. Receive-only antennas and satellite dishes are not included in this category.
  - B. Radio and television studios are classified in the Office category.
  - C. Radio frequency transmission facilities that are public safety facilities are classified as Basic Utilities.

### **18.01.010.340 Kennels.**

1. **Characteristics:** Kennels includes facilities where the overnight boarding of dogs, cats or other household pets is conducted as a business.
2. **Accessory Uses:** Accessory uses include offices and parking.
3. **Exceptions:** Veterinary hospitals or clinics that keep animals overnight are classified as Offices.

### **18.01.010.350 Passenger Terminals.**

1. **Characteristics:** Passenger Terminals includes train stations and rail service (multi-modal facility), bus stations and loading facilities, and facilities for the landing and takeoff of aircraft, including loading and unloading areas and passenger terminals.
2. **Accessory Uses:** Accessory uses include freight-handling areas, concessions, offices, parking, hangars, runways, maintenance and fueling facilities.
3. **Use Examples:** Airports, bus passenger terminals, railroad passenger stations for regional rail service, and helicopter landing facilities.
4. **Exceptions:**
  - A. Bus transit stops are classified as Basic Utilities.
  - B. Park-and-ride facilities are classified as Parking.
  - C. Private helicopter landing facilities that are accessory to another use are considered accessory uses.

### **18.01.010.360 Rail and Utility Corridors.**

1. **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.
2. **Use Examples:** Rail trunk and feeder lines; regional electrical transmission lines; and regional gas and oil pipelines.
3. **Exceptions:**
  - A. 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.
  - B. Rail lines and utility corridors located within motor vehicle rights-of-way are not included.

# CHAPTER 18 - ARTICLE 2

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# CHAPTER 18 - ARTICLE 2

## ADMINISTRATION AND PROCEDURES

**18.02.005 Overview.** This Article establishes the framework for the review of land use applications. It explains the processes which the City follows for different types of reviews and how hearings and appeals are conducted. The list below is a summary of the topics covered in this chapter.

- General Administration
- Clarification of Land Use Decisions
- Administrative Process
- Limited Land Use Process
- Quasi-judicial Process
- Legislative Process

These headings precede subtopics which can assist the user in locating information. The table of contents contains a complete listing of the material covered in this Article.

## GENERAL ADMINISTRATION

### INTRODUCTION

**18.02.010 Official Name.** 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.”

**18.02.015 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.

**18.02.020 Legislative Intent.** In addition to the purposes set forth above, subsequent amendments to this Code may be accompanied by staff reports, commentary sections, and/or additional findings which may be used to more accurately determine the purpose and legislative intent of specific provisions.

**18.02.025 Scope and Compliance.** A parcel of land or a structure may be used or developed only as this Code permits. The requirements of this Code apply to the property owner(s), the person(s) undertaking a development, the user(s) of a development, and to their successors in interest.

**18.02.030 Severability.** The provisions of this Code are severable. If any portion of this Code is declared by a court of law to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions.

**18.02.035 Interpretation.**

1. Except as otherwise specified, the definitions included in Title 18 shall be used to interpret the provisions of this Code.
2. The Planning Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this ordinance. For quasi-judicial interpretations, the Type II procedure set forth in Section 18.02.270 shall be followed. For legislative interpretations, Type IV procedures as set forth in Section 18.02.290 shall be followed. A person requesting such an interpretation shall do so in writing to the Director.
3. The terms of this ordinance shall be liberally construed to give maximum effect to the purposes set forth in Section 18.02.015.
4. Where the conditions imposed by a provision of this Code are less restrictive than comparable conditions imposed by other provisions of this Code or other sections of the Silverton Municipal Code, the more restrictive shall govern.

**18.02.040 Consistency with Plan and Laws.** Actions initiated under this Code shall be consistent with the adopted Comprehensive Plan of the City of Silverton and with applicable state and federal laws and regulations as these plans, laws, and regulations may now or hereafter provide. Since the City of Silverton has a Comprehensive Plan and implementing regulations which have been acknowledged by the State of Oregon as being in compliance with statewide goals, any action taken in conformance with this Code shall be deemed also in compliance with statewide goals and the Comprehensive Plan. Unless stated otherwise within this Code, specific findings demonstrating compliance with the Comprehensive Plan are not required for land use application approval. However, this provision shall not relieve the proponent of the burden of responding to allegations that the development action requested is inconsistent with one or more Comprehensive Plan policies.

### **18.02.045 When Land Use Applications Are Required.**

1. Except as excluded by 18.02.050, no person shall engage in or cause to occur a development for which a land use application has not been approved.
2. Whenever this Code requires a land use application, no other permit issued by the City shall be approved until the land use application has first been approved by the Director.
3. Land use applications shall be approved by the Planning Director, the Planning Commission, or the City Council pursuant to the provisions of this Code. The Director shall not approve a land use application for the division, improvement, or use of land that has been previously divided in violation of state or local codes or otherwise developed in violation of this Code unless the violation is corrected prior to or concurrent with issuance of required permits.
4. No action may be taken in reliance upon a decision approving a land use application until all applicable appeal periods have expired or while an appeal to a City review body is pending. However the action allowed by the decision may be initiated if:
  - A. There were no objections to the decision or if all objections were resolved at a hearing or in writing prior to the hearing; and
  - B. The applicant has executed a release and indemnity agreement in a form satisfactory to the City Attorney which protects the City from all claims of the applicant resulting from the approval of the land use application or issuance of a building permit.
5. All land use approvals shall expire two years from the date of the approval, unless "substantial construction" of the project has been accomplished within that time. Substantial construction is defined in the "Definitions" section of this Code as "Any physical improvement of a property, the cost of which equals or exceeds fifty percent of the fair market value of the property before the improvement was started." If substantial construction has been accomplished, development may continue to completion without a limit on the time allowed. The Development Code standards for development within these time periods are those in effect at the time the original approval was granted.

**18.02.050 When Land Use Applications Are Not Required.** Activities and developments listed below are excluded from the requirement for a land use application but are nevertheless subject to the provisions of the Code where applicable:

1. Agricultural uses permitted outright in Articles 9, 10, 11, and 12.
2. Detached single family dwellings and two unit dwellings when allowed outright in the zoning district.
3. Accessory buildings and building additions of less than 500 square feet which conform to the provisions of this Code and the Oregon Structural Specialty Code.
4. Landscaping and routine property maintenance.
5. Improvement of parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.
6. A change internal to a building or other structure or usage of land that does not constitute a change of use as listed in Articles 9, 10, 11 or 12.
7. Site Plan Review for a change in use within an existing structure when the following criteria are satisfied:

- A. No structural expansion in excess of 500 feet or additional exterior storage is proposed.
  - B. The use will not create additional adverse affects for abutting properties or the neighborhood (e.g. visual, noise, or air pollution; increased parking requirements, or improvements to public facilities).
  - C. Any non-conformities with the provisions of this Code have been addressed, including compliance with sign, landscaping, and parking requirements except where restricted by building location or limiting site characteristics.
8. An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
  9. Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) which conforms with all other requirements of this Code and other applicable City regulations and public health and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
  10. The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six-month duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
  11. Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less which does not adversely affect drainage patterns and is not located within a floodplain or slope area. See also Article 6 – Special Purpose Overlay Districts.

**18.02.055 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.

**18.02.060 Approval Runs With the Land.** Approval of a land use decision runs with the land. The approval transfers to a new owner if the property is sold unless specifically conditioned otherwise.

**18.02.065 Official Action.** All officials, departments, and employees of the City vested with authority to issue permits, certificates, or licenses shall adhere to and require conformance with the zoning regulations.

**18.02.070 Certificate of Occupancy.** Other than detached single family residences, it shall be unlawful to use or occupy any new building or premises until a certificate of occupancy has been issued by the designated building official stating that the proposed use of the building or land conforms to the requirements of the Oregon Structural Specialty Code, Uniform Fire Code, this ordinance, and any other City conditions attached to the development or use of the building or land.

## **ENFORCEMENT**

**18.02.100 Inspections.** 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 Planning 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 upon the receipt of

complaints, specific or general information, or observations indicating the existence of hazardous conditions or non-compliance with such rules, 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.

**18.02.110 Search Warrants.** 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:

1. The purpose and extent of the proposed inspection;
2. The ordinance or ordinances which form the basis for the inspection; and,
3. 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.

**18.02.120 Abatement.** The location, erection, construction, maintenance, repair, alteration or use of a building or other structure in violation of this ordinance shall be deemed a nuisance and may be abated as such.

**18.02.125 Code Enforcement.** The Planning Director or his designee may enforce the provisions of this ordinance. The enactment of this ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the Development Code regulations committed under a previous ordinance.

**18.02.130 Legal Proceedings by City Attorney.** In addition to the remedies prescribed herein, the City Attorney, upon request from the City Council or City Manager, shall cause to be instituted any civil action, suit, or other legal means considered to be appropriate to remedy violations of this ordinance.

**18.02.135 Suits in Equity to Enjoin Violations.** If any existing or proposed structure or use is in violation of this Code, the City Attorney or any affected person may sue to enjoin the violation.

**18.02.140 Enforcement by Chief of Police.** The Chief of Police or his designee(s) shall have the power to assist in the enforcement of the provisions of this ordinance.

**18.02.145 Penalty.** In addition to the remedies set forth above, 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 of or in addition to any other remedy set forth above.

**18.02.150 Violation of a Land Use Approval.** Violation of any condition or requirement of any land use approval constitutes a civil infraction when such violation does not, in and of itself, constitute a separate violation of the Silverton Municipal Code.

## APPLICATION PROCEDURES

**18.02.200 Land Use Application Procedures.** A land use application shall be processed under a Type I, I-L, II, III, or IV procedure, as described in this Article.

1. Where there is a question as to the appropriate type of procedure, the Director shall determine the type of procedure to be utilized based upon the most similar land use application procedure specified by this Code or other established policy.
2. Where a proposal involves more than one application for the same property, the applicant(s) may submit concurrent applications which shall be processed simultaneously in accordance with the highest numbered procedure specified. When concurrent applications are so received and accepted as complete, the 120-day requirement of Section 18.O2.210 (2) shall apply as if a single application had been made.

**18.02.200.010 Coordination of Land Use Application Procedure.** The Planning Director shall be responsible for coordination of the land use application and decision-making procedure. The Director shall issue a land use approval for applications and proposed developments that are in compliance with the provisions of this Code. Before issuing the approval, the Director shall be provided with the information required to determine full compliance with the requirements of this Code.

**18.02.200.020 Pre-application Conference.** The Planning Director and the applicant or the applicant's authorized representative shall arrange a pre-application conference, unless the applicant and Director agree that the conference is not needed. The purpose of the conference is to acquaint the applicant with the substantive, and procedural requirements of this Code, and to identify any constraints of the proposed development. Depending on the nature and size of the proposed development, a rough sketch conceptual plan may be required for review in the pre-application conference. Upon the request of the applicant, the Director shall provide the applicant with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application.

**18.02.200.030 Neighborhood Meeting.** The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications. It is intended to encourage applicants to be good neighbors. City staff may attend the neighborhood meeting in an advisory capacity to answer questions. The applicant shall hold a neighborhood meeting prior to submittal of the following types of applications:

1. Multifamily development that abuts a single-family zoning district.
2. Commercial and industrial development that abuts any residential zoning district.
3. Manufactured home park.
4. Subdivision with more than 20 lots.
5. Any subdivision that is an infill development.
6. Any Planned Unit Development.

7. Any land division involving the removal of more than 50% of the significant trees (2' caliper or greater conifers measured at four (4) feet above ground level and 1' caliper or greater broadleaf measured at four (4) feet above ground level.

**18.02.200.040 Application Contents.** A land use application shall consist of the following:

1. Explanation of intent, nature and proposed use of the development, pertinent background information and other information that may have a bearing in determining the action to be taken, including submission of detailed findings where such are required by the provisions of this Code.
2. Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
3. Property description and assessor map parcel number(s).
4. Additional information required by other sections of this Code because of the type of development proposal or the area involved.
5. Duplication of the above information as required by the Planning Director.
6. Submission of application fees as established by the City Council.
7. A report documenting the results of any neighborhood meeting. The report shall contain:
  - A. The dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
  - B. The method(s) by which each meeting was publicized;
  - C. The number of people who attended the meeting or otherwise contacted the applicant;
  - D. A summary of the concerns, issues, and problems raised by neighbors;
    - (1) A discussion of how the applicant has addressed or intends to address concerns, issues, and problems; and
    - (2) A discussion of any concerns, issues, and problems the applicant is unable or unwilling to address and why.

**18.02.210 Submission of Quasi-Judicial Land Use Applications.**

1. Application materials shall be submitted to the Planning Director or his designee who shall have the date of submission indicated on each copy of the materials submitted.
2. Within 30 calendar days the Planning Director or his designee shall determine whether the application is complete. The Director shall notify the applicant when the application is found to be incomplete and identify what additional information is needed. An application which has been determined to be incomplete may be supplemented, amended or resubmitted, at the Director's discretion. The application shall be subject to another 30 calendar day completeness check beginning on the date additional information is submitted. If the applicant declines to submit the additional information, the application will be deemed complete on the 31st day after the application was first received.
3. The Planning Director shall set the date of public hearing(s) for land use applications requiring a public hearing. When setting hearing dates, the Director may take into

consideration the complexity of the development proposal, other scheduled agenda items and adequate review and preparation time for the staff report.

4. All documents or evidence relied upon by the applicant shall be submitted to the Planning Division and made available to the public at least 20 days prior to the evidentiary public hearing (or 10 days before the first evidentiary public hearing if two or more evidentiary public hearings are allowed).
5. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond.
6. Upon request, the application file shall be made available to the public for inspection at no cost and copies will be provided at reasonable cost.

**18.02.210.010 Referral and Review of Quasi-Judicial Land Use Applications.** Upon acceptance of an application, the Director shall do the following:

1. Send one copy of the project review sheet to each agency and city department identified by the Planning Director as having possible interest in reviewing and commenting on the development proposal, including those agencies and departments responsible for determining compliance with state and federal requirements. If the agency or city department does not comment within 10 days from the date the Director mails or routes the project review sheet, the agency or city department is presumed to have no comments or objections. The Director may grant an extension of up to 14 days to a reviewing department or agency if the application involves unusual circumstances.
2. Send the project review sheet to other governmental bodies and private utilities as appropriate.
3. Provide for notices to be given and hearings to be established as required under Type I-L, II, III, and IV procedures established in this Article.

**18.02.210.020 Land Use Decision for Quasi-Judicial Applications.**

1. Within five days of final action on a land use application, the Planning Director or his designee shall provide written notice of the decision to the applicant and any other parties entitled to notice. The notice shall state the effective date of the decision, describe the right of appeal, and summarize the reasons for the decision and any conditions of approval or indicate where such can be reviewed in detail.
2. The City shall take final action on all land use requests which are wholly within the authority and control of the City within 120 days from the date the application is deemed complete. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time. The 120-day period set out in ORS 227.178, does not apply to an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610 (for legislative amendments).
3. Development shall be completed as shown on the plans that were reviewed and approved through the land use process, subject to any modifications identified in the conditions of approval. Modifications to site plans and conditional uses may be made as described in SDC 18.02.226.

**18.02.210.030 Action on Resubmission of Denied Quasi-Judicial Application.** No property for which an application has been acted upon by the Planning Commission or City Council, may be subject to a new or resubmitted application for a period of one year from such action, unless a new application is determined by the Planning Director, in the Director's sole and unappealable discretion, to be substantially different from the previous application.

**18.02.210.040 Modification of Approved Site Plan Reviews and Conditional Uses.**

When a Design Review or a Conditional Use review results in an approved site plan, with or without conditions, and the property owner wants to make changes to the plan, the following procedures shall be used to review the proposed modifications:

1. Definitions: When "property owner" is used here, it means the property owner, or the property owner's authorized agent. When "site plan" is used here, it means the site plan approved through either a site plan review or a review of a conditional use.
2. The property owner must submit to the Planning Department an application to modify the approved site plan.
3. The review body shall be the same body that granted the final approval for which modification is sought.
4. The modification shall be "consistent with" the approved site plan. If the review body determines that the modified site plan is consistent with the original approval, a modification to the site plan may be allowed. If the modified site plan is consistent with the approved site plan and meets the review criteria specified in 1.226(6) below, the modified plan shall be approved. If the review body determines that the modified site plan is not consistent with the original approval, then approval of the site plan will be denied. If a new application is submitted, it will be subject to the Development Code standards in effect at the time the new application is submitted.
5. The determination on consistency by the review body shall be based on a comparison of the approved site plan and the modified site plan, taking into account:
  - A. The land use category;
  - B. The size and scale of the proposed building(s);
  - C. The traffic impacts;
  - D. Compatibility with surrounding development;
  - E. Capacity of available infrastructure; and
  - F. Unusual obstacles and opportunities associated with the property.
6. The modified site plan will be found to be consistent with the approved site plan if the review body determines that there are no greater adverse impacts, or, if additional adverse impacts are identified, they have been adequately mitigated.
7. The review body shall use the same procedure and review criteria as that used for the original approval. The Development Code regulations in effect at the time the application for the approved site plan was submitted are the regulations that will be used to review the proposed modification(s). The entire site plan will be reviewed at the time the modified site plan is reviewed.
8. Conditions of approval:



- A. The application to approve a modified site plan will be denied if an applicant seeks to modify a prior land use decision merely to seek the reduction or elimination of a condition of approval, unless the applicant proposes an equivalent reduction in the scope, size, or scale of the part of the development that led to the condition of approval.
  - B. When reviewing a modified site plan that has different impacts than the approved site plan, the decision-maker may modify conditions or impose new ones. Only conditions related to the impact of the modified site plan may be imposed on the modified site plan approval. Impact means characteristics of the development such as traffic, wastewater discharge, noise, etc.
  - C. The review of the modified site plan shall not be used to allow an application to escape prior infrastructure commitments. A modification cannot be used to provide a new timeline for appealing a previously-accepted infrastructure obligation. The original conditions of approval imposed for the approved site plan may remain in effect or be increased as necessary to address additional impact. Conditions related to improving existing infrastructure or building new infrastructure (such as streets, sewers, etc.) may be reduced only if the modification substantially reduces the infrastructure burden created by the development.
9. The property owner may choose to either accept approval of the modified site plan or to retain the original approval. If the property owner accepts approval of the modified site plan and any conditions that may be imposed, the property owner must give notice to the Planning Department. Notice must be received by the Planning Department within 10 days of the date on the notice of decision for approval of the modified site plan. If the property owner accepts approval of the modified site plan, the new approval supercedes and voids the original approval. If the property owner does not provide the required written notice of acceptance, or if the approval of the modified site plan is not granted by the review body, the project shall continue to be subject to the original conditions of approval and time lines.
  10. When first granted, a site plan or conditional approval is valid for two (2) years. When a modified site plan is approved and accepted, the approval is valid for one year beyond the date that the original site plan approval would have expired. (For example, if the original approval would have expired on July 1, 2004, the approval of the modified site plan is extended to July 1, 2005.) Only one (1) one-year extension of the original approval will be allowed. Any subsequent modification of the site plan will be subject to the time limit established at the time the first modification was approved. The approval can be valid for only a total of three (3) years including the first two-year period and the one-year extension. Substantial construction of the development must take place within the three (3) years. If substantial construction is accomplished, construction can continue to completion. If substantial construction is not accomplished, the approval is void.

## **CLARIFICATION OF LAND USE DECISIONS**

### **ACTIONS INCLUDED AS LAND USE DECISIONS**

**18.02.220 Definition.** A “land use decision” includes a final decision or determination made by the city that concerns the adoption, amendment, or application of:

1. The statewide planning goals.

2. A comprehensive plan provision.
3. An existing land use regulation.
4. A new land use regulation.

**18.02.220.010 Procedure.** The procedure for applications which result in land use decisions are given in the subsequent provisions on the quasi-judicial and legislative processes.

**18.02.220.020 Examples.** Examples of applications which result in land use decisions include, but are not limited to: Comprehensive Plan map or text amendments, Conditional Uses, Development Code amendments, Type II modifications to Non-conforming Situations, Vacations, Variances, and Zoning map amendments.

## **ACTIONS NOT INCLUDED AS LAND USE DECISIONS**

**18.02.230 Definition.** A “land use decision” does not include a decision of the city:

1. Which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment;
2. Which approves or denies a building permit issued under clear and objective land use standards;
3. Which is a limited land use decision; or
4. Which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations.

**18.02.230.010 Procedures.** Land use applications which do not result in land use decisions are processed under the Type I procedure. The decision is made by the Director based on the stated review criteria without need for public hearing or notification.

**18.02.230.020 Examples.** Examples of land use applications which do not result in land use decisions include, but are not limited to Lot Line Adjustments, Adjustments, Type I Modifications to Non-conforming Situations, Type I Historic Review, Preliminary Planned Development plans, and Site Plan Review involving a change in use or addition to existing use in a conforming building which is less than 30% of the total existing building area.

## **ACTIONS INCLUDED AS LIMITED LAND USE DECISIONS**

**18.02.240 Definition.** A “limited land use decision” is a final decision or determination made by the city pertaining to a site within its urban growth boundary which concerns:

1. The approval or denial of partition applications, as described in ORS Chapter 92.
2. The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

**18.02.240.010 Procedure.** Applications which result in limited land use decisions are not subject to the requirements of ORS and this Code relative to quasi-judicial public hearings. They are processed under the Type I-L procedure described in Section 18.02.260.

**18.02.240.020 Examples.** Examples of applications which result in limited land use decisions include, but are not limited to, Type I-L Historic Review, Partitions without Variances, and Design Review (Options 'A' and 'B').

## **ADMINISTRATIVE PROCESS**

### **18.02.250 Type I Procedure.**

1. The purpose of the Type I procedure is to provide for land use review based on standards specified in this Code which do not require interpretation or the exercise of policy or legal judgment. Approval of a Type I land use application is not a land use decision. (See definitions.)
2. Under the Type I procedure, an application shall be processed by the Planning Director or his designee without need for public hearing or notification.
3. Examples of applications processed through a Type I procedure include, but are not limited to: Lot Line Adjustments, Adjustments, Type I Modifications to Non-conforming Situations, Type I Historic review, Preliminary Planned Unit Development plans, and Site Plan Review involving a change in use or minor addition to existing use in a conforming building.

## **LIMITED LAND USE PROCESS**

### **18.02.260 Type I-L Procedure.**

1. The purpose of the Type I-L procedure is to provide for land use review of Partitions and applications involving discretionary standards for design or site review of uses permitted outright.
2. In making a limited land use decision, the City will follow the applicable procedures contained within its acknowledged comprehensive plan and land use regulations and other applicable legal requirements.
3. For limited land use decisions, the City will provide written notice to owners of property within 500 feet of the entire contiguous site for which the application is made. The certified list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
4. The notice and procedures used by the City will:
  - A. Provide a 14-day period for submission of written comments prior to the decision (Notice of Filing to affected property owners);
  - B. State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
  - C. List, by commonly used citation, the applicable criteria for the decision;
  - D. Set forth the street address or other easily understood geographical reference to the subject property;

- E. State the place, date and time that comments are due;
  - F. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
  - G. Include the name and phone number of a local government contact person;
  - H. Provide notice of the decision to the applicant and any person who submits comments under subparagraph (a) of this paragraph. The notice of decision must include an explanation of appeal rights;
  - I. Briefly summarize the local decision making process for the limited land use decision being made, and
  - J. Include such other information as the Director deems appropriate.
5. Decisions and Appeals. Standing to appeal a limited land use decision shall be limited to the applicant and/or any person who has provided written comments pursuant to Section 18.02.260.4 or who spoke at the public hearing, if one were held.
- A. For application types for which a neighborhood meeting is not required in Section 18.02.200.030, a limited land use decision made by the Planning Director may be appealed to the Land Use Board of Appeals when a person with standing files a Notice of Intent to Appeal with LUBA not later than 21 days after the Director's notice of decision is mailed.
  - B. For application types for which a neighborhood meeting is required in Section 18.01.200.030, a limited land use decision by the Planning Director may be appealed to the Planning Commission when a person with standing files a Notice of Appeal with the City not later than 10 days after the Director's notice of decision is mailed.
  - C. At the Director's discretion, as a result of issues raised during the fourteen-day comment period or at the applicant's request, a limited land use decision may be referred to the Planning Commission for the local decision. Notice of the hearing shall be provided a minimum of 20 days prior to said hearing. The presiding officer may establish a time limit for presentation of information at the public hearing.
  - D. A limited land use decision made by the Planning Commission may be appealed to the Land Use Board of Appeals when a person with standing files a Notice of Intent to Appeal with LUBA not later than 21 days after the Planning Commission notice of decision is mailed.

**18.02.260.010 Examples.** Examples of applications which result in limited land use decisions include, but are not limited to Type I-L Historic Review, Partitions without Variances, and Design Review (Options 'A' and 'B').

## **QUASI-JUDICIAL PROCESS PROCEDURES**

### **18.02.270 Type II Procedure.**

1. The purpose of the Type II procedure is to provide for the review of certain applications by mailing notice of a tentative staff decision to the applicant and property owners within 500 feet of the property being reviewed. The decision of the Director shall be based on standards specified in this Code which are reasonably objective and may require limited discretion.

2. If the Planning Director determines that the development proposal appears to meet the required standards, the Director shall mail notice of the tentative decision to all property owners within 500 feet of the subject site. The applicant shall supply a list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by a title company or the Marion County Assessor's office as accurate and complete as found on the most recent property tax assessment roll where the subject property is located. The Director's notice shall list the relevant criteria and any conditions of approval and invite persons to contact the Planning staff within 10 days of notification to request a public hearing. A public hearing may be requested if the person believes that the conditions of approval do not adequately address the established approval criteria or alleviate adverse impacts on the neighborhood. If no one requests a public hearing, the tentative decision becomes final 10 days after the Notice of Decision is mailed to affected parties.
3. The applicant, the Planning Director, or any party entitled to notice or otherwise affected by the proposed action may initiate a public hearing on a Type II proposal. The Director shall, within 30 days of receiving a written request for a public hearing, set a date for a public hearing before the Planning Commission, and mail notice of such to those same persons specified in (2) above. The presiding officer may establish a time limit for presentation of information at the public hearing.
4. If a hearing is conducted, the Planning Commission shall review the request and any written comments and testimony; adopt findings based on the established criteria, and make a decision by approving, conditionally approving, or denying the application. Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type II procedure in accordance with the relevant provisions of this Code.

**18.02.270.010 Examples.** Examples of applications processed through a Type II procedure include, but are not limited to: Variances, Type II Modifications to Non-conforming Situations, Type II Code Interpretations, and final subdivision and planned development plan review.

**18.02.280 Type III Procedure.**

1. The purpose of the Type III procedure is to provide for the review of certain applications within the City by the Planning Commission at a public hearing. Such actions may be complex in nature, requiring the interpretation of Plan policies and the requirements of this code.
2. Under the Type III procedure, an application is scheduled for public hearing before the Planning Commission. If the request is quasi-judicial in nature, the Planning Director shall notify all property owners within 500 feet of the subject property. The applicant shall supply a list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by a Title Company or the Marion County Assessor's office as complete as found on the most recent property tax assessment roll where the subject property is located. The applicant shall post notices as set forth in Section 18.02.300.030.
3. The review body shall review the request and any written comments and testimony; adopt findings based on the established criteria, and make a decision by approving, conditionally approving, or denying the application. The presiding officer may establish a time limit for presentation of information at the public hearing. Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type III procedure in accordance with the relevant provisions of this Code.

**18.02.280.010 Examples.** Examples of applications processed through a Type III procedure include, but are not limited to Manufactured Home Parks, Interim Planned Unit Development

plans, future street plans, Type III Planned Industrial Developments, some Code interpretations, New Conditional Uses and Major Modifications to Conditional Uses, and subdivisions.

### **18.02.290 Type IV Procedure.**

1. The purpose of the Type IV procedure is to provide for the review of certain land use applications by both the Planning Commission and the City Council at public hearings. These decisions are usually complex in nature, and require the interpretation of the Comprehensive Plan policies and the criteria of this Code.
2. Under the Type IV Procedure, an application is scheduled for public hearing before the Planning Commission. The presiding officer may establish a time limit for presentation of information at the public hearing. If the application is quasi-judicial, the Director shall notify all property owners within 500 feet of the subject property. The applicant shall supply a certified list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by a title company or the Marion County Assessor's Office as accurate and complete as found on the most recent property tax assessment roll where the subject property is located. The applicant shall post notices as set forth in Section 18.02.300.030.
3. For a quasi-judicial proposal on which the Planning Commission has made a favorable recommendation, the City Council shall hold a public hearing and make a final decision prior to expiration of the 120 day land use processing rule, if applicable. The presiding officer may establish a time limit for presentation of information at the public hearing. An applicant may request a review delay of up to six months and extend the 120-day timeframe.
4. If the Planning Commission recommended against a proposal, the City Council will only consider the proposal on appeal by the applicant(s).
5. The review body shall:
  - A. Review the request and any written comments and testimony;
  - B. Adopt findings based on the established policies and criteria; and,
  - C. Make a decision by approving, conditionally approving, or denying the application. Conditions and/or restrictions may be applied to land use approval granted under a Type IV procedure in accordance with the relevant provisions of this Code.

**18.02.290.010 Examples.** Examples of applications processed through a Type IV procedure include, but are not limited to Annexations, Street or Subdivision Vacations, quasi-judicial and legislative zone changes, development code amendments, and comprehensive plan amendments.

## **PUBLIC HEARINGS**

**18.02.300 Responsibility for Hearings.** The Planning Director shall carry out the following duties pertaining to a hearing, all in accordance with other provisions of this Code:

1. Schedule and assign the matter for review and hearing.
2. Conduct the correspondence of the review body.
3. Provide notices of public hearings as required by this Code and state law including the Oregon Department of Transportation.

4. Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement, and continuances and a summary of action taken by the review body.
5. Prepare minutes to include the decision on the matter heard and the reasons given for the decision.
6. Reduce the decisions of the review body to writing and maintain permanent record of such.
7. Provide advance notice of all hearings and written decisions to persons requesting the same and not entitled to such by this section provided that such persons pay the actual cost for the service provided as established by the City (applicants excepted).

**18.02.300.010 Hearings Record.** When practical, the secretary to the review body will be present at each hearing and shall cause the proceedings to be recorded either stenographically or electronically. Should the secretary not be present, proceedings will be recorded electronically and minutes will be taken from the tape.

1. Testimony shall be transcribed at the expense of the requesting party if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs up to \$500 plus one half the actual costs over \$500 or as authorized by state law.
2. The review body shall, where practical, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after all appeal periods have expired, at which time the exhibits may be released. Any physical evidence presented at the public hearing shall be submitted to the review body secretary, distributed to members, returned to the secretary and shall become part of the record.
3. The staff report and recommendation shall be included in the record.
4. A person shall have access to the record of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

**18.02.300.020 Mailed Notice.**

1. Addresses for a mailed notice required by this Code shall be provided by the applicants for land use applications. The mailing list must be certified by a Title Company or by the Marion County Assessor's office as accurate and complete as found on the most recent property tax assessment roll where the subject property is located. A person whose name is not in the tax records at the time of filing of an application may receive notice if the person provides the Community Development Department with the necessary address(es). Any deficiency in the form of notice prescribed in this section or a failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice.
2. The Director may provide notice to others that may be considered affected or otherwise represent an interest that may be affected by the proposed development.
3. The cost of notice mailings shall be in addition to the land use application fee and shall be assessed at the time of submittal of the application.

4. Notice of a public hearing shall be sent by mail at least 20 days before the evidentiary public hearing (or, if more than one hearing is allowed, 10 days before the first evidentiary public hearing) and shall contain the following information:
  - A. The reviewing body, the date, time, and place of the hearing.
  - B. The street address or other easily understood geographic reference to the subject property.
  - C. The nature of the application and the proposed use or uses which could be authorized.
  - D. Where information may be examined and when and how written comments addressing findings required for a decision by the review body may be submitted.
  - E. A list of the applicable criteria from the ordinance and/or the plan that apply to the application.
  - F. A statement that failure to raise an issue in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
  - G. The name of a City representative to contact and the telephone number where additional information may be obtained.
  - H. A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost.
  - I. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.
  - J. A statement that all interested persons may appear and provide testimony and that only those making an appearance of record, either in person or in writing, shall be entitled to appeal.
  - K. A general explanation of the procedure for the conduct of hearings.

**18.02.300.030 Posted Notice.** The sites that are the subject of quasi-judicial public hearings and all Type I-L Site Plan Review applications shall be posted with an approved notice by the applicant. The applicant shall also be responsible for providing a sign frame for the notice and responsible for posting the notice at the correct time and location. Before Notice is posted on the site, a copy of the notice must be submitted to the Planning Department office for review. Within five (5) days of posting the site, an affidavit of posting must be submitted to the Community Development Department.

**18.02.300.040 Posted Notices Must Contain the Following Information:**

1. File Number assigned by City.
2. A brief description of the Proposal.
3. Phone number and address for the Silverton Planning Department Office, 306 S. Water Street, Phone: (503) 874-2212.



**18.02.300.050 Guideline for Posting Notice:**

1. The posted notice must be waterproof and a minimum of two (2) feet by three (3) feet in size. Lettering must be a minimum of 2 inches in height.
2. Each frontage of the site must be posted. If a frontage is more than six hundred (600) feet in length, additional notices are required for each six hundred (600) feet or fraction thereof.
3. The notices must not be posted within the public right-of-way, though they must be within ten (10) feet of it.
4. The notices must be clearly visible to pedestrians and motorists in the public right-of-way, and must not be posted on trees. Therefore, the signs should have legs or stakes or otherwise be freestanding.
5. For Type I-L and Type II applications, the site must be posted within 10 days of notification of completeness.
6. For Type III and IV applications, the site must be posted at least ten (10) days before the scheduled public hearing.

**LAND USE NOTICE**

**FILE No.** (Insert File No(s). assigned by the City at time of application(s) submittal.)

**PROPOSAL:** (Insert general description of project, i.e., Design Review for the construction of a 2,575 sq. ft. restaurant with drive-thru window.)

**FOR FURTHER INFORMATION, CONTACT:**

**City of Silverton  
Community Development Department  
306 S. Water Street  
Telephone: (503) 874-2214**

**18.02.300.060 Signs for Posted Notices:** The posted notices must be able to withstand adverse weather. All posted Notice signs must conform to the above shown example. The Notice must be white with black letters, and must be landscape orientations, as shown below. The Notice must be lettered using block printing or a “sans-serif” font, such as Aerial. Signs may be ordered custom-made from sign companies, or applicants may construct their own signs if they comply with the specifications noted previously and are constructed of acceptable material.

**18.02.300.070 Acceptable materials for Notice Signs (Dimensions: minimum 2' x 3'):**

1. Plywood (but sign face must be white)
2. Plastic or corrugated plastic
3. Foam core board (available at many art and hobby supply shops)
4. Water resistant poster board
5. Other weatherproof materials

**18.02.300.080 Removal of Posted Notice:** The notice must remain posted until a final decision is made. Within ten (10) days of the final decision, the notice(s) must be removed from the site by the applicant or his/her designee.

**18.02.300.090 Failure to Post the Notice:** The failure of the posted notice to remain on the property shall not invalidate the proceedings. Failure by the applicant to post a notice and affirm that the posting was completed in conformance with the code shall result in:

1. Postponement of a decision until the affidavit of posting has been submitted; or
2. Postponement of a scheduled hearing to the next regularly scheduled meeting or to such other meeting as may be available for the hearing; or
3. The entire process being invalidated; or
4. Denial of the application.

**18.02.300.100 Published Notice.**

1. Notice shall be published in a newspaper of general circulation at least one week prior to the hearing and additionally as may be required by state law for a particular proceeding.
2. Published notice shall include the following information:
  - A. The reviewing body, the date, time, and place of the hearing.
  - B. The nature of the proposed amendment.
  - C. The name and telephone number of the staff member to contact for more information
3. The cost of notice of the published notice shall be in addition to the land use application fee and shall be assessed at the time of submittal of the application. Published notice for Annexations shall be published once a week for two successive weeks prior to the date of the public hearing before the Planning Commission and City Council. Published notice for Comprehensive Plan Amendments and Zone Changes shall be published a total of three times within 21 days prior to the date of the hearing before the Planning Commission and City Council and at least one time before the Planning Commission hearing.

**18.02.300.110 Compliance and Waiver of Notice.**

1. Notice by mail shall be deemed given on the day the notice is deposited with the US Postal Service, first class postage, fully prepaid, for mailing to the addressee at the addressee's last known mailing address. Failure of the addressee to actually receive notice shall not invalidate the proceeding if the City can demonstrate by affidavit that notice was given. The

notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

2. Posted notice is deemed given on the day the sign is first posted.
3. The requirement for notice shall be deemed satisfied as to any person who, in any manner, obtains actual knowledge of the time, place, and subject matter of the hearing prior thereto.
4. Appearance and testimony or comment on the merits of the proposed action by any person at a hearing, or submission by any person of written comment directed to the merits of the proposed action at or prior to the hearing and after the proceeding was initiated, shall be deemed a waiver of such person of any defect in notice.

**18.02.400 Challenges to Impartiality.** A party to a hearing or a member of a review body may challenge the qualifications of a member of the review body to participate in the hearing and decision regarding the matter. The challenge shall be incorporated into the record at the time of the hearing.

**18.02.410 Disqualification.** No member of a review body shall participate in a discussion of the proposal without removing himself or herself from the bench or shall vote on the proposal when any of the following conditions exist:

1. Any of the following have a direct or substantial financial interest in the proposal: the review body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or in which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment or is otherwise in a position of conflict of interest as determined by state law.
2. The member has a direct private interest in the proposal.
3. Any other valid reason for which the member has determined that participation in the hearing and decision cannot be in an impartial manner.

**18.02.420 Participation by Interested Officer or Employees.** No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion or staff report to the review body on the proposal without first declaring for the record the nature and extent of such interest.

**18.02.430 Ex Parte Contacts.** The general public has a right to have review body members free from prehearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Should ex parte communication occur, at the beginning of the hearing, the review body member shall reveal the source and substance of any significant prehearing or ex parte contacts regarding any matter at the commencement of the public hearing on such and the Chair shall allow for rebuttal of any information received through such ex parte contact. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with the following section.

**18.02.440 Abstention or Disqualification.**

1. An abstaining or disqualified member of the review body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by making full disclosure of his or her status and position at the time of addressing the review body and physically removing himself or herself from the proceedings.

2. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received and so states on the record.

**18.02.500 Burden and Nature of Proof.** The burden of proof is upon the proponent or appellant. The more drastic the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Code, especially the specific criteria set forth for the particular type of decision under consideration.

**18.02.600 Hearing Procedures.** Hearing procedures will depend in part on the nature of the hearing. The following may be supplemented by appropriate rules announced by the presiding officer:

1. The presiding officer will state the case and call the public hearing to order, informing those present that testimony and evidence is to be directed towards the applicable criteria for the case and that failure to raise an issue accompanied by statements of evidence sufficient to afford the decision-makers and other parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that issue. The presiding officer may establish the time allowed for the presentation of information.
2. Any objections on jurisdictional grounds shall be noted in the record.
3. Any abstentions or disqualifications shall be determined. Members shall announce all conflicts of interest and shall disclose the time, place, and nature of any ex-parte contacts they have had. Parties to the case shall have the opportunity to rebut any information contained in the ex-parte contact.
4. The review body may view the area under consideration for purposes of evaluating the proposal, but shall state the place, time, manner, and circumstances of such viewing in the record.
5. The presiding officer at the hearing may take official notice of known information related to the issue, such as provisions of federal or state law, or of an ordinance, resolution, official policy or charter of the City.
6. Matters officially noticed need not be established by evidence and may be considered by the review body in the determination of the matters. Parties requesting official notice shall do so on the record.
7. Presentation of staff report, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.
8. Presentation of information by the applicant or those representing the applicant.
9. Presentation of evidence or inquiries by those persons who support the proposed change.
10. Presentation of evidence or inquiries by those persons who oppose the proposed change.
11. Presentation of evidence or inquiries by those persons who do not necessarily support or oppose the proposed change.
12. If additional documents or evidence are provided in support of an application, any party shall, upon request, be entitled to a continuance of the hearing to allow for adequate

preparation of rebuttal. Such a continuance shall not be subject to the limitations of ORS 227.178.

13. Only the applicant shall have the right to present rebuttal testimony. If the presiding officer allows rebuttal by an opponent, the proponent or applicant shall have a right to an additional and final rebuttal.
14. The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, the presiding officer will direct the question to the person who has submitted testimony.
15. At the close of presentation of information the presiding officer shall declare that the hearing is closed unless prior to the conclusion of the initial evidentiary hearing any participant has requested an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (a) of this subsection, or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (b) of this subsection.
  - A. If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
  - B. If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the records shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (e) of this section.
  - C. A continuance or extension granted pursuant to this section shall be subject to the limitation of ORS 227.178, unless the continuance or extension is requested or agreed to by the applicant.
  - D. Unless waived by the applicant, the hearings authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the applicant. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 227.178.
  - E. When the hearings authority reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.
16. For the purposes of this section:
  - A. "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.

- B. "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.
17. When the hearing has ended, the review body may openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.
  18. If the hearing is closed, it shall be reopened only upon a majority vote of the review body.

## **DECISION**

**18.02.700 Findings.** The review body shall make a decision and adopt findings based upon the information accompanying the application, staff report, and/or evidence presented at the hearing. The findings shall address:

1. Applicable Development Code criteria.
2. For approval, a statement of the facts establishing compliance with each applicable policy or criteria. For denial, a statement of the facts establishing non-compliance with any required policy or criteria.
3. Concluding statement(s) to approve or deny.

**18.02.700.010 Final Decision.** Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a decision becomes final (a) when it is reduced to writing, bears the necessary signatures of the decision maker, and (b) if written notice of the decision is required by law, when written notice of the decision is mailed to persons entitled to notice.

### **18.02.700.020 Notice of Decision.**

1. Within five working days of final action on a land use application, the Director shall provide written notice of the decision to the applicant and any other parties entitled to notice. The notice shall state the effective date of the decision, describe the right of appeal, and summarize the reasons for the decision and any conditions of approval or indicate where such can be reviewed in detail.
2. The City shall take final action on all land use requests which are wholly within the authority and control of the City within 120 days from the date the application is deemed complete. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time. The 120-day period set out in ORS 227.178 does not apply to an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610 (for legislative changes).

## **APPEALS**

### **18.02.800 Appeal Procedures.**

1. See Section 18.02.260(5) SDC for appeals of Type I-L limited land use decisions.
2. An affected party may request a public hearing on a tentative land use decision made by staff under the Type II procedure. At the Planning Director's discretion, this hearing will be

scheduled before the Planning Commission upon payment by the applicant of the additional costs for a public hearing.

3. A Type III decision of the Planning Commission may be appealed to the City Council by an affected party by filing a "Notice of Appeal" within 10 days from the date the City mails the Notice of Decision.
4. Within the appeal period, the City Council, acting upon the recommended action of the City Manager or upon its own motion, may order a de novo review of any lower level decision. Such review shall be conducted in accordance with appeal procedures as specified herein.
5. For any appeal proceeding, the Planning Director shall cause notice to be provided in the same manner as provided for the original decision (property owners within 500 feet), those testifying either in writing or orally and any other parties to the proceedings who request notice in writing.
6. A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal not later than 21 days after the decision becomes final.

**18.02.800.010 Requirements of Notice of Appeal.** A "Notice of Appeal" shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision.
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings.
3. The specific policy or criteria relied upon for review.
4. 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.

**18.02.800.020 Scope of Review.** The reviewing body shall determine the scope of review on appeal to be one of the following:

1. Restricted to the record made on the decision being appealed.
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.

**18.02.800.030 Review on the Record.**

1. The reviewing body may hear the entire matter on the record or it may admit additional testimony and other evidence in a de novo hearing.
2. When the reviewing body requests a review on the record, the record shall include:
  - A. A factual report prepared by the Planning Director.
  - B. All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review.
  - C. The minutes of the hearing.
3. 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.

**18.02.800.040 De Novo Hearing.** “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.

**18.02.800.050 Review Body Decision.** Upon review, the reviewing body may affirm, remand, reverse, or modify in whole or part a determination or requirement of the decision that is under review. When the reviewing body modifies or renders a decision that reverses a decision of the review body, the review body shall set forth its findings and state its reasons for taking the action. When the reviewing body elects to remand the matter back to the previous review body for such further consideration as the reviewing body deems necessary, it may include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

## **LEGISLATIVE PROCESS**

### **18.02.900 Initiation.**

1. The City Council may make changes in the Comprehensive Plan or Development Code provisions and designations by legislative act where such changes affect a large number of persons, properties, or situations and are applied over a large area.
2. The City Council, Planning Commission, or the Planning Director may initiate a review on any legislative matter.
3. Any property owner or resident of the City may request the Planning Commission to initiate a review of any legislative matter (such as an amendment to the Development Code text). The Planning Commission shall review the proposal and determine whether the proposal warrants processing as a legislative amendment.

**18.02.900.010 Procedure.** Legislative land use applications are processed as a legislative Type IV procedure.

### **18.02.900.020 Hearing Notice.**

1. The Planning Director may inform persons believed to have a particular interest and provide the general public with reasonable opportunity to be aware of the hearings on the proposal.
2. Notice shall be published in a newspaper of general circulation at least one week prior to the hearing and additionally as may be required by state law for a particular proceeding.
3. Published notice shall include the following information:
  - A. The reviewing body, the date, time, and place of the hearing.
  - B. The nature of the proposed amendment.
  - C. The name and telephone number of the staff member to contact for more information.

**18.02.900.030 Hearing Procedures.** Interested persons may submit written recommendations and comments in advance of the hearing and this information shall be available for public inspection. At the hearing, written recommendations and other information will



be received and oral statements will be permitted. The presiding officer may establish a time limit for presentation of information.

**18.02.900.040 Planning Commission Recommendation.** In preparing its recommendation to the City Council, the Planning Commission shall do the following:

1. Evaluate the proposal based on the relevant Development Code criteria.
2. Prepare a recommendation and make findings in support of such recommendation.

**18.02.900.050 City Council Action.**

1. In reaching a decision on a legislative matter, the Council shall adopt findings applicable to the relevant policies and criteria in support of the decision.
2. The City Council may:
  - A. Enact, amend or defeat all or part of the proposal under consideration, or
  - B. Refer some or the entire proposal back to the Planning Commission for further consideration.

**18.02.900.060 Notice to DLCD on Legislative Matters.**

1. The Planning Director shall notify Department of Land Conservation and Development for adoption of or amendment to the Comprehensive Plan, the Development Code, or any other land use regulation. The notice shall be provided at least 45 days before the first evidentiary hearing on adoption and the notice shall contain information sufficient to inform the Department as to the effect of the proposal.
2. If the City determines that the statewide goals do not apply to a particular proposed amendment or new regulation, notice under subsection (1) of this section is not required. In addition, the City may consider an amendment or new regulation with less than 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review.

**18.02.900.070 Decision Notice Requirements.**

1. Within five working days following adoption of an amendment or new land use regulation, the Planning Director shall forward to the Department of Land Conservation and Development a copy of the adopted text and findings and notify the Department of any substantial changes which may have occurred in the proposal since any previous notification to the Department.
2. Within five working days, the Planning Director shall also notify any person who participated in the proceedings leading to the decision. Such notice shall briefly describe the final action taken, state the date and effective date of the decision, and explain the requirements for appealing the action under ORS 197.830 to 197.845.

**18.02.900.080 Appeal.** A legislative land use decision may be appealed to the Land Use Board of Appeals.

# Chapter 18 - ARTICLE 3

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# Chapter 18 - ARTICLE 3

## REVIEW CRITERIA

**18.03.005.000 Overview.** The Development Code provides a combination of nondiscretionary and discretionary standards for the City to use in evaluating land use proposals for compliance with the use and development requirements of the Code. The nondiscretionary criteria provide the certainty needed in most situations by providing straightforward, clear, and objective standards. Discretionary criteria provide needed flexibility by allowing more subjective standards and objectives, and providing for the modification of regulations in response to specific site conditions. This chapter contains the criteria for evaluation of the following land use applications:

- Adjustments
- Annexations
- Comprehensive Plan Map Amendments
- Conditional Uses
- Design Review
- Development Code Amendments
- Nonconforming Situations
- Vacations
- Variances
- Zoning Map Amendments (Zone Changes)

### **18.03.010.000 Function of Review Criteria.**

1. Review criteria set the bounds for the issues that must be addressed by the applicant and which may be raised by the City or affected parties.
2. The review criteria have been derived from and are based on the Comprehensive Plan. Reviews against the goals and policies of the Comprehensive Plan are not required unless specifically stated. Fulfillment of all requirements and review criteria means the proposal is in conformance with the Comprehensive Plan.
3. When review criteria refer to the request's meeting a specific threshold, such as adequate services or no significant detrimental environmental impacts, the threshold includes any proposed improvements, mitigation measures, or limitations. All proposed improvements, mitigation measures, and limitations must be identified prior to a final decision by a review body.

**18.03.015.000 Burden of Proof.** The burden of proof is on the applicant to show that the review criteria are met based upon written and oral testimony. The burden is not on the City or other parties to show that the criteria have not been met.

**18.03.020.000 Conditions of Approval.** The City may attach conditions to the approval of a land use decision in order to ensure that the proposal will conform to the applicable review criteria.

**18.03.025.000 Relationship to Other Regulations.** Approval of a land use application based on review criteria in this Code does not relieve the applicant of responsibility for compliance with other applicable codes, ordinances, statutes or regulations.

## ADJUSTMENTS

**18.03.030.000 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.

**18.03.030.010 Procedures.** Adjustment requests are processed through a Type I procedure.

**18.03.030.020 Review Criteria.** Alternative setbacks in developed areas are addressed in the Zoning District Articles. All other 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.

## ANNEXATIONS

**18.03.040.000 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 SMC18.03.040.040. 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.

**18.03.040.010 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.

1. With respect to annexations, the procedures and standards established in this chapter are required for review of proposed annexations in order to:

- A. Provide adequate public information and sufficient time for public review before an annexation election;
  - B. Maximize citizen involvement in the annexation review process;
  - C. Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and
  - D. Ensure adequate time for staff review.
2. 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.

**18.03.040.020 Application and Fee.**

- 1. An application for annexation shall be filed with the city and accompanied by the appropriate fee. At a minimum the application shall include:
  - A. 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
  - B. Signed notarized statements by any one leasing or renting the property stating that they have no objection to the annexation.
  - C. 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
  - D. A copy of the current deed(s); and
  - E. 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
  - F. Two full quarter-section county tax assessor's maps, with the subject property(ies) outlined; and
  - G. 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 18.03.040.040. 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
  - H. Eighteen (18) full sized and one reduced (11" x 17") conceptual site plan for properties to be developed with a Subdivision or Planned Unit 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 1/2" 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:

- (1) The location of existing structures (if any); and
  - (2) The location of streets, sanitary sewer, storm drainage, water, electric and other utilities, on or adjacent to the property to be annexed;
  - (3) 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.
  - (4) 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.
  - (5) 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.
  - (6) Label and show *existing* and *proposed* contour (topography) lines drawn at the following intervals:
    - (a) One-foot intervals for ground slopes less than five percent.
    - (b) Two-foot intervals for ground slopes between five and ten percent.
    - (c) Five-foot intervals for ground slopes exceeding ten percent.
  - (7) General land use plan indicating the types and intensities of the proposed, or potential development.
- I. If applicable, a double-majority worksheet, certification of ownership and voters. Certification of legal description and map on forms provided by the City.
- J. A narrative statement explaining the conditions surrounding the proposal and addressing the factors contained in the Review Criteria, as relevant, including:
- (1) Statement of availability, capacity and status of existing water, sewer, drainage, transportation, park and school facilities; and
  - (2) Statement of increased demand for such facilities to be generated by the proposed development; and
  - (3) Statement of additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand.
  - (4) Statement outlining method and source of financing required to provide additional facilities, if any; and
  - (5) 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
  - (6) 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
  - (7) Statement indicating the type and nature of any comprehensive plan text or map amendments that may be required to complete the proposed development.
- K. 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.



**18.03.040.030 Filing Procedure.** Whenever an application for annexation is filed, it shall be reviewed in accordance with the following procedures:

1. **Determination of Annexation Type.** The Planning Director shall determine whether an application is for a major or minor annexation as follows:

A. **Major Annexation.** An annexation shall be considered major if one or more of the following exist:

- (1) More than one property is involved;
- (2) City services do not abut the site;
- (3) The land is vacant and the request involves more than one district designation;
- (4) The land is developed with more than one type of existing land use and more than one district designation is needed or requested or
- (5) The request for annexation involves more than two acres.

However, if the Planning 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.

B. **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.

2. **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:

A. 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.

B. 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.

C. 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.

3. 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.

**18.03.040.040 Review Criteria.** When reviewing a proposed annexation of land, the Planning Commission and City Council will consider the following standards and criteria:

1. Adequacy of access to the site; and
2. Conformity of the proposal with the City's Comprehensive Plan; and
3. 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
4. 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
5. The area to be annexed is contiguous to the city and represents a logical direction for city expansion; and
6. 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
7. The proposed use of the property is consistent with the applicable comprehensive plan designation; and
8. The proposed annexation shall be consistent with all applicable goals and policies of the Silverton Comprehensive Plan; and
9. Shall be in compliance with applicable sections of ORS Chapter 222; and
10. Natural hazards identified by the City, such as wetlands, floodplains and steep slopes have been addressed; and
11. 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
12. 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.

**18.03.040.050 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 Planning Director may also initiate Plan amendments. Such initiations are made without prejudice towards the outcome.

**18.03.040.060 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 SMC18.02.300.020, 18.02.300.030 and 18.02.300.100.

**18.03.040.070 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.

**18.03.040.080 Annexation Zoning Matrix.**

<u>Plan Designation</u>	<u>Compatible Zoning Districts</u>
Industrial	Industrial Park (IP), Limited Industrial (I-1), General Industrial (I-2)
Commercial	Residential Commercial (C-1), Residential Business (C-2), Commercial Business (C-3)
Multiple Family	Multiple Family Low Density (RL), Multiple Family Medium Density (RM), Multiple Family High Density (RH)
Single Family	Residential Single Family High Density (RS-5), Residential Single Family Medium Density (RS-7), Residential Single Family Low Density (RS-10)
Urban Residential Reserve	Residential Reserve (RR), Residential Single Family Low Density (RS-10), Residential Single Family Medium Density (RS-7) when public facilities are provided.

**18.03.040.090 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 18.03.040.040. The Planning Commission shall provide findings in support of its recommendation.

**18.03.040.100 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 18.03.040.040. The City Council shall adopt findings in support of its decision to schedule an annexation for an election.

**18.03.040.110 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.

**18.03.040.120 Election Procedures.**

1. 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.

2. 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.
3. 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.

**18.03.040.130 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.

**18.03.040.140 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.

## COMPREHENSIVE PLAN AMENDMENTS

**18.03.050.000 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.

**18.03.050.010 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 Planning Director may also initiate Plan amendments. Such initiations are made without prejudice towards the outcome.

**18.03.050.020 Procedure.** Requests for Plan amendments determined by the Planning Director to be legislative in nature are reviewed through the legislative procedures stated in Section 18.02.900. Quasi-judicial requests are reviewed through the Type IV procedures of Section 18.02.290. Area specific amendments, including map amendments outside of the city limits, are processed in accordance with the City-Marion County Urban Growth Management Agreement.

**18.03.050.030 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:

1. 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.

2. A legislative amendment is needed to meet changing conditions or new laws.
3. The requested designation for a quasi-judicial map amendment meets all of the following tests:
  - A. 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.
  - B. The requested designation is consistent with any relevant area plans adopted by the City Council.
  - C. 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.
  - D. A public need will be met by the proposed change that is not already met by other available property.
  - E. The requested designation is consistent with the Statewide Planning Goals.
4. If the request for a Comprehensive Plan Map or Text Amendment originates from a petition, the petitioner will bear the burden of proof.

**18.03.050.040 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:

1. The correction may be made for mapping errors such as:
  - A. 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.
  - B. The line on the map does not match the legal description or map shown or references in the ordinance which applied the designation; or
  - C. When there is a discrepancy between maps and there is clear legislative intent for where the line should be.
2. 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.

**18.03.050.050 Comprehensive Plan Map Reviews.**

1. **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.
2. **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.

3. The Planning Commission will coordinate these various reviews as the committee for citizen involvement in accordance with ORS Chapter 197.

## **CONDITIONAL USES**

**18.03.060 Purpose.** Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but not necessarily do, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use process provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the negative impacts are found to be unacceptable by the City. Uses identified in the zoning districts as requiring Conditional Use approvals may be permitted, enlarged or altered in accordance with the provisions of this Section. In addition, where a use is not authorized in any district or where ambiguity exists concerning the appropriate classification of a particular use or type of development within the intent of this Code, the use or type of development may be established by a Conditional Use approval in accordance with this Section.

**18.03.060.010 Procedures.** There are four Conditional Use applications which are as follows:

1. Minor Modification to a Conditional Use which is processed as a Type I review as defined in Section 18.02.250 and the decision making authority is the Planning Director.
2. Administrative Conditional Use which is processed as a Type I-L review as defined in Section 18.02.260 and the decision making authority is the Planning Director.
3. New Conditional Use which is processed as a Type III review as defined in Section 18.02.280 and the decision making authority is the Planning Commission
4. Major Modification of a Conditional Use which is processed as a Type III review as defined in Section 18.02.280 and the decision making authority is the Planning Commission.

**18.03.060.020 Threshold For A Minor Modification of a Conditional Use.** An application for a Minor Modification of a Conditional Use shall be required when one or more of the following thresholds apply:

1. An increase in the gross floor area of a Conditional Use up to and including 10% and less than 1,000 square feet of floor area for all properties which are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
2. A projected or actual increase in vehicular traffic to and from a site approved for a Conditional Use of up to and including 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located at a distance of more than 50 feet from a residential zoning district.

**18.03.060.030 Threshold For An Administrative Conditional Use.** An application for an Administrative Conditional Use shall be required when the placement of one or more portable classrooms on a public or private school site is proposed on a site which has been approved as a Conditional Use.

**18.03.060.040 Threshold For A New Conditional Use.** An application for a new Conditional Use shall be required when a new Conditional Use is proposed.

**18.03.060.050 Threshold For A Major Modification of a Conditional Use.** An application for a Major Modification of a Conditional Use shall be required when one or more of the following thresholds apply:

1. Any increase in the gross floor area of a Conditional Use on properties located in a residential zoning district or within a distance of up to and including 50 feet of a residential zoning district.
2. An increase in the gross floor area of a Conditional Use by more than 10% or in excess of 1,000 gross square feet of floor area for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
3. Any projected or actual increase in vehicle trips per day to and from a site approved for a Conditional Use as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are located in a residential zoning district or are located at a distance of up to and including 50 feet from a residential zoning district
4. A projected increase in vehicular traffic to and from a site approved for a Conditional Use of more than 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are located in a residential zoning district or are located at a distance of more than 50 feet from a residential zoning district.
5. Modification of one or more conditions of approval which apply to an approved Conditional Use.
6. Any increase in the number of dwellings or residential lots.

**18.03.060.060 Review Criteria.** Requests for Conditional Uses will be approved if the review body finds that the applicant has shown that all of the following criteria have been met, either outright, or with conditions that bring the proposal into compliance:

1. The proposal satisfies the threshold requirements for the Conditional Use application.
2. The proposed use is listed as a conditional use in the zoning district and is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.
3. The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal calls for mitigation of difference in appearance or scale through such means as setbacks, screening, landscaping or other design features.
4. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts and pedestrian safety.

5. Public services for water, sanitary and storm sewer, water management and for fire and police protection are capable of servicing the proposed use.
6. The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to:
  - A. Noise, glare, odor, litter, and hours of operation.
  - B. Privacy and safety issues.
7. Any special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and utilized and the characteristics of the site are suitable for the proposed use considering size, shape, location, topography and location of improvements and natural features.
8. The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of adjacent properties in the same zone or negatively affect the public health, safety or welfare.

**18.03.060.070 Conditions of Approval.** The review body may attach conditions to a conditional use approval to ensure that the proposal will conform to the applicable review criteria. Some of the most frequently imposed conditions relate to the following but are not limited to: uses; special yards, and spaces; fences and walls; installation of sidewalks, right-of-way dedication, street improvements or petitions (or bonds); ingress and egress; signs; building textures, colors, architectural features and height; landscaping, screening and buffering; noise, vibration, odors or other similar nuisances; hours for certain activities; time period within which the proposed use shall be developed; duration of use; and preservation of natural vegetative growth and open space.

**18.03.060.080 Transfer of Conditional Use.** Unless otherwise provided in the final decision granting the conditional use, any conditional use granted shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval.

**18.03.060.090 Time Limits.** Authorization of a conditional use shall be void after one year unless substantial action has been taken to implement this decision. The Planning Commission may extend authorization for an additional period not to exceed one year upon written request from the applicant showing adequate cause for such extension.

## **DESIGN REVIEW**

**18.03.070.000 Purpose.** Design Review is intended to promote functional, safe, and attractive developments, which maximize compatibility with surrounding developments and uses and with the natural environment. Design Review mitigates potential land use conflicts resulting from proposed development through specific conditions attached by the review body. Design Review is intended to evaluate the structural design of the proposal and the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, landscaping, architectural features and pedestrian connections with the development and to the public sidewalks. It is not intended to evaluate the proposed use.

**18.03.070.010 Levels of Review.** These sections establish three levels of Design Review, with the degree of detail required for submittal and review criteria based on the projected land use impacts. Option 'A' review is primarily for new development and is subject to the greatest scrutiny. Option 'B' is primarily for review of those projects which are expansions of existing development and which will generally result in fewer impacts on the surrounding area than a



new development. Option 'C' review is used when the proposal is for a change in use or another modification to a developed site which will not result in a greater impact on the neighborhood or on public facilities.

**18.03.070.020 Relationship to Other Regulations.** Approval of a land use application based on review criteria in this Section does not relieve the applicant of responsibility for compliance with other applicable codes, ordinances, statues or regulations.

**18.03.070.030 When Design Review is Required.** In general, Design Review covers all proposed exterior alterations included in the development proposal, but does not cover portions of the existing development that are not being modified. An exception to this is parking areas, where any proposed change to the parking lot will result in the entire parking area being reviewed. Design Review is required in all of the following instances:

1. New development.
2. Building expansions of 500 square feet or more, or any expansion that results in a reduction of parking spaces.
3. Parking area expansions of 1,000 square feet or more.
4. Any development listed in the Zoning District Articles that specifically required Design Review.

**18.03.070.040 When Design Review is Not Required.** Activities and developments listed below are excluded from the requirements for a Design Review land use application but are nevertheless subject to the provisions of the Code were applicable:

1. Agricultural uses permitted outright in any zone.
2. Detached single family dwellings and two unit dwellings.
3. Accessory buildings and building additions of less than 500 square feet which conform to the provisions of this Code and the Uniform Building Code.
4. Accessory buildings in residential districts that meet the following standards. (Information must be submitted that shows the standards are met. The information shall be submitted at the time the applicant applies for building permits. The Community Development Director or his/her designee will determine whether the standards are met.
  - A. The proposed building does not exceed the height of the tallest building on adjacent property as defined in Article 1, Use Categories and Definitions.
  - B. The square footage of the area enclosed by the foundation of the proposed building does not exceed the square footage of the area enclosed by the foundation of the largest building on adjacent property.
  - C. The amount of land that will be covered by buildings if the proposed building is constructed does not exceed the applicable lot coverage restrictions of the Development Code.
  - D. The proposed building meets or exceeds the applicable setback requirements for the primary residential structure listed in the Development Code.

- E. The materials that will be used on the proposed building (e.g. siding and roofing), and the color of those materials, are the same as those used on the primary residential structure on the subject property.
  - F. If the proposed building is located in any of the special purpose districts listed in Article 6 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district. Accessory buildings in floodplain districts are subject to the floodplain regulations of Article 6 – Special Purpose Districts.
5. Landscaping and routine property maintenance.
  6. Improvement of parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.
  7. A change internal to a building or other structure or usage of land that does not constitute a change of use as listed in the Zoning District Articles.
  8. Design Review for a change in use within an existing structure when all of the following criteria are satisfied:
    - A. No structural expansion in excess of 500 square feet or additional exterior storage is proposed.
    - B. The use will not create additional adverse affects for abutting properties or the neighborhood (e.g. visual, noise, or air pollution, increased parking requirements, or improvements to public facilities.)
    - C. Any non-conformity with the provisions of this Code has been addressed, including compliance with sign, landscaping, and parking requirements except where restricted by building location or limiting site characteristics.
  9. An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
  10. Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) which conforms with all other requirements of this Code and other applicable City regulations and public health and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
  11. The establishment, construction, alteration, or maintenance of a public facility authorized by the Public Works Director including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
  12. Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less which does not adversely affect drainage patterns and is not located within a floodplain or slope area.

**18.03.070.050 Pre-application Meeting Required** . Prior to the submittal of the finalized site plan, a pre-application meeting shall be held for Option ‘A’ and Option ‘B’ Design Review applications. A preliminary or conceptual plan shall be submitted with as much applicable information as possible. Information for pre-application meetings shall be submitted at least 15 working days prior to a scheduled meeting to assure proper evaluation by staff.

**18.03.070.060 Review Criteria.** Design Review approval will be granted if the review body finds that the applicant has met all of the following criteria that are applicable to the proposed development.

1. Public facilities can accommodate the proposed development.
2. Any special features of the site (such as topography, hazards, vegetation, wildlife habitat, archaeological sites, historic sites, etc.) have been adequately considered and utilized.
3. The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.
4. Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.
5. Design Standards of the zoning district or special use standards have been met.

**18.03.070.070 Conditions of Approval.** The City may attach conditions to the approval of a Design Review application in order to ensure that the proposal will conform to the applicable review criteria. Some of the most frequently imposed conditions relate to the following but are not limited to: installation of sidewalks, right-of-way dedication, street improvements or petitions (or bonds); ingress and egress; signs; building textures, colors, architectural features and height; landscaping, screening and buffering; noise, vibration, odors or other similar nuisances; hours for certain activities; time period within which the proposed use shall be developed; duration of use; and preservation of natural vegetative growth and open space.

**18.03.070.080 Common Areas for Multiple Family Development.** Common areas including indoor recreation areas within a multiple family development shall be a functional part of the development prior to issuance of a Building Permit for the first unit over 25 percent of the total number of units in the proposed development. Outdoor open space shall be provided with a lawn or hard surface area in which user amenities such as trees, shrubs, pathways, food and ornamental garden spaces, covered picnic tables, benches, and drinking fountain(s) have been installed. The remaining area may be maintained in its natural state but must be maintained in compliance with Silverton's Noxious Vegetation Ordinance. A Final Landscape Plan shall be submitted for common areas incorporating the previously described amenities.

**18.03.070.090 Transfer of Design Review.** Unless otherwise provided in the final decision granting the approval of the Design Review, any Design Review granted shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval.

**18.03.070.100 Time Limits.** Design Review approval shall be void after one year unless substantial action has been taken to implement this decision. The approval authority may extend authorization for an additional period not to exceed one year upon written request from the applicant showing adequate cause for such extension.

## **OPTION 'A' REVIEW**

**18.03.070.100 Applicability.** This level of review is intended for new development within the City. Any proposal that is not appropriately reviewed under Options 'B' or 'C' will be reviewed under Option 'A'. Option 'A' reviews are required for all new development and for the following modifications to existing development:

1. An addition exceeding 1,200 square feet to an existing structure.
2. Parking lot additions of over 1000 square feet or more than 6 additional spaces.
3. A change in occupancy to a more intensive use in an existing building as determined by Building Code classifications.

**18.03.070.110 Procedure.** A Type I-L limited land use procedure is followed for an Option 'A' Design Review with the Director acting as the review body except for the following situations where the Planning Commission shall act as the review body:

1. Multi-family development that abuts a single-family residential zoning district.
2. Commercial and industrial development that abuts any residential zoning district.
3. Manufactured Home Parks.

**18.03.070.120 Application Contents.** An application for Option 'A' Design Review consists of the following:

1. A completed application form.
2. A mailing list of property owners within 500 feet of the entire contiguous site when a public hearing is required. The list will be compiled from the most recent property tax assessment roll and shall be certified by a Title Company or the Marion County Assessor's office as being accurate and complete as found on the most recent property tax assessment roll. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
3. One set of conceptual architectural drawings, including floor plans, a fully colored building elevation(s) and a materials sample board a minimum of 18" x 24" in size.
4. A conceptual landscape plan (2 copies) showing the type and location of proposed landscaping and screening.
5. A site plan (10 copies) showing the following:
  - A. Assessor's map and tax lot number and lot and block description or other legal description.
  - B. Lot dimensions and total lot area.
  - C. North arrow.
  - D. Location of all existing and proposed structures, including minimum distances from all structures to lot lines.
  - E. Percentage of the lot covered by any and all structures.
  - F. Adjacent zoning designations and adjacent land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.
  - G. Locations and dimensions of rights-of-way of all abutting streets (whether public or private) and existing and proposed driveways.
  - H. Size and location of all utilities.
  - I. Locations, dimensions, and nature of any easements.

- J. Location of any non-access strips.
- K. Natural drainage patterns (existing contour lines at two-foot intervals if required by Director.)
- L. Location, size, and capacity of the existing and proposed drainage system including pipe size and slope. Show existing and proposed finished grade elevations at collection points and property lines. Include the location, size, and capacity of facilities identified in the Drainage Master Plan that would serve the proposed development.
- M. Proposed cuts and fills of more than two feet and any changes in elevations proposed at property lines.
- N. Location and species of trees greater than 8 inch caliper in circumference when measured at 4 feet above mean ground level from the base of the trunk.
- O. Location and dimensions of delivery and loading areas.
- P. Location and dimensions of parking and circulation areas.
- Q. Location and dimensions of trash disposal areas.
- R. Location of proposed signs.

**18.03.070.130 Appeals.** An Option 'A' Design Review decision is a limited land use decision and may be appealed in accordance with Section 18.02.260(5).

## **OPTION 'B' REVIEW**

**18.03.070.200 Applicability.** This level of review is intended for expansion of existing structures or development, which will have a minimal impact on the surrounding area. An Option 'B' Design Review must be filed when the following developmental activities are proposed:

1. An addition (exceeding 500 square feet but not more than 1,200 square feet) to an existing structure.
2. Parking lot additions of over 1000 square feet or not more than 6 additional spaces.
3. A change in occupancy to a less or same intensive use in an existing building as determined by Building Code classifications.
4. Reduction in the number of parking spaces. Any development consistent in scope and impact with those listed here may also be reviewed under an Option 'A' Design Review, at the Director's discretion.

**18.03.070.210 Procedure.** A Type I-L limited land use procedure is followed for the Option 'B' Design Review with the Director acting as the review body.

**18.03.070.220 Application Contents.** The Director may require any of the information listed for Option 'A' Design Review in Section 18.03.070.120. In many cases, not all of this information will be required due to lack of applicability.

**18.03.070.230 Appeals.** An Option 'B' Design Review decision is a limited land use decision and may be appealed in accordance with Section 18.02.260(5).

## OPTION 'C' REVIEW

**18.03.070.300 Applicability.** An Option 'C' Design Review is intended for review of development in existing buildings. It is appropriate for the following types of development proposals:

1. A change in occupancy to a use which is not more intense in off-site impacts.
2. Resurfacing of nonconforming parking lots.
3. Other development with similar impacts.

**18.03.070.310 Procedure.** A Type I procedure is followed for the Option 'C' Design Review.

**18.03.070.320 Application Contents.** An Option 'C' Design Review requires submittal of only the completed application form.

**18.03.070.330 Review Criteria.** The following criteria must be met in order for the Director to approve the proposed development:

1. Off-street parking is adequate to serve the proposed use.
2. The proposed use will not generate more traffic than the previous use.
3. The site is in, or can be brought into, compliance with the spirit of the Code regarding landscaping, screening and buffering.
4. Any applicable criteria from Section 18.03.070.120.

**18.03.070.340 Appeals.** An Option 'C' Design Review decision is an Administrative decision and may be appealed in accordance with Section 18.02.260(5).

## DEVELOPMENT CODE AMENDMENTS

**18.03.080.000 Purpose.** The Development Code is designed to implement the goals and policies of the Comprehensive Plan, which is a reflection of community values and needs. Because these values may change with time and because new techniques for implementing the Plan may be appropriate, the Code must have some mechanism for response to those changes. Amendments to the Code should occur as needed in order to maintain a close relationship between the Development Code and the Comprehensive Plan.

**18.03.080.010 Procedures.** Code amendments shall be processed in accordance with the legislative procedures of Sections 18.02.900 -18.02.900.080.

**18.03.080.020 Review Criteria.** The request may be approved if the Council finds that the applicant has shown that all of the following criteria are met:

1. The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.
2. The proposed amendments are consistent with Development Code policies and with the purpose statement for the applicable base zone, special purpose district, or development regulation where the amendment is proposed.

## **NONCONFORMING SITUATIONS**

**18.03.090.000 Purpose.** Within the City there are lots, developments, and uses which were lawful before this Code was adopted or amended, but which would no longer be allowed under the current terms of this Code. It is the intent of these provisions to permit such nonconformities to continue, but not to encourage their perpetuation. All nonconformities are referred to as “nonconforming situations.”

**18.03.090.010 Status and Documentation of a Nonconforming Situation.** The nonconforming situation regulations apply only to those situations which were allowed when established or which were approved through a land use review. Nonconforming situations which were not allowed when established have no grandfather rights and must be removed. The burden of proof is on the property owner or applicant to document that a nonconforming situation was allowed when established and was maintained over time. Satisfactory evidence of the nonconforming situation must be provided by the applicant. Evidence might consist of building permits, utility hookups, tax records, business licenses, or telephone directory listings.

**18.03.090.020 Types of Nonconforming Situations.** A lot of record may be nonconforming because it does not meet the dimensional or area standards currently required in a particular zoning district. A specific site may be nonconforming because it contains either a nonconforming use, an allowed residential use that exceeds the allowed density, a nonconforming development, or a combination of these.

### **18.03.090.030 Regulations That Apply to All Nonconforming Situations.**

1. The status of a nonconforming situation is not affected by changes in ownership.
2. A nonconforming situation may be changed to a conforming situation by right. Once a conforming situation occupies the site, the nonconforming rights are lost and a nonconforming situation may not be re-established.
3. A nonconforming use may change to a conditional use if approved through a conditional use review. Once a conditional use occupies the site, the nonconforming rights are lost and a nonconforming use may not be re-established.
4. Normal maintenance and repair of nonconforming situations is allowed.

### **18.03.090.040 Loss of Nonconforming Status.**

1. The nonconforming use of a building, structure, or land shall be deemed to have terminated if the building, structure, or land ceases to be occupied by a permitted or legally nonconforming use for any reason for a continuous period of one year. Extensions of up to two additional years may be granted under the Type II procedure if the Director finds that:
  - A. Conversion to any conforming use will result in a substantial economic loss and that the proposed use will result in greater conformance with the development standards of the zone; OR
  - B. Immediately surrounding land uses are similarly nonconforming and proposed use will be compatible with both the nonconforming and conforming uses in the review area.
2. Nonconformance with any development standard or condition other than building setback, coverage, or height shall be deemed terminated if the building, structure, or land ceases for

any reason to be occupied by a permitted or legally nonconforming use for a continuous period of one year.

3. Any nonconforming use or development dependent upon a building or structure which is substantially damaged or becomes deteriorated to the extent that it has been declared a “dangerous building” and ordered demolished pursuant to the Silverton’s Dangerous and Derelict Structures Code (Chapter 15.08.360) shall be deemed terminated upon such destruction or declaration and order.
4. Any nonconforming use or development 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.
  - A. Cost of repair or restoration shall be determined by the Building Official based upon three bids submitted by local contractors. Fair market value of the structure shall be determined by independent professional appraisal in a form satisfactory to the City. Such determinations of value and cost are appealable to the Building Board of Appeals. Exceptions to this standard may be applied for under the Type II procedure.
  - B. The Director may allow additional degrees of reconstruction upon finding that:
    - (1) Conversion to any conforming use will result in a substantial economic loss, and
    - (2) The proposed use will result in greater conformance with the development standards of the zone, or
    - (3) Immediately surrounding land uses are similarly nonconforming and the reconstructed use will be compatible with both the nonconforming and conforming uses in the review area.
5. Rebuilding of structures which have been intentionally destroyed and which contained nonconforming uses is prohibited.

**18.03.090.050 Nonconforming Lots of Record.** Lots of record that do not meet the dimensional or area requirements of the zoning district in which they are located may be developed. Any new structure built on the lot must conform to the development standards for the zoning district in which the lot is located (such as setbacks, lot coverage, etc.).

**18.03.090.060 Nonconforming Uses.**

1. Nonconforming uses may continue to operate. Changes in operations are allowed. However, nonconforming uses in residential zones may not extend their hours of operation into the period of 10 p.m. to 7 a.m.
2. A change to another use in the same use category is allowed by right. A change to a use in a different use category which is prohibited by the base zone may be allowed through a nonconforming use review.
3. Structural expansions shall be limited to the following % of expansion for existing gross floor area:
  - Building under 4,000 square feet 25%
  - Building under 10,000 square feet 20%
  - Building larger than 10,000 square feet 15%



4. Nonconforming uses and buildings may expand one time only.
5. Expansion of the nonconforming use onto another site is prohibited, except in the following situation:
  - A. The site is abutting the site of the nonconforming use; and
  - B. The site was in the same ownership as the nonconforming site when it became nonconforming; and
  - C. The prior zoning regulations on the expansion site would have allowed the use; and
  - D. The expansion is approved through a nonconforming use review.
6. The addition of new residential units to a nonconforming residential use is prohibited.

**18.03.090.070 Nonconforming Residential Densities.** Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to the site. There may not be a net increase in the number of dwelling units and the building may not move further out of compliance with the base zone development standards.

**18.03.090.080 Nonconforming Development.** This section is primarily aimed at upgrading nonconforming development elements that affect the appearance and impacts of a site. Nonconforming developments may continue unless specifically limited by Subsection (2) below or other regulations in this Title.

1. Changes may be made to the site, which are in conformance with the base zone development standards.
2. Development not complying with the following standards must be brought into compliance with the base zone standards to an extent commensurate with the proposed changes.
  - A. Landscaped setbacks for surface parking and exterior development areas;
  - B. Interior parking lot landscaping;
  - C. Landscaping in existing building setbacks;
  - D. Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);
  - E. Screening; and
  - F. Paving of surface parking and exterior storage and display areas.

**18.03.090.090 Sites That Are Nonconforming in Parking Spaces.** When a site is nonconforming in the number of required parking spaces and changes to a use or building are made that increase the number of required parking spaces, only the number of spaces relating to the increase square footage of the building need to be provided.

**18.03.090.100 Procedure.** A nonconforming situation is reviewed through a Type II procedure.

**18.03.090.110 Review Criteria.** The request will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

1. The nonconforming situation was not created unlawfully. See Section 18.03.090.010

2. With mitigation measures, there will be a net decrease in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:
  - A. The hours of operation;
  - B. Vehicle trips to the site and impact on surrounding on-street parking;
  - C. Noise, vibration, dust, odor, fumes, glare, and smoke;
  - D. Potential for increased litter; and
  - E. The amount, location, and nature of any outside displays, storage, or activities; and either (3) or (4) below.
3. If the nonconforming use is in a residential zone, and if any changes are proposed to the site, the appearance of the new use or development will not lessen the residential character of the area. This is based on taking into account factors such as:
  - A. Building scale, placement, and facade;
  - B. Parking area placement;
  - C. Buffering and the potential loss of privacy to abutting residential uses; and
  - D. Lighting and signs.
4. If the nonconforming use is in a commercial or industrial zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

## **URBAN GROWTH BOUNDARY AMENDMENTS**

**18.03.100.000 Purpose.** This section states the initiation process and criteria to be used in considering an urban growth boundary change.

**18.03.100.010 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 18.03.100.020.

**18.03.100.020 Simultaneous Urban Growth Boundary Change with Comprehensive Plan Change.** If Urban Growth Boundary changes are adopted in accordance with Section 18.03.100.010. the resulting Comprehensive Plan change can be adopted simultaneously. No additional conditions must be set for a Comprehensive Plan Change.

### **18.03.100.030 Initiation of Urban Growth Boundary Change by City Council.**

1. 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.

2. 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 Planning 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 2 for Type IV applications.
3. After the hearing by the Planning Commission, the Planning Commission shall make a recommendation in the form of a resolution to the City Council.
4. 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.
5. 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.
6. If no mutual agreement is reached, the City Council may appeal to the Oregon State Land Conservation and Development Commission or seek judicial remedy.

**18.03.100.040 Initiation of Urban Growth Boundary Change by Planning Commission.**

1. 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 18.03.050.050 may be initiated by the Planning Commission.
2. When the proceedings are initiated by the Planning Commission, the Planning 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 2 for Type IV applications.
3. After the hearing, the Planning Commission may refer its recommendation to the City Council in the form of a resolution.
4. 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.
5. 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.
6. If no mutual agreement is reached, the City Council may appeal to the Oregon State Land Conservation and Development Commission or seek judicial remedy.

**18.03.100.050 Initiation of Urban Growth Boundary Change by the Marion County Board of Commissioners.**

1. 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.

2. The City Council shall forward such request to the Planning Commission for consideration.
3. The Planning Commission shall automatically initiate the requested amendment and the Planning 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 2. 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.
4. The Planning Commission shall refer its recommendation in the form of a resolution to the City Council.
5. 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.

**18.03.100.060 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 2 for Type IV applications, the following information shall be included:

1. 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.
2. Written Findings of Fact and Conclusions for the review criteria listed in Section 18.03.100.070
3. Within ten (10) days of the petition being filed with the Planning Director, the application shall be checked for completeness and if the petition is sufficient, the Planning Director shall refer the petition to the Planning Commission and a hearing date shall be set. The Planning Director shall give notice of such hearing and a hearing shall be conducted as provided in Article 2 for Type IV applications.
4. The Planning Commission shall hold a public hearing and shall refer its recommendation to the City Council in the form of a resolution.
5. 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.
6. 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.
7. If no mutual agreement is reached, the City Council may appeal to the Oregon State Land Conservation and Development Commission or seek judicial remedy.

**18.03.100.070 Criteria to be Used in Considering an Urban Growth Boundary Change.**

1. Changes in the urban growth boundary will be limited to those cases in which the land in question is needed to provide for:

- A. Accommodation of additional population;
  - B. Housing and employment opportunities;
  - C. Orderly and economical provision of public facilities and services;
  - D. Maximum efficiency of land uses;
  - E. Retention of agricultural lands;
  - F. Compatibility of the proposed urban use with nearby agricultural activities; and
  - G. Improvement of the area's environmental, energy, economic and social well being.
2. All urban growth boundary amendments must be in accordance with the goals, objectives and policies of the Comprehensive Plan.
  3. If the request for an urban growth boundary change originates from a petition, the petitioner will bear the burden of proof.

## VACATIONS

**18.03.110.000 Purpose.** This section states the procedures and review criteria for the vacation of an easement, right-of-way, or plat.

**18.03.110.010 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.

**18.03.110.020 Procedure.** Type IV procedures as outlined in Article 2 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.

**18.03.110.030 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.

**18.03.110.040 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.

**18.03.110.050 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.

## **VARIANCES**

**18.03.120.000 Purpose.** Variances provide flexibility for unusual situations, while continuing to provide certainty and rapid processing for land use applications. Variances are necessary when the applicant requests a deviation from numerical standards of more than ten percent (10%), or a variation from non-numerical development standards. Requests for changes of less than ten percent (10%) of a numerical standard are processed as Adjustments.

**18.03.120.010 Procedure.** A Variance request shall be reviewed as a Type II procedure.

### **18.03.120.020 Regulations Which May and May Not Be Varied.**

1. Unless listed in Subsection (2) below, all regulations in this Title may be modified using the variance process.
2. Variances are prohibited for the following items:
  - A. To allow a primary or accessory use that is not allowed within the Zoning District.
  - B. As an exception to any restrictions on uses or development which contain the word "prohibited".
  - C. As an exception to a threshold for a review, such as the size of accessory structures.
  - D. As an exception to a definition or classification.
  - E. As an exception to the procedural steps of a procedure or to change assigned procedures.

**18.03.120.030 Variance Review Criteria.** The review criteria for sign variances are stated in Section 18.03.120.040. All other variance requests will be approved if the review body finds that the applicant has shown that all of the following criteria have been met:

1. That granting a Variance will be consistent with the intent and purpose of the underlying zoning district in which the variance is sought and that the proposal will be consistent with the character of the area; and
2. The requested variance is the minimum necessary to allow the proposed use of the site and if more than one variance is being requested, the cumulative effect of the variances results in a project which is still consistent with the overall purpose of the zoning district; and
3. That a hardship would exist if the city codes and regulations were strictly applied and that any impacts resulting from the variance are mitigated to the extent practical; and
4. That the applicant has provided a unique and creative solution to the development design problem imposed by the hardship. The applicant shall demonstrate the proposed development in compliance with the regulations and shall provide a minimum of two other alternatives including the one submitted for variance approval.

5. Application of the regulation in question would preclude all reasonable economic use of the site and that the request is the minimum necessary to achieve the purpose of the Variance; and
6. The granting of the Variance shall not be detrimental to the public welfare or injurious to property or improvements in the same zoning district; and
7. The granting of the Variance will not adversely affect the health or safety of person working or residing in the neighborhood of the subject property.

#### **18.03.120.040 Sign Variance Review Criteria.**

1. The granting of the Variance would not decrease traffic safety nor detrimentally impact any other identified items of public welfare.
2. There are unique circumstances or conditions of the lot, building, or traffic pattern such that the granting of the Variance compensates for those circumstances in a manner equitable to other property owners and is thus not a special privilege to any one business and the Variance requested is the minimum necessary to compensate for those conditions and achieve the purpose of the Sign Code.
3. The Variance would not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a Variance.
4. Granting of the Variance would not obstruct views of other buildings or signs or cover unique architectural features of a building or detract from landscape areas.
5. The size, placement, color, and graphics of the proposed sign results in more attractive signage than that allowed under strict interpretation of the Sign Code.

**18.03.120.050 Transfer of a Variance.** Unless otherwise provided in the final decision any Variance granted pursuant to this Article shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval.

**18.03.120.060 Time Limits.** Authorization of a Variance shall be void after one year unless substantial action has been taken to implement this decision. The Planning Commission may extend authorization for an additional period not to exceed one year upon written request from the applicant showing adequate cause for such extension.

## **ZONING MAP AMENDMENTS (ZONE CHANGES)**

**18.03.130.000 Purpose.** In order for the city to plan for the orderly development and use of property, the city has created a range of zone classifications related to land use. All lands within the City limits are assigned specific zone classifications. In assigning zone classifications, the city considers current and projected uses of the land. A zoning map amendment (zone change) is a re-designation of any area and amendment of the official zone map from one zoning classification to another. This section states the procedures and review criteria necessary to process an amendment to the base zones, special purpose districts, and other map symbols of the Zoning Map. The section differentiates between amendments which are processed in a quasi-judicial manner and those processed in a legislative manner.

### **18.03.130.010 Initiation.**

1. Quasi-judicial zoning map amendments may be initiated by a property owner, a representative of the owner, the Director, the Planning Commission, or the City Council.
2. Legislative zoning map amendments may be initiated by the Director, Planning Commission or City Council. Citizens may request that the Planning Commission initiate a legislative amendment. This type of initiation is addressed in Article 2.
3. Zone map amendments (zone changes) may be initiated by resolution of the City Council or Planning Commission when the change is for a governmental purpose, or is determined to be needed in order to bring the zone map into compliance with the comprehensive plan map, or it is determined that existing land development patterns are inconsistent with the existing zone designation and that a change would be more consistent with the overall plan of the future development of this area. After adoption of the resolution to initiate the process, a public hearing shall be scheduled before the Planning Commission consistent with all public notice requirements. Initiations by a review body are made without prejudice towards the outcome.

**18.03.130.020 Procedure.** Zoning map amendments will be reviewed through the Type IV procedures or by legislative action as provided for in Article 2.

**18.03.130.030 Special Notice Requirements.** If a zone change request would change the zone of property which includes all or part of a manufactured home park, the City shall give written notice by first class mail to each existing mailing address for tenants of the manufactured home park at least 20 days but not more than 40 days before the date of the first hearing on the application. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change.

**18.03.130.040 Review Criteria.** Zoning map amendments (Zone Changes) will be approved if the Council finds that the applicant has shown that all of the following criteria are met:

1. The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Comprehensive Plan map amendment has also been applied for in accordance with Article 2.
2. Existing or anticipated transportation facilities are adequate for uses that are permitted under the proposed zone designation.
3. Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development within the subject area without adverse impact on the affected service area.
4. Any unique natural features or special areas involved such as floodplains, slopes, significant natural vegetation, and historic district will not be jeopardized as a result of the proposed rezoning.
5. The intent and purpose of the proposed zoning district satisfies the goals and policies of the Comprehensive Plan more effectively than the current zoning designation.
6. In the case residential zone changes, the proposal complies with the stated intent and purpose for the proposed zoning district; and
7. In the case of nonresidential zone changes:



- A. The proposed change would mitigate a shortage in the inventory acreage in a certain zone classification; or the proposed change is more suited to the location or topography of a parcel; and
  - B. The proposed zone change does not create an intensity of use that is inconsistent with other uses in the vicinity.
8. That a public need will be met that is not already being met elsewhere in the City.

**18.03.120.050 Corrections to the Official Zoning Map.** The Director may initiate and approve a review following the Type I procedure for the types of corrections to the Official Zoning Map listed below:

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 referenced in the ordinance which applied the designation.
3. A discrepancy between maps and there is a clear legislative intent for where the line should be.
4. It can be clearly shown that 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 type items. Map line changes in these cases must not be more than a trivial change to the map pattern and must not result in any significant impacts to abutting lots.

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# CHAPTER 18 - ARTICLE 4

## LAND DIVISIONS AND PLANNED UNIT DEVELOPMENTS

**18.04.010 Overview.** The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. The intent is not to have all of the lots be the minimum lot size. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

The following is a list of the main headings in this article.

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Unit Developments
- Condominiums

### GENERAL PROVISIONS

**18.04.020 Relationship to State Law.** ORS Chapter 92 governs all land divisions. This chapter permits the City to develop its own procedures and review criteria. Because the state law particularly limits the city's discretion in these matters, users of this Code are encouraged to review ORS Chapter 92 at the same time. Because of the many state requirements in this area, this article cannot be relied upon to provide all of the regulations which are applicable to land divisions. At the time of adoption of this article in 2005, the following provisions of state law were identified as particularly applicable:

- ORS92.025 Prohibition of sales of lots or certain interests prior to recordation of plat.
- ORS92.050 Requirements of survey and plat of subdivisions and partitions.
- ORS92.060 Monument requirements for subdivisions, partitions and property line adjustments.
- ORS 92.090 Requisites for approval of tentative subdivision or partition plat.
- ORS 92.120(5) Disclosure of water rights information when dividing land.
- ORS 92.180 Authority to review replats.
- ORS 92.205 Policy on undeveloped subdivisions.

The foregoing is not intended to be an exclusive list of all of the provisions of state law, which must be considered by an applicant or staff in reviewing land division applications. By the same token, the provisions of state law, which are listed above, are not mandatory provisions of this Code. Rather they are merely intended to warn the reader of the need for careful contemporaneous review of state law.

**18.04.030 Relationship to Public Improvements Article.** All proposed developments governed by this article must meet the applicable design, construction, and financial standards of Article 5 - Public Improvements.

**18.04.040 Relationship to Other Local Regulations.** All proposed development governed by this article must meet the applicable on-site improvements of Article Seven - Environmental and On Site Improvements (i.e., off-street parking, landscaping, buffering and screening) and the applicable environmental standards of Article 6 -- Special Purpose Districts (i.e., floodplain, hillsides, and wetlands).

**18.04.050 Pre-application Conference.** A pre-application conference, in accordance with Section 18.02.200.020, is required prior to submittal of an application for any land division. A pre-application conference is not mandatory for property line adjustments.

**18.04.060 Acceptance of Application.** The Director will review the application for compliance with established application requirements within seven (7) working days. If the application is found to be incomplete, the Director will notify the applicant of the reasons, and advise the applicant of the requirements for an acceptable application.

**18.04.070 Expiration Dates.** City approval of a tentative subdivision or partition plat will expire after three years if a final plat is not submitted for approval. Once city approval is granted for a final plat, it must be recorded within 45 days with the Marion County Records Division unless an extension is approved by the City and the Marion County Surveyor's Office.

**18.04.080 Staged Subdivision Development.** When an applicant desires to develop and record in stages final subdivision plats covering portions of an approved tentative plat, the City may authorize a time schedule for platting and otherwise developing the various stages in periods of time in excess of one year, but in no case shall the total time period for all stages be greater than five years without resubmission of the tentative plat. Each stage so platted and developed shall conform to the applicable requirements of this title. Portions platted after the passage of one year may be required to have modifications to avoid conflict with a change in the Comprehensive Plan or implementing regulations.

**18.04.090 Subsequent Land Divisions and Property Line Adjustments.** No subsequent land division or property line adjustment may be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded, or the previous approval is withdrawn or otherwise invalidated.

## **LOT, BLOCK AND STREET ARRANGEMENTS**

**18.04.100 Lot Arrangements.** In any land division or property line adjustment, lots shall conform to the following standards in addition to any applicable provisions of the applicable Zoning District:

1. Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code.
2. Lot dimensions must comply with the minimum standards of the zoning district unless the lots are part of a Planned Unit Development. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat.

3. Double frontage lots shall be avoided except where necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class street where possible.
4. Side yards of a lot shall run at right angles to the street upon which it faces, except that on a curved street the side property line shall be radial to the curve. The front line distance shall be indicated on the final plat by bearing and chord distance. For curved lots on the turn-around of the cul-de-sac, the minimum lot frontage shall be measured at 20 feet in from the property line along the public right-of-way.

**18.04.110 Block and Intersection Arrangements.** In any land division or planned unit development, blocks and intersections shall conform to the following standards where applicable:

1. Block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate lot size. The average block length shall not exceed 500 feet unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through streets. Physical conditions may include but are not limited to existing development, controlled access streets, steep slopes, wetlands, creeks, and mature tree groves where a connection could not be reasonably made.
2. Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.
3. The recommended minimum distance between arterial street intersections is 1800 feet and maximum distance is 2500 feet. In order to provide for adequate street connectivity and respect the needs for access management along arterial streets, the Community Development Director/Public Works Director may require either a right-in/right-out public street connection or public accessway connection to the arterial in lieu of a full public street connection. Where a right-in/right-out street connection is provided, turning movements shall be defined and limited by raised medians to preclude inappropriate turning movements.
4. Cul-de-sac streets, or hammerheads, or other suitable turnarounds as approved by the Silverton Fire District shall be permitted only where there is no feasible connection with an adjacent street as determined by the Public Works Director.
5. Cul-de-sac lots are limited to five lots or units with access on a cul-de-sac bulb except that additional lots or units may be permitted where one additional off street parking space is created for each unit which has access on a cul-de-sac bulb. The minimum frontage of a lot on a cul-de-sac shall be 30 feet as measured perpendicular to the radius and the minimum lot dimension as required by the zoning district at the front yard setback line. The lot width shall meet the minimum lot width standard of the zoning district at the front yard setback line.
6. Flag lots are discouraged and allowed only when absolutely necessary to provide adequate access to buildable sites and only where the dedication and improvement of a

public street cannot be provided. The minimum width for a flag lot is 20 feet, except where point access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12.5 feet and a combined minimum of 25 feet. A single access driveway shall be a paved surface, a minimum of 12 feet in width. A joint-use driveway shall be a paved surface, a minimum of 20 feet in width. The maximum length shall be 150 feet and the joint-use driveway may not serve more than 3 lots, with one of the lots having frontage on a public road.

- A. The property line running parallel to the access road shall be considered the front yard line and shall be used to calculate front yard setback requirements.
  - B. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Code.
  - C. If the length of the access strip exceeds 200 feet, the access strip shall be developed as a private street and shall conform to the standards of SMC18.05.085 (5), (6), and (7).
  - D. A minimum setback of five feet (5') between any existing structure and the access street shall be provided.
7. At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require not less than as follows:

Highest Street Classification of Typical Intersecting Streets	Minimum Radius
Arterial	45 feet
Major Collector	35 feet
Minor Collector	25 feet
Local Residential Street	15 feet
Local Commercial or Industrial Street	35 feet

Curbs shall be laid out from the same radius point as the right-of-way line. The minimum angle of any new intersection shall be 70 degrees.

- 8. Dead-end streets which may in the future be extended shall have a right-of-way and pavement width that will conform to the development pattern when extended. A temporary turn-around meeting Silverton Fire District approval shall be constructed with a temporary easement extending beyond the right-of-way line if necessary.
- 9. In general, all public streets, alleys and pedestrian pathways shall connect to other streets within the development and to existing or planned streets outside the development unless connection is determined to be not feasible due to natural topography, wetlands, other bodies of water, or the existing development pattern. Exceptions may be made where there is a connection to a park, school, other public land or termination at a property boundary where a street can be extended to serve development at a future time.
- 10. The street right-of-way width within or along the boundary of a subdivision shall meet the minimum width standards as listed in SMC18.05.087, except that a boundary street may be half to three-quarters of such width where it is apparent that the other half will be dedicated from adjacent properties as determined by the Public Works Director.
- 11. Streets shall be designed so that there are no off-setting street intersections.

12. At all intersections where marked crosswalks are required, flared out curbs shall be provided. Flared out curbs shall be provided at all street intersections on arterial and collector streets.
13. Pedestrian walkways shall provide direct links between publicly owned pedestrian right-of-way. Walkways shall be dedicated to the public and shall be lighted either by street lights on an adjacent street or pedestrian-scale lighting along the access way. Lighting shall not shine into adjacent residences. Street trees shall be provided adjacent to the pathway in accordance with spacing and tree type listed in Section 18.07400.060. The right-of-way width shall be a minimum of 20 feet in width and when determined to be paved, shall be to the Planning Commission's specifications. Walkways shall be barricaded to the specifications of the Public Works Director to prohibit vehicle access other than emergency vehicles.

**18.04.120 Reserve Strips.** Reserve strips may be required to control the access to a street with said strip being placed under the jurisdiction of the City of Silverton. A reserve strip will be determined to be necessary:

1. To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the terminus of the street.
2. To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in this Code.
3. To prevent access to land abutting a street of the partition or subdivision, but not within the partition or subdivision itself.
4. To prevent access to land unsuitable for building development.

## **PROPERTY LINE ADJUSTMENTS**

**18.04.210 Definition.** A property line adjustment means the relocation of a common property line between two abutting properties. It occurs when property lines separating two or three properties are moved to add and remove land from the properties. A property line adjustment does not result in the creation of a new lot.

**18.04.220 Procedure.** Property line adjustments are reviewed through the Type I procedure, with the Planning Director acting as review body.

**18.04.230 Review Criteria.** The Planning Director will approve, approve with conditions, or deny the request for a property line adjustment based on the following criteria:

1. The property line adjustment does not create a new lot or a land-locked parcel.
2. The adjusted properties are not reduced below the minimum dimensions of the zoning district and do not otherwise violate standards of this Code, or the Structural Specialty Code.
3. The adjusted properties are in compliance with any adopted transportation, public facilities, or neighborhood plan.



4. The adjusted properties comply with any previous requirements or conditions imposed by a review body.

**18.04.240 Submittal Requirements.** An application for a property line adjustment consists of a completed application form, signed by all property owners involved in the proposed adjustment, and a map showing the following details:

1. The scale, north point and date of the map.
2. The tax map and lot number identifying each parcel involved in the adjustment.
3. The location, width and purpose of any easements and driveway access to public right-of-way, existing or proposed.
4. The area, before and after the property line adjustment, of each parcel.
5. The proposed property lines and dimensions of each parcel.
6. Existing and proposed utility services and stub locations, including water, sanitary sewer, drainage, power, gas and telephone.
7. Adjacent rights-of-way with width shown.

**18.04.250 Recording Requirements.** Property line adjustments must meet the recording requirements of ORS 92.190 and be executed by deed.

## **SUBDIVISIONS AND PARTITIONS**

**18.04.300 Intent.** These provisions are intended to set clear and objective standards for subdivision development. The City expects that new subdivisions create housing which maintains or improves the prevailing community standards. The City also expects that new developments will not adversely impact adjacent properties.

**18.04.310 Applicability of Provisions.** The requirements within this Chapter shall be applicable to all lands within the corporate limits of the City of Silverton. They shall not apply to any divisions made pursuant to ORS 197.360, but shall apply to any replats.

**18.04.320 Difference Between Partitions and Subdivisions.** A subdivision relates to the division of land into four or more lots within a calendar year. A partition relates to the division of land into two or three parcels within a calendar year. A partition does not include the three exclusions set forth in ORS 92.010 (7), including property line adjustments as described in Section 18.04.100 of this article.

**18.04.330 Explanation of Process.** Partitions and subdivisions are reviewed at two stages. A tentative plat is reviewed primarily for design aspects, such as connections to existing and future streets, preservation of natural features, drainage and floodplain considerations, and compliance with requirements of other portions of the Silverton Development Code. The tentative plat need not be prepared by a surveyor. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded.

**18.04.340 Procedure.** A tentative subdivision plat is reviewed through the Type III procedure (Quasi-Judicial review) A final partition and subdivision plats are reviewed through the Type I–L procedure as described in Article Two.

**18.04.350 Tentative Plat Review Criteria.** Approval of a tentative subdivision or partition plat will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development:

1. Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
2. Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
3. The proposed street plan affords the best economic, safe, and efficient circulation of traffic possible under the circumstances.
4. The location and design allows development to be conveniently served by various public utilities.
5. Any special features of the site (such as topography, floodplains, wetlands, vegetation) have been adequately considered and utilized.
6. The proposed development meets the standards of the zoning district, of Article 5 – Public Improvements, and of Article 6 – Special Purpose Overlay Districts.

**18.04.360 Concurrent Variance.** The Planning Commission shall have the power to vary the strict application of any of the regulations or provisions of the Development Code where such strict application would result in practical difficulties or unnecessary hardships. A request for a Variance from a regulation shall be filed concurrently with the subdivision or partition application. The Planning Commission may authorize a variance when the findings substantiate that all of the following conditions exist:

1. That the proposal shows:
  - A. That the request is necessary for the proper development of the subject property in consideration of the property rights of the applicant as well as being in context with the greater community; and
  - B. That a hardship would exist if the city codes and regulations were strictly applied and that that hardship is not solely a financial hardship; and
  - C. That the applicant has provided three reasonable solutions to the development design problem imposed by the hardship including one of the solutions which meets all of the requirements being varied; and
  - D. Consideration has been given to the subject property's economic, aesthetic, and environmental potential; and
  - E. That the granting of the variance will not be detrimental to the public welfare or injurious to property or improvements in the same district or abutting properties; and
  - F. That the granting of the variance will not adversely affect the health or safety of persons working or residing in the neighborhood of the subject property; and

- G. That the granting of the variance will be consistent with the intent and purpose of the underlying zoning district in which the variance is sought; and
- H. That the request is the minimum necessary to relieve the hardship and to achieve the purpose of the variance.

**18.04.370 Tentative Plat Conditions of Approval.** The City may attach conditions of approval of a tentative subdivision or partition plat to ensure that the proposal will conform to the applicable review criteria. Matters which may be conditioned include but are not limited to:

1. Dedication of street right-of-way, utility easement.
2. Improvement of public or private streets, including bike lanes, curbs, lighting and sidewalks on site and/or off site.
3. Provision for storm drainage facility.
4. Extension of public street, sanitary sewer, storm drain, and water service including over-sizing to permit development on adjacent lands.
5. Special building setbacks, orientation, landscaping, fencing, berming, and retention of natural vegetation.
6. Specified locations for facilities such as loading, parking, access routes, lighting or any activity that could adversely impact adjacent property.
7. Hours of operation or types of uses or conduct of particular activities.
8. Abatement, mitigation, or prevention of nuisances;
9. Requirements imposed may be required to be filed in the deed records of Marion County.
10. Deferral of part, or all, of the proposed development until the completion of certain specific infrastructure or other capital improvements affecting the proposed development.
11. Provisions for wetlands preservation and enhancement.
12. Dedication of and improvement to public walkways and bikeways.
13. Requirement that common areas including indoor or outdoor recreation areas within a development shall be a functional part of the development prior to issuance of a Building Permit for the first unit or lot over 25 percent of the total number of units or lots in the proposed development. Outdoor open space shall be provided with a lawn or hard surface areas in which user amenities such as trees, shrubs, pathways, food and ornamental garden spaces, covered picnic tables, benches, and drinking fountain(s) have been installed. The remaining area may be maintained in its natural state but must be maintained in compliance with Silverton's Noxious Vegetation Ordinance. A Final Landscape Plan shall be submitted for common areas incorporating the previously described amenities.

**18.04.380 Appeal of a Tentative Plat Decision.** Tentative subdivision review is a Type III review and appealable to the City Council.

**18.04.390 Tentative Plat Submittal.** All applications for tentative partition or subdivision approval must include a complete application form and sixteen (16) copies of full scale drawings of a plan showing the following details and ten (10) reductions 11" x 17" in size. The tentative plan need not be a finished drawing but it shall show all pertinent information to scale.

1. Where the land to be subdivided contains only part of the tract owned or controlled by the subdivider, a sketch is required of a tentative layout for streets and utilities in the unsubdivided portion indicating connections to existing or future improvements.
2. If the detailed map does not show the following information, a vicinity map at a scale of 400 feet to the inch shall be prepared showing:
  - A. All existing subdivisions, streets and tract lines of acreage land parcels immediately adjoining the proposed subdivision and between it and the nearest existing arterial streets.
  - B. Name of the record owners of all contiguous land parcels.
  - C. How streets and alleys in the proposed subdivision may connect with existing or proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood area.
3. The tentative plat shall be drawn to a standard engineer's scale where 1 inch equals 20 - 60 feet; or for areas over 100 acres, 1" = 100'.
4. The name, if any, of the land division, which must not duplicate or resemble the name of another subdivision in the county and must be approved by the Planning Director and the Marion County Surveyor.
5. Date, north point, and scale of drawing.
6. Location of the land division by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the Marion County Assessor.
7. Names and addresses of owner or owners, subdivider, surveyor, and engineer, if applicable.
8. The location, widths, and names of all existing or platted streets or other public ways within or directly adjacent to the tract; railroad rights-of-way and other important features, such as City boundary lines.
9. The location on the site and in the adjoining streets or property of existing and proposed sewers and water mains and services, culverts, ditches and drain pipes, electric, gas and telephone conduits with invert elevations of sewers at points of proposed connections.
10. Contour lines having the following minimum intervals:
  - A. One (1) foot contour intervals for ground slopes less than five (5%) percent.
  - B. Two (2') feet contour intervals for ground slopes between five (5%) and ten (10%) percent. Five (5') feet contour intervals for ground slopes exceeding ten (10%) percent.

- C. The elevations of all control points which are used to determine the contours. Contours shall be related to City of Silverton datum.
  - D. If the ground slopes vary within the development the contour lines shall be shown consistently as required for the steeper slope.
11. Approximate location of areas subject to inundation or storm water overflow with approximate high water elevation.
  12. Location, width, direction and flow of all water courses.
  13. Location of properties within the 100-year flood plain and other areas subject to flooding or ponding (see Article 18.06.130).
  14. Location of the following significant natural resources:
    - A. Significant wetlands identified on the city's Local Wetlands Inventory;
    - B. Riparian areas on the city's Riparian Inventory;
    - C. Existing channels
    - D. Slopes greater than 12 percent.
  15. Location of the following natural features
    - A. Non-significant wetlands identified on the city's Local Wetlands Inventory;
    - B. Wooded areas with 5 or more trees over 8 inches in diameter measured 4 feet above the ground level. 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; and
    - C. Springs.
  16. Existing uses and structures located on the property and adjacent properties within 100' of the subject property. All existing structures shall be labeled as to whether they will remain on the property or be removed.
  17. Zoning on and adjacent to the tract.
  18. Any proposed streets: location, widths, names, approximate radii of curves. The relationship of all streets to any projected streets as shown on any development plan approved by the City.
  19. Existing and proposed easements on the site and any existing easements on adjoining properties, showing the width and purpose of all easements.
  20. Approximate dimensions of all lots and minimum lot sizes in conformance with the minimum standards for the zoning district and proposed lot and block numbers.
  21. Sites, if any, allocated for multiple family dwellings, shopping centers, churches, industry, parks, schools, playgrounds, or public or semi-public buildings.

22. The following additional information must be submitted with the tentative plat:
- A. A certified list prepared by a title company or certified by the Marion County Tax Assessor's office shall be submitted of the names and addresses of all owners within 500 feet of the proposed land division.
  - B. Total acreage in the subdivision and the percent of land dedicated to the public, not including easements.
  - C. All public improvements proposed to be installed and the approximate time of installation, including the method of financing.
  - D. Special improvements to be made by the developer and the approximate time such improvements are to be completed (examples include entrance signs or walks, berms, bus stands, etc). Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, State laws and other applicable City ordinances. If, however, the nature of the improvement is such that it is impractical to prepare all necessary details prior to approval of the tentative plat, the additional details shall be submitted at least 30 days prior to approval of the final plat.
  - E. An urban conversion plan for large acreage subdivisions.
  - F. For subdivisions containing more than 30 lots, a Traffic Impact Analysis shall be submitted to the specifications of the Public Works Director.
23. Subdivisions and partitions proposals containing hillside lots, as described in Article 6, receiving tentative approval on or after the effective date of this ordinance shall comply with the standards set forth in Section 18.06.030 et seq.

## **PLANNED UNIT DEVELOPMENTS**

**18.04.400 Intent.** The city intends to increase its flexibility in applying certain development requirements only if the result will be a more efficient, aesthetic, and desirable use of open area, while substantially maintaining, and possibly intensifying the same population density and area coverage permitted in the district in which the project is located. However, it is not the intent of a Planned Unit Development to make all lots the bare minimum size allowable but rather to encourage creativity in design in exchange for a degree of flexibility in lot sizes, setbacks, and other standards.

**18.04.405 Definition.** A Planned Unit Development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A Planned Unit Development to the maximum extent possible assures that natural or unique features of the land and environment are preserved. A Planned Unit Development may be primarily residential uses with associated commercial uses, or it may be a commercial or industrial development.

**18.04.410 Purpose.** A Planned Unit Development provides the benefits of greater zoning flexibility, reduced lot sizes, and more variety in permitted uses. In exchange, developments must satisfy high quality master planning and performance requirements. However, in no instance shall a residential Planned Unit Development exceed the maximum density allowed within the zoning district.

**18.04.415 Procedure.** A Planned Unit Development is processed in three steps; tentative, interim and final approvals. The preliminary application is reviewed by staff as a Type I procedure. The interim application and final approval is reviewed by the Planning Commission under the Type III procedure.

**18.04.420 Permitted Buildings and Uses.** The following buildings and uses are permitted individually or in combination in a planned development:

1. Residential areas:

- A. Accessory buildings and uses (permitted in combination with principal uses only).
- B. Duplexes.
- C. Dwellings, multiple family.
- D. Dwellings, single family.
- E. Open space.
- F. Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the PUD.
- G. Commercial services to primarily serve the Residential Planned Unit Development.

2. Industrial areas:

- A. Any use allowed outright, through site plan review, or by conditional use approval in the underlying zone is permitted. Uses specified as conditional uses in the underlying zone are limited to 25% of the site except that additional amounts may be approved through the conditional use process.
- B. Up to 25% of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.
- C. Up to 25% of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.
- D. Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

**18.04.425 Regulations Which May Be Modified.** All of the site development standards of the underlying zoning district will apply to a planned development, except as follows:

- 1. Minimum lot area, width and frontage, height and yard requirements will not be used to dictate the development, but will act as general guidelines which may be adjusted to provide for a higher quality development. Maximum density permitted will be calculated by including street and one-half of park land dedications. However, the density of a Planned Unit Development shall not exceed the density allowed in the zoning district in which the PUD is located. The maximum densities are as follows:

- A. RS-10 (Low Density Single Family Residential – 10,000 square foot minimum) - 4 residential units per acre. (Note: This designation is intended for areas containing slopes of 12 percent or greater.)
- B. RS-7 or R-1 (Medium Density Single Family Residential – 7,000 square foot minimum) – 6 residential units per acre.
- C. RS-5 (High Density Single Family Residential – 5,000 square foot lot minimum) – 8 residential units per acre. (Note: This designation is for existing platted subdivisions with lots containing 5,000 square feet. Zone Changes to this designation for new subdivisions are prohibited.)
- D. RL (Multi-Family Residential - Low Density) – 10 residential units per acre.
- E. RM (Multi-Family Residential - Medium Density) – 20 residential units per acre.
- F. RH (Multi-Family Residential - High Density) – 32 residential units per acre.

When calculating density of a proposed Planned Unit Development, the total area of the planned development, including streets and one-half (1/2) of park land dedications shall be included.

2. Yard setbacks for lots on the perimeter of the project shall be the same as that required for the subject zoning district. A minimum front yard setback of twenty (20) feet shall be required for any garage structure whose opening faces onto a public street and twenty-four (24) feet for any garage structure whose opening faces onto an alley as measured from the right-of-way line or easement line. Otherwise the minimum setbacks of the underlying zone do not apply and the following are the minimum setbacks required:
  - A. Side yard. For single family attached homes such as town houses, etc., the side yard setback does not apply on the attached portion of the unit. For detached houses and the unattached portion of an attached structure the side yard setback shall be a minimum of 5 feet for a single story, 6 feet for a two (2) story, and seven (7) feet for a two and one-half (2 ½) story unit.
  - B. Rear yard. For one story buildings the rear yard shall be 14 feet. For two story buildings, the rear yard shall be a minimum of twenty (20) feet. For two and one-half (2 ½) story buildings, the rear yard setback shall be a minimum of twenty-four (24) feet.
3. Where the development provides common parking areas for adjacent uses, no minimum number of parking spaces will be required. It is the developer's responsibility to provide adequate off-street parking and loading areas. In proposing the parking areas, the developer shall provide the city with information on expected demand for parking, including trip generation for the uses which share the parking area.
4. Private alleys shall be identified as a tract on the final plat and shall be a minimum of 24 feet in width with a minimum paved improvement of 16 feet for alleys with a minimum 4 feet of unobstructed clearance on both sides. All required setbacks shall be from the tract boundary. The Planning Commission may require an increased tract and surface width if deemed necessary to provide adequate access to commercial or industrial uses.
6. All private alleys serving more than one ownership, shall be constructed to the same cross-sectional specifications required for public streets. Provision for the maintenance of the



street shall be provided in the form of a maintenance agreement through a Homeowners Association.

7. A turn-around shall be required for any private access or flag lot in excess of 150 feet in length. Non-residential private streets serving more than one ownership shall provide a turn-around if in excess of 150 feet long and having only one outlet. Such turn-around shall be either a circular turn-around with a minimum paved radius of 45 feet, or a "tee" or "hammerhead" turn-around with a minimum paved dimension across the "tee" or "hammerhead" of 140 feet.
8. The Planning Commission may require provisions for the dedication and future extension of a public street.

**18.04.430 Professional Design Team Required.** An applicant for a planned development approval must certify, in writing, that a member of each of the following professions will be used in the planning and design process for the proposed development:

1. A licensed architect or professional designer.
2. A certified nurseryman, landscape architect, or landscape designer approved by the Planning Director.
3. A registered engineer or land surveyor.

**18.04.435 Application Contents.** A Planned Unit Development proposal is reviewed in three stages, preliminary, interim, and final. At each stage, the applicant must submit increasingly detailed plans for the proposal as indicated below.

1. Preliminary Plan submittal requirements:
  - A. A schematic drawing at a minimum scale of 1" - 50' showing the proposed public and private uses and the existing physical features.
  - B. A written statement outlining the following details: water supply; sewage disposal; drainage; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; and areas devoted to various uses.
2. Interim Plan submittal requirements in addition to the above and to the required information found in Section 18.04.390:
  - A. Sidewalks, pedestrian ways, utilization of structures, and lighting.
  - B. A boundary survey or a certified boundary description by a licensed surveyor.
  - C. Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.
  - D. A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.
  - E. A development schedule for commencement of construction, or a phasing schedule if phased development is proposed.
  - F. If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.

- G. A Transportation Impact Analysis (TIA), when required by the Director of Public Works.
  - H. Any relevant information as specified in ORS 92 and Article 4 - Subdivisions.
  - I. Conceptual Landscape and Lighting Plans.
3. Final Plan submittal requirements in addition to the information on the approved interim plan:
- A. The location of water, sewerage, and drainage facilities.
  - B. Detailed building and landscaping plans and elevations.
  - C. The character and location of signs.
  - D. Plans for street improvements and grading or earth-moving plans.
  - E. Any additional requirements of final land division submittal, if the land is to be divided.

**18.04.440 Interim Submittal Review Criteria.** A Planned Unit Development request will be granted interim approval by the review body if the development meets the applicable Site Design review criteria found in Article 3 and all of the following applicable criteria:

1. The increased flexibility in Code standards and permitted uses will result in an improved development for the city, the surrounding area, and users of the development as compared to strict compliance with Code provisions.
2. The project design results in a more efficient utilization of the natural features of the site.
3. The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.
4. Provisions will be established to ensure the continued maintenance of any common areas.
5. More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.
6. Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
7. Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
8. The proposed development meets the standards of the zoning district, of Article 5 – Public Improvements, and of Article 6 – Special Purpose Overlay Districts.

**18.04.450 Conditions of Approval.** The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

**18.04.455 Living and Recreational Area Standards.** In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

1. Outdoor living area shall be provided for residential Planned Unit Developments in the following amounts:

- A. In all residential developments or in combination residential/commercial developments, 40 percent of the gross land area shall be devoted to outdoor living area. Of this required area, at least 75 percent shall be common or shared outdoor living area.
  - B. Open space is a common area designated on the plans of the PUD as being permanently set aside for common use. The open space area may be landscape or may be left in natural vegetative cover. Open space may also include water features and wetland areas. Open space does not include areas used for streets, parking, or private yards on individual lots. The minimum amount of required open space shall be 15 percent of the gross acreage of the PUD and shall be usable and easily accessible from all units and shall not contain steep slopes.
  - C. Outdoor living areas or open space required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half. The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.
  - D. In the event that the entire planned development is to remain under one ownership, the developer shall file a deed restriction between the owner and the city in the deed records of Marion County providing for a homeowners association in the event the property is divided and any part thereof is sold. The perpetual maintenance of private open space shall be provided by a homeowners association. In the event of failure of such maintenance, the city may cause the maintenance of such open space and other common areas to be completed and such costs shall become a lien upon the real property.
2. In all residential planned unit developments having 50 living units or more, an indoor recreation area (see definition) shall be established using the following minimum guidelines:
    - A. Ten square feet of indoor recreation area for each living unit in the development.
    - B. Play equipment, athletic facilities, and/or game-room facilities and equipment in amounts commensurate with the size of the building or room, to be maintained by the property owner or owners association.
    - C. At least one restroom for all indoor recreation buildings or rooms under 600 square feet and two restrooms for all indoor recreation buildings or rooms 600 square feet or greater.
    - D. All indoor recreation rooms and buildings shall be fully lighted, heated, and shall meet all uniform building codes and should be designed primarily for the use of the residents of the PUD.
    - E. The off-street parking requirement for recreation rooms and buildings shall be one space per each 150 square feet of floor area. This requirement shall be in addition to any parking required for residents.
  3. The required yards adjacent to a street shall not be used for the storage of motor vehicles, utility trailers, house or vacation trailers, or boats. The yards adjacent to a street shall not be used to locate a permanent accessory structure, or the installation of a satellite dish.

4. Planter boxes, window bays, greenhouse windows, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, solar collectors, and/or ornamental features may be provided if they do not project more than 30 inches into a required yard.
5. Porches uncovered or covered but not enclosed, and not more than one story high and which do not extend more than ten (10) feet beyond the wall of the building and which have floors not more than four feet above grade may encroach ten (10) feet into a required front yard, two (2) feet into a required side yard, and six (6) feet into a required rear yard.
6. Covered or uncovered decks that are more than four feet above grade which do not extend more than ten (10) feet beyond the wall of the building may encroach eight (8) feet into a required rear yard for a single story structure or ten (10) feet into a required rear yard for two (2) or two and one-half (2 ½) story structures.
7. In an industrial Planned Unit Development, the following minimum percentage of landscaped open space is required, including required buffer yards and setback areas:
  - A. IP (Industrial Park) -- 25%
  - B. LI (Light Industrial) -- 15%
  - C. HI (Heavy Industrial) -- 5%
8. The requirement for indoor recreation area may be waived by the review body where increased opportunity for outdoor recreation is provided in addition to the requirements of subsection (1). Such opportunities may include court sports, playgrounds, golf, swimming, or other exceptional treatment of open spaces.
9. In any Planned Unit Development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.
10. Common areas including indoor recreation areas within a development shall be a functional part of the development prior to issuance of a Building Permit for the first unit or lot over 25 percent of the total number of units or lots in the proposed development. Outdoor open space shall be provided with a lawn or hard surface areas in which user amenities such as trees, shrubs, pathways, food and ornamental garden spaces, covered picnic tables, benches, and drinking fountain(s) have been installed. The remaining area may be maintained in its natural state but must be maintained in compliance with Silverton's Noxious Vegetation Ordinance. A Final Landscape Plan shall be submitted for common areas incorporating the previously described amenities.

**18.04.460 Parking Standards Within Planned Unit Developments.**

1. The following are off-street parking requirements for both single-family and multi-family development.

USE	STANDARD
Single Family Dwellings	2.0 spaces if on-street parking is provided on both sides, 3.0 spaces if on-street parking is provided only on one side.
Multiple Family Dwellings	
Studio and 1-bedroom units	1.0 space per unit, plus 1 visitor space every 4 units

USE	STANDARD
2-bedroom units	2.0 spaces per unit, plus 1 visitor space every 4 units
3- and 4-bedroom units	2.25 spaces per unit, plus 1 visitor space every 4 units

2. One-half of the spaces required shall be located within 100 feet of the units they serve.
3. Where off-street parking areas are provided, up to 40% of the required parking spaces may be compact spaces.
4. When the driveway of a dwelling unit is at least 20 feet in width from the front of the garage to the sidewalk, the driveway may be considered as providing a parking space for each 9 feet of width of the driveway. If the driveway depth is less than 20 feet, the driveway shall not be considered as providing off-street parking.
5. Except for driveways providing access to garages and carports, no driveways shall be allowed within required yard areas.
6. Wherever practical, driveways should be located so that they take their access off an alley or secondary street. On arterial or collector streets, driveways may be required to be accessed off of the secondary street.

**18.04.465 Dedication and Maintenance of Facilities.** The Planning Commission may, as a condition of approval for any Planned Unit Development, require that portions of the tract or tracts be set aside, improved, conveyed, or dedicated for the following uses:

1. Parks or playgrounds set aside, improved, or permanently reserved for the owners, residents, employees, or patrons of the development.
2. Whenever private common outdoor living area is provided, an association of owners must be created under state law. Owners of property within the development will automatically be members and will be assessed levies for maintenance of the outdoor living area. The period of existence of such association will be at least 20 years, and it will continue thereafter until a majority vote of the members shall terminate it.
3. Right-of-way width within the development must be dedicated to the City. Other streets necessary to the proper development of adjacent properties may also be required to be dedicated. Streets must be constructed in accordance with city standards.
4. Easements necessary for the orderly extension of public utilities.

## CONDOMINIUMS

**18.04.500 Definition.** A condominium is a building, or group of buildings, in which units are individually owned, and the structure, common areas and facilities are owned by all of the unit owners on a proportional, undivided basis.

**18.04.510 Procedure.** A proposal for new construction of a condominium is reviewed through the planned development process. A proposal for conversion of existing units into condominiums is reviewed through the Conditional Use process in conjunction with planned development requirements. All condominium proposals must meet the appropriate requirements of ORS Chapter 100.

## MULTI-PHASES

**18.04.600 Land Division Proposals Consisting of Multi-Phases.** Proposals consisting of more than one phase may be requested. Approval for each phase within a multi-phase subdivision shall only be for the phase under consideration. Each subsequent phase shall require a separate application and review. Multi-phased subdivisions which result in more than a total of 20 lots at completion shall be processed as a Type III application. Each phase shall be subject to the standards and regulations in place at the time of review.

## CHANGES TO APPROVED PLANS

**18.04.700 Changes in the Approved Plan.** Changes in the approved Partition, Subdivision, Planned Unit Development or Condominium Development may be made as long as the changes continue to meet the requirements of the applicable provisions of this Article and applicable provisions of the zoning district. Major changes, as determined by the Planning Director, shall be reviewed under the same procedure as was used for preliminary Partition or Subdivision approval or interim PUD approval. Minor changes shall be reviewed under the Type I -L procedure.

**18.04.710 Revocation.** In the event of failure to comply with approved plans, conditions of approval or the stage development schedule; the Commission may, after notice and hearing, revoke a Planned Unit Development permit. The determination of the Commission shall become final 30 days after the date of decision unless appealed to the City Council.

**18.04.720 Failure to Adhere to Approved Plan, Satisfy Conditions, or Comply with Stage Development Schedule.** Failure to comply with approved preliminary or final development plans, conditions of approval, or stage development schedule, shall constitute a violation of this ordinance as prescribed in Article 18.02.150.

## FINAL PLAT APPROVAL

**18.04.800 Final Plat Review Criteria.** Approval of a final plat for a Partition, Subdivision, Planned Unit Development, Cluster Development or Condominiums will be granted if the review body finds that the applicant has met the following criteria:

1. The final plat is in substantial conformance with the tentative plat; and
2. Conditions of approval attached to the tentative plat have been satisfied.

**18.04.810 Final Plat Submittal.** Final plats must include the following information:

1. The date, scale, north point, legend, and controlling topography such as creeks, ditches, highways, and railroad right-of-way.
2. Legal description of the tract boundaries and the City of Silverton case file number of the subdivision, partition or Planned Unit or Condominium Development.
3. Name and address of the owner(s), subdivider, and surveyor.
4. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

- A. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division.
  - B. Adjoining corners of adjoining subdivisions.
  - C. Other monuments found or established in making the survey of the land division or required to be installed by provisions of this Code.
5. National Geodetic Survey Control points as recorded in the Marion County Surveyor's office; description and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
  6. The location and width of streets and easements intercepting the boundaries of the tract.
  7. The 100-year flood plain for any body of water or natural drainageway (see Article 6), together with the method or source of such determination.
  8. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings for tract, lot, and boundaries and street bearings shall be shown to the nearest second with basis of bearings. All distances shall be shown to the nearest one-hundredth foot.
  9. The width of the portion of streets being dedicated, the width of any existing right-of-way and the width of each side of the center line. For streets on curvature, curve data shall be based on the street center line and, in addition to center line dimensions, the radius, chord distance, bearing, and central angle shall be indicated.
  10. Public utility and private easements, clearly identified and, if already of record, their recorded reference. Where possible, the bearing, and sufficient ties to locate the easement with respect to the land division, shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication. The purposes of easements shall also be identified.
  11. All City utility easements and pedestrian/bicycle easements shall be specifically dedicated to the City of Silverton.
  12. Lot numbers shall begin with the number "1" and continuing consecutively through the subdivision. No block numbers or letters will be used unless the subdivision is a continued phase of a previously recorded subdivision of the same name that has previously used block numbers or letters.
  13. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale, the following phrasing shall be used when identifying open space dedications:
    - A. Common Open Space - shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowners association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
    - B. Public Open Space - shall be used when identifying those parcels of land dedicated to the City of Silverton for open space purposes.
    - C. Open Space Easement - shall be used to identify that portion of a lot, or lots that have established an open space easement agreement with the City of Silverton.

14. Special building setback lines (as may be required by Article 7) and solar easements, if any, which are to be made a part of the subdivision's deed restrictions. These must be shown in writing on the face of the plat, not graphically shown.
15. The following certificates, which may be combined where appropriate. All signatures on the original subdivision or partition plat must be in permanent black India type ink.
  - A. Certificates signed by the City Planning Director or Planning Commission Chairperson as applicable and Public Works Director certifying City approval.
  - B. A certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.
  - C. A certificate signed and acknowledged as above, dedicating to the public all land shown on the final plat intended for public access, use, or benefit.
  - D. A certificate signed by the surveyor responsible for the survey and final map, the signature accompanied by seal, attesting that applicable City, State and County requirements have been met.
  - E. A certificate signed by the county surveyor.
  - F. Other certifications as appropriate.
16. Filing of separate legal documents to achieve any of the above requirements (I through 14) may be permitted by the Director when it can be shown that placing such information on the final map is not required to achieve the purposes of this code. When a separate legal document is filed describing a geographically based restriction (such as an easement) the described area shall be marked with colored ink (other than black) on the City copy. A description of or reference to any other restrictions attached to the subdivision approval shall also be noted on the City copy.
17. Supplementary Information.
  - A. A copy of any deed restrictions.
  - B. A copy of any dedication requiring separate documents.
  - C. Legal documents conveying property including easements to the City.
  - D. Assurance satisfactory to the Director of Public Works that improvements installed by the subdivider will be in conformity with the standards of the City and that streets and pedestrian ways will be improved.
  - E. Financial assurances for all required improvements per Article 5, Public Improvements.
  - F. Boundary and lot closure computations and total area of each lot, parcel, and open space dedication, in square feet or acres.
  - G. Title Report issued by a Title Insurance Company licensed by the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public.
18. All monumentation shall comply with standards established in ORS 92.060. Witness corners may be set when it is impractical or impossible to set a monument in its true position providing course and distance is given to the true position. All monuments shall



be clearly identified with the surveyor's name or registration number. Unless waived by the Public Works Director, the intersection of all street centerlines shall be monumented according to Marion County specifications.

**18.04.820 Final Plat Approval.** Final Plat review shall occur within two years of the Notice of Decision of approval. At the discretion of the review body, a 6-month extension may be granted. The review body may elect not to approve the final plat if it is determined not to be in substantial conformance with the preliminary plat. Under no circumstances will any building permit be issued until final approval has been granted and the necessary portions of the final plat recorded. A subdivision which has delineated wetlands on it shall not receive final plat approval until any proposal to develop in the wetlands has been approved by the appropriate state and federal agencies. Consistent with state law, the Council may designate the Community Development Director or the City Manager to be able to also sign the final plat in lieu of the Planning Commission chair.

**18.04.830 Final Partition Plat.** The application for final partition plat approval shall include seven (7) copies of the plat submitted for review. Plats shall be in substantial conformity to the plat submitted for tentative approval and shall be in conformance with the Marion County Surveyor's specifications and requirements, but in any event, scale requirements shall be the same as specified for tentative plans. Sheet dimensions and size shall be specified by the Marion County Recording Officer for partition plats offered for record. Final Plat approval is processed as a Type I-L review.

**18.04.840 Final Subdivision Plat.** The application for final subdivision plat approval shall include sixteen (16) copies of the plat submitted for review. The plat shall be in substantial conformity to the approved tentative plan and shall conform to the Marion County Surveyor's specifications and requirements. Plats may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for tentative plans. Final Subdivision Plat approval is processed as a Type I-L review.

**18.04.850 Final Planned Unit Development or Condominium Plat.** The application for final subdivision or final Planned Unit Development or Condominium approval shall include sixteen (16) copies of the plat submitted for review. The plat shall be in substantial conformity to the approved tentative plan and shall conform to the Marion County Surveyor's specifications and requirements. Plats may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for tentative plans. Final Plat approval is processed as a Type III review.

**18.04.860 Amending the Recorded Final Plat.** The recorded final plat may be amended by filing the amended plan in the same manner as the preliminary plat. The matter processed in the same manner as if it were a new application. Such amendments shall be recorded in the same manner as the final plat and the amendment noted on the original recorded copy of the final plat.

**18.04.870 Recording Plats – Time Limits.** Unless the final plat is recorded by the first day of the seventh month after the date of final approval, it shall be resubmitted in the same manner as the preliminary plat, which may require changes or alterations deemed necessary because of changed conditions within the general area of the subdivision. Each phase of a multi-phase subdivision shall be recorded separately. After the recording of a subdivision,

planned unit development or partitioning, the owner or the owner's representative shall furnish the city with two prints made from the reproduction of the recorded plat

## **STREET TREES**

**18.04.900 Procedure.** Street trees shall be provided adjacent to all public and private right-of-ways abutting or within a subdivision, partition, or planned unit development. Street trees shall be installed in accordance with the provisions listed in Article 7 – Environmental and On-Site Development Standards. Prior to Final Partition, Subdivision, Planned Unit Development or Condominium Plat approval, a Street Tree Plan shall be approved by the Planning Department.

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# CHAPTER 18 - ARTICLE 5

## PUBLIC IMPROVEMENTS

**18.05.005 Overview.** This article contains the city's standards for those public improvements which relate to the development process.

The following is a list of the main headings in this article.

- General Provisions
- Improvement Assurances
- Streets
- Sidewalks
- Bikeways
- Parks and Open Space
- Utilities—General
- Water/Fire Hydrants
- Sanitary Sewer
- Storm Drainage
- Addresses and Street Names

### GENERAL PROVISIONS

**18.05.010 Purpose.** The provisions in this article for new public improvements are intended to address the City's concerns relative to public health, safety, and welfare.

**18.05.020 Relationship to Other Local Regulations.** This article is intended to supplement other municipal ordinances. In the event of a conflict between a provision of this article and another city ordinance, that ordinance which most specifically deals with the issue in question shall control. Whenever possible, the two provisions shall be interpreted in a manner which renders the provisions of both ordinances consistent. Only when such interpretation is impossible will one provision be deemed to supersede the other.

**18.05.030 Relationship to Specialty Codes or State Law.** This article is intended to supplement other existing state and local codes. Examples of these codes include, but are not limited to, the Uniform Building Code, the Uniform Fire Code, and the Uniform Plumbing Code. In the event of a conflict between any provision of this article and a specialty code, the specialty code shall control.

**18.05.040 Conditions of Approval.** Development approval may be conditioned upon the provision and/or guarantee of public improvements called for in an adopted Public Facilities Master Plan or any other public improvements necessitated by the development. Development approval may likewise be conditioned where private facilities are proposed to be shared by two or more parcels. Construction of off-site improvements may be required when necessary to mitigate impacts resulting from development which relate to capacity deficiencies and public safety; and/or when necessary to upgrade or construct public facilities to City standards. All development decisions shall be consistent with constitutional limitations concerning the taking of private property for public use.

**18.05.045 Conditions to Promote Connectivity and Convenient Pedestrian and Bicycle Access.** To provide an adequate transportation system, development approvals may

include conditions that require facilities which promote connectivity and accommodate safe and convenient pedestrian and bicycle access within and from new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

1. "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;
2. "Safe, convenient and adequate" means bicycle and pedestrian routes, facilities and improvements which:
  - A. Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;
  - B. Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and
  - C. Meet travel needs of cyclists and pedestrians considering destination and length of trip, and considering that the typical trip length of pedestrians is generally 1/4 to 1/2 mile.

**18.05.050 Relationship to Other Development Code Articles.** This article provides the public improvements standards to be used in conjunction with the procedural and design requirements contained in the Article 4 - Land Divisions, Article Twelve - Design Standards, and Article 13 - Manufactured Home Development.

**18.05.060 Relationship to Construction Standards.** Public improvements shall be designed to comply with adopted facility master plans to the greatest extent possible. Unless otherwise approved by the Public Works Director, public improvements shall be constructed according to the standard construction specifications. The standard specifications for construction, reconstruction or repair of streets, sidewalks, curbs, gutters and other public improvements within the City are as contained in the City's current "Standard Construction Specifications." The Public Works Director may make changes to the standard specifications consistent with the application of engineering principles to the conditions in Silverton. All required improvements shall be constructed under the inspection of, and to the approval of, the Public Works Director.

## **IMPROVEMENT ASSURANCES**

**18.05.070 Purpose.** The purpose of improvement assurances is to provide the City with a guarantee that the improvements called for in this article will be made. The type of guarantee will be determined by the City. Before issuing or renewing a development approval when the applicant has an obligation to design and construct improvements shown on the development plan, the review body may require that the applicant acknowledge the obligation.

**18.05.071 Form and Contents.** 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.

**18.05.072 Noncompliance with Provisions Under Obligation.** 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.

1. 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:
  - A. Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgement.
  - B. Notify the developer and the developer's surety of the developer's failure to perform as required by this Code.
  - C. Demand payment from the developer for the unfulfilled obligation.
  - D. 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.
  - E. Void all approvals granted in reliance on the improvement assurance.
2. 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.
3. 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.
4. The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
5. 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.

**18.05.073 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.



## STREETS

**18.05.080 General Provisions.** No development may occur unless the development has frontage on or approved access to a public street currently open to traffic. A currently non-opened public right-of-way may be opened by improving it to city standards. Streets which are currently open to traffic but are not constructed to city standards must be improved as required by the Public Works Director based upon the impact of the proposed development.

Streets shall be interconnected to reduce travel distance, provide multiple travel routes, and promote the use of alternative modes. Street patterns have a long-range effect on land use patterns, greater than parcelization patterns or building location. Streets (including alleys) within and adjacent to a development shall be improved in accordance with the standards in this Article. In addition, any new street or additional street width planned as a portion of an approved street plan shall be dedicated and improved in accordance with this Article. Where the City Public Works Director determines that a required street improvement would not be timely, the Public Works Director may accept a Petition for Improvement/Waiver of Remonstrance for a future assessment district.

**18.05.081 Creation of Streets.** Streets are usually created through the approval of a subdivision or partition plat. However, the City Council may also approve the creation of a street by acceptance of a deed. If the creation of a street unintentionally results in a land partition, the owner is not required to apply for partition approval as long as the resulting parcels comply with Code standards.

**18.05.082 Classification of Streets.** Arterial and collector streets are designated in the Transportation System Master Plan.

**18.05.083 Creation of Infill Access Easements.** The creation of vehicle access easements for private homes between property owners is generally prohibited. However, there are some instances where the creation of a easement is the only viable method of providing access to a developable lot: The review body may approve an access easement in conjunction with Partition approval where the applicant has demonstrated that all of the following criteria have been met:

1. The remaining lot and new lot must meet all size standards for the district and each lot must be the minimum allowed in the zoning district and/or the minimum required as a result of an overlay district.
2. There is insufficient room for a public right-of-way or a flag-lot as described in Section 18.05.084 due to topography, lot configuration, or placement of existing buildings; and
3. No more than two parcels or uses are to be served by the proposed access easement; and
4. The City Engineer has determined that there is not a need for a public street in this location.
5. The vehicle access easement portion for a single parcel contains a minimum of 20 feet and for two parcels contains a minimum of 25 feet with a reciprocal irrevocable access easement/maintenance agreement recorded on the Partition Plat subject to the approval of the Planning Director. The minimum pavement width serving a single parcel shall be twelve feet and 20 feet of pavement for that portion of the access driveway serving two parcels with 4-foot (4') graveled shoulders on both sides. The flag portion of a lot shall be located a minimum of ten (10) feet from any portion of any existing structure on the adjoining properties.

6. All access driveways must be paved with a concrete or an asphaltic concrete surface a minimum distance of 20 feet as measured from the property line at the street right-of-way with a minimum paved width of twelve feet for an access driveway serving one parcel and a minimum paved width of twenty (20) feet for an access driveway serving two parcels.

**18.05.084 Infill Flag Lots Standards.** Flag lots are discouraged and allowed only when absolutely necessary to provide adequate access to buildable sites in infill situations only and only where the dedication and improvement of a public street cannot be provided or the lots take access to an access restricted roadway. Flag lots are not allowed in new subdivisions. The review body may approve a flag lot in conjunction with Partition approval where the applicant has demonstrated that all of the applicable criteria listed in 18.04.083 have been met subject to the following standards:

1. The minimum width for the pole portion of a flag lot is 20 feet, except where point access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12.5 feet and a combined minimum width of 25 feet.
2. A minimum building setback of five feet from the access strip shall be maintained where such buildings exist prior to the creation of the flag lot.
3. The maximum length shall be 150 feet unless a turn-around has been approved by the Silverton Fire District and such turn-around shall be included within the reciprocal access easement recorded on the final Plat.
4. A single access driveway shall be a paved surface, a minimum of 12 feet in width. A joint-use driveway shall be a paved surface, a minimum of 20 feet in width. The remaining area shall be landscaped with shrubs with a growing height not to exceed thirty (30) inches with the remaining area treated with barkdust, ground cover, or decorative rock.
5. The joint-use driveway may not serve more than 3 lots, with one of the lots having frontage on a public road but whose access may be restricted from the public road.
6. An irrevocable reciprocal access easement/maintenance agreement shall be recorded on the Partition Plat subject to the approval of the Planning Director.
7. 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 access strip. The review authority may establish special setback requirements at the time of approving the creation of the flag lot(s).

**18.05.085 Access to Public Streets.** With the exceptions noted in Section 18.07.200.170, the location and improvement of an access point onto a public street shall be included in the review of a development proposal and shall be in compliance with Section 17.07.200.170 et seq. In addition, the following specific requirements shall apply to all access points, curb cuts, and driveways:

1. Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the City of Silverton Standard Detail Specifications.
2. Driveways for single and two-family dwellings must have a minimum width of 12 feet, maximum width of 32 feet (not to exceed the width of the driveway curb cut), and minimum separation of 6 feet. Up to three (3) multi-family units that front on a public street may have separate driveways. The driveways shall meet the same standards as single and two-family dwellings. Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24- 32 feet for two-lane driveways, and 36 – 40 feet for three-lane driveways

(subject to Silverton Fire District approval). Three-lane driveways must have designated lanes and turning movements. Industrial driveways shall have a width of 24-40 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two- and three-family dwellings. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the Public Works Director.

3. All driveways must be located the maximum distance which is practical from a street intersection and may be subject to a Transportation System Plan (TSP) access plan. In no instance shall the distance from an intersection be closer than the following as measured from the nearest curb return radius:

Arterial Street	80 feet
Collector Street	60 feet
Local Street	40 feet

Where streets of different functional classification intersect, the distance required is that of the classification which requires the greatest distance between the access point and the intersection.

4. The location, width, and number of accesses to a public street may be limited for developments which are subject to site plan review provisions of this Code. All development that proposes access to an arterial street is subject to site plan review procedures and the design requirements of 18.05.100.
5. Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street. Except as further restricted by this Article, local street access to properties of less than 100 feet of frontage is limited to three (3) access lanes per frontage which may be together or separate and properties exceeding 100 feet of frontage are limited to three (3) access lanes per each 100 feet of frontage. In no instance may the combined access width for a single residential use exceed 27 feet.
6. Properties which have frontage on more than one street may be restricted to access on the streets of a lower classification through design review, land division, or other review procedures.
7. A common access point at a property line is encouraged and, in some instances, may be required by the City Engineer in order to reduce the number of access points to streets through the design review, land division or other review procedures. Construction of common access points must be preceded by recording of joint access and maintenance easements.
8. With the exception of single-family residential development, approach grades must not exceed 10% slope within 20 feet of a public street. Driveways for single-family residential development shall comply with applicable fire and building codes.
9. Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division, State Department of Transportation. Where regulations of the City and State may conflict, the more restrictive requirements apply.
10. Access to designated county roads is subject to the provisions of this Article in addition to requirements of the Marion County Road Department. Where regulations of the City and County may conflict, the more restrictive requirements apply.

- 11. For developments on parcels of contiguous ownership exceeding five acres in size which front on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.
- 12. Where access is allowed on an arterial street, efforts shall be made to locate the access adjacent to the interior property line where such access could be shared by the adjacent property.

**18.05.086 Street Location, Width and Grade.** The location, width, and grade of all streets must conform to any adopted transportation master plan(s) or recorded subdivision plat. Where location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either provide for the continuation or appropriate projection of existing principal streets in the surrounding areas or conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impractical or where no plan has been previously adopted. In addition, new streets may be required to be located where the City Public Works Director determines that additional access is needed to relieve or avoid access deficiencies on adjacent or nearby properties. In determining the location of new streets in a development or street plan, consideration shall be given to maximizing available solar access for adjoining development sites. Street grades must be approved by the City Public Works Director who will consider drainage and traffic safety.

**18.05.087 Rights-of-Way and Roadway Widths.** Unless otherwise indicated on an approved street plan or in Section 18.05.090, the street right-of-way and roadway widths shall not be less than the minimum width in feet shown in the following table. Where a range is indicated, the width shall be determined by the City Public Works Director. Widths for roadways under the jurisdiction of Marion County or the State of Oregon will be determined by that jurisdiction.

Type of Street	Minimum Rights-of-Way Width	Minimum Roadway Width
Arterial without parking	80 feet	48 feet
Arterial with parking	80 feet	64 feet
Major Collector with parking	70 feet	48 feet
Major Collector without parking	70 feet	34 feet
Major Collector with turn lanes and no parking	70 feet	48 feet
Minor Collector with bike lanes	70 feet	48 feet
Minor Collector without bike lanes	70 feet	38 feet
Minor Collector with turn lanes and no parking	70 feet	48 feet
Network Residential Street Parking on both sides	60 feet	34 feet

Type of Street	Minimum Rights-of-Way Width	Minimum Roadway Width
Minor Local Residential 6' curblines sidewalks with parking on one side	50 feet	28 feet with a turn out(s) for passing
Minor Local Residential Parking on one side with 6' planter, with 5' property line sidewalks	54 feet	28 feet with bump outs for passing
Minor Local Residential Parking on two sides With 6' planter and 5' property line sidewalks	60 feet	34 feet
Local Residential Hillside*	40 feet	28 feet
Local Commercial/Industrial with parking	70 feet	45 feet
Local Commercial/Industrial Without parking	70 feet	45 feet
Radius for cul-de-sac bulb	45 feet	36 feet
Alley	24	16 feet with 4 feet of clearance on each side

\*with 10' slope/utility easements on both sides and sidewalk on uphill side only and other design features such as three parking spaces (other than garage) per unit, periodic vehicle pullouts, and/or residential sprinkler systems as approved by the City Police Department and Silverton Fire District. Rolled curbs are prohibited on all streets.

**18.05.088 Block Requirements.** Block lengths and widths shall be determined by the distance and alignment of existing blocks and streets adjacent to or in the general vicinity of a proposed subdivision, and by topography, adequate lot size, need for and direction of flow of through and local traffic. Block lengths may not exceed 500 feet on local streets and 1,000 feet adjacent to arterial or collector streets or as specified by the jurisdiction having control of the adjoining street. For block lengths which exceed 500 feet a mid-block walkway and/or bikeway shall be provided. In addition, a flared curb (bulb-out), a minimum of 20 feet in width shall be provided with a crosswalk of a different texture such as scored concrete or modular paving materials a minimum of 6 to 8 feet wide designating the street crossing.

**18.05.089 Local Residential Streets.** There are two classifications of local streets, based on projections of traffic volumes. The applicant is responsible for demonstrating that each proposed street is designed for the appropriate traffic volume.

1. **Minor Local Streets.** The minor local street design is intended to be the predominant street type in residential neighborhoods. A minor local street will have fewer than 500 average trips per day (ADT) when all future street connections are made. The standard design is a 28 to 34 foot wide paved surface with curb and gutter, a 6-foot landscape strip with street trees, and a 5-foot sidewalk on each side within the right-of-way or a 6-foot curblines sidewalk with street trees within the remaining right-of-way. There is a parallel 7-foot public utility easement

dedicated on each side of the street. Parking is allowed on both sides of the street. See Figure 1.

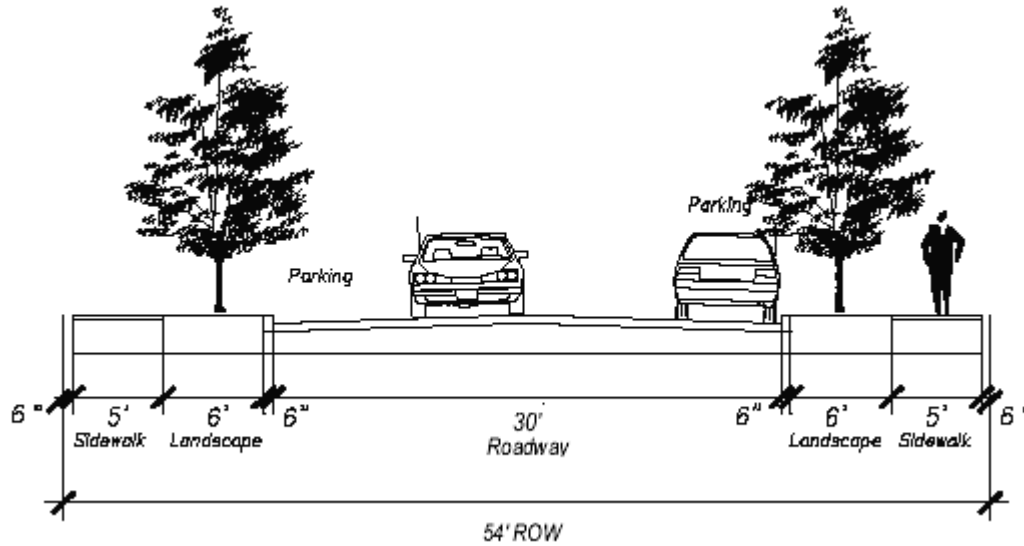


Figure 1: Minor Local Street (parking on one side)

2. **Optional Design for Minor Local Streets.** In-lieu of the standard design in subsection (1), a 28-foot wide paved surface within a 54-foot right-of-way with parking on both sides for minor local streets is allowed when the following performance standards are met:
  - A. Provisions are made to ensure emergency response vehicles have adequate access to all parcels on the street. A 40-foot long clear area must be provided at a rate of one per two lots along each side of the street. The clear area may be created with parking restrictions created by adjoining driveways or other method approved by the Public Works Director and the Silverton Fire District.
  - B. The street will have fewer than 500 average trips per day (ADT) (or less than 50 homes or units) when all future street connections are made.
3. **Network Local Streets.** A network local street will have greater than 500 ADT (or more than 50 homes or units). The standard design is a 34-foot wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 60-foot right-of-way. There is a parallel 7-foot public utility easement dedicated on each side of the street. Parking is restricted to one side of the street. See Figure 2.

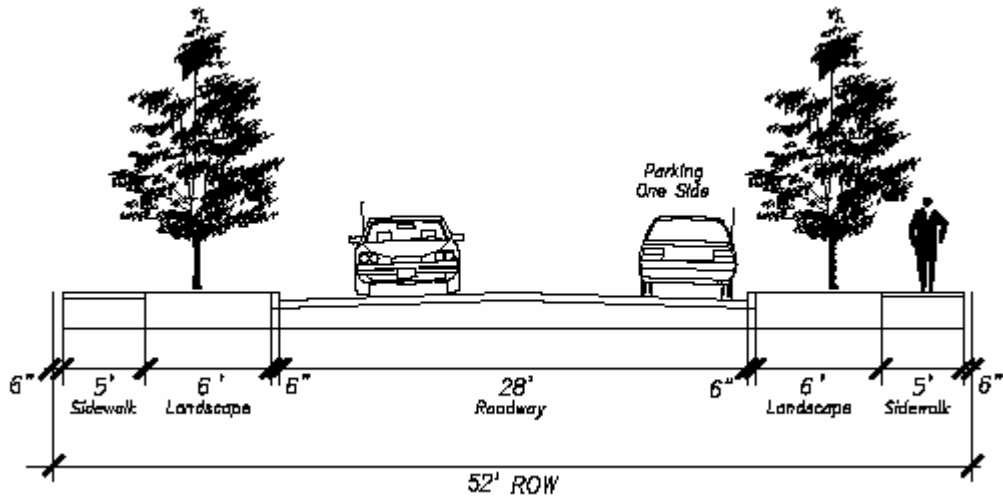


Figure 2: Network Local Street

4. **Alley Option.** Use of alleys is encouraged in 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. All private utilities must be located in the alley and no curb cuts will 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 a minimum of 24 feet in width, paved with a dustless surface (i.e. concrete or asphaltic concrete) a minimum of 16 feet in width and shall follow the general development standards governing streets. See Figure 3. As an incentive, lots with alley access may be up to 10% smaller than the minimum lot size of the zone. See Table 1, Article 3.

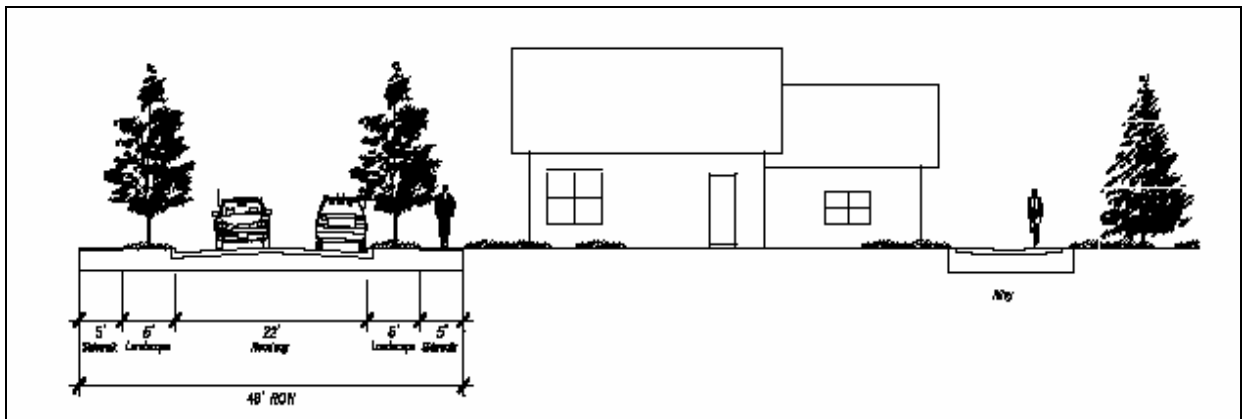


Figure 3, Alley Option

5. **Wide Local Street Option.** A wider local or network street (34-foot paved surface) may be proposed to accommodate on-street parking on both sides of the street. Additional pedestrian amenities, such as bulb outs at intersections, mid-block crossings and larger street trees, will be required as a condition of the subdivision or planned development approval to offset the wider street section. See Figure 4

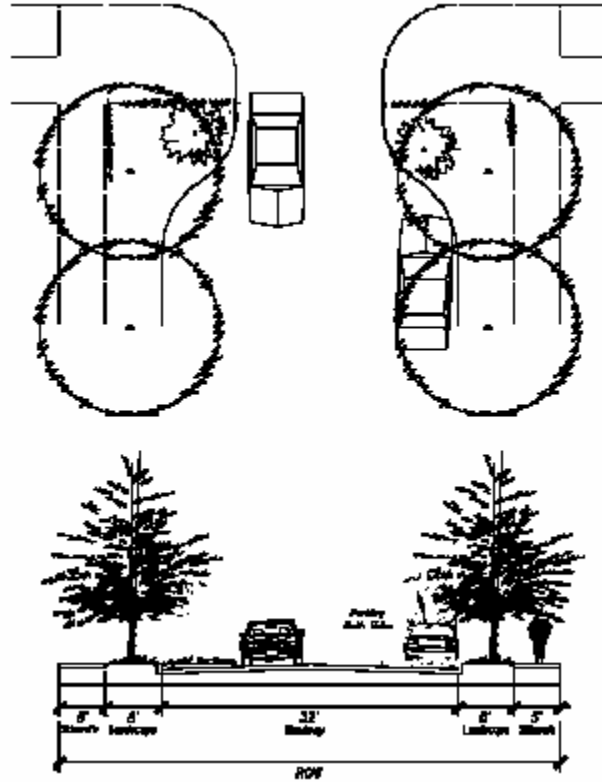


Figure 4: Wide Local or Network Street Option

6. **Residential Street Design for Constrained Sites.** There are instances where a development is proposed on land that has natural features that may constrain the standard local street design. Examples of such natural features include floodplains, steep slopes, drainageways, wetlands, riparian corridors, and tree groves. Through the subdivision or Planned Development review process, the City will consider a narrower street section that does not compromise the goals for street design in a great neighborhood. For example, the sidewalks may be placed curbside and parking may be removed from the street in order to narrow the street paving and preserve natural areas. See Figure 5.

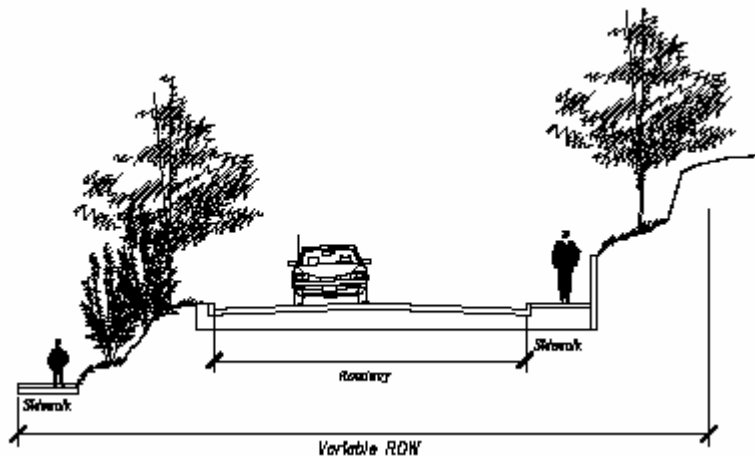


Figure 5: Residential Street Design (Constrained)



**18.05.090 Mini-Subdivision Street and Rights-of-Way Standards.** The standards listed in this section are intended for use in developing residential infill parcels. The review body will approve variations to the standards listed in Section 18.05.087 above, when the following criteria are met:

1. The property to be divided is less than 2 acres in size and no more than 8 lots will be created or served by the street; and
2. The proposed land division meets the standards for lot size and configuration for the zoning district; and
3. Surrounding parcels are developed or are so physically incapable of being developed so that combining the proposed land division with adjoining properties in a conventional land division is not feasible.
4. The property is not needed for a continuation of the adjacent public street pattern. However, pedestrian connections may be required for the continuation of the pedestrian circulation system.

The review body may also modify other standards in this Code as indicated below:

Dedication & Maintenance	Paved Width (b) Street/Cul-de-sac	On Street		Rights-of-Way (c)	
		Curbs	Parking	Sidewalk	Street/Cul-de-sac
Public (a)	22' / 25' (radius)	Yes	No	4' (1 side)	30' / 35' (radius)
Public (a)	28' / NA	Yes	1 Side	4' (1 side)	34' / NA

- (a) A 10-foot public utility easement may be required on each side of the right-of-way.
- (b) Maximum street length is 400 feet.
- (c) A “hammerhead” turnaround may be allowed only if the Public Works Director, Police Department and Silverton Fire District determine that no other options exist and no traffic hazards will be created.

**18.05.091 Additional Rights-of-Way.** A development project requiring land use approval is required to dedicate additional right-of-way if an existing street abutting or within the development does not meet the widths designated in Section 18.05.087. This provision does not apply to property line adjustments or historic review. While not required to dedicate additional right-of-way, single and two-family dwellings (and related accessory buildings) are subject to being set back from future street rights-of-way as provided in Section 18.07.101.

**18.05.092 Future Extensions of Streets and Reserve Strips.** Where it is necessary to give access to or permit a future division of adjoining land, streets shall be extended to the adjoining tract. A reserve strip across the end of a dedicated street shall be deeded to the City. In addition, a temporary turn-around meeting Silverton Fire District standards shall be installed at the end of the street and paid for by the subdivider and/or developer. The temporary turn-around shall not be removed until authorized by the City Public Works Director.

**18.05.093 Street Alignment.** Streets shall be designed and constructed in alignment with existing streets by continuing the centerlines thereof. Arterial and collector streets shall have continuous alignments without offset or staggered intersections. In no case shall the staggering of streets be designed where jogs of less than 300 feet are created as measured from the centerline of any intersection involving an arterial or collector street.

**18.05.094 Intersections.** Streets must be laid out so as to intersect as nearly as possible at right angles. Proposed intersection of two streets at an acute angle of less than 75 degrees is not

allowed. An oblique street should be curved approaching an intersection to provide at least 100 feet of street at right angles with the intersection. Not more than two streets shall intersect at any one point.

**18.05.095 Clear Vision Area.** A clear vision area must be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad. No fence, wall, hedge, sign, or other planting or structure that would impede visibility between the heights of 2 and 8 feet shall be established in the clear vision area. Measurements shall be made from the top of the curb or, where no curb exists, from the established street center line grade.

1. The preceding provisions do not apply to the following:
  - A. A public utility pole.
  - B. A tree trimmed (to the trunk) to a line at least eight feet above the level of the intersection,
  - C. Another plant species of open growth habitat that is not planted in the form of a hedge and which is so planted and trimmed as to leave at all seasons a clear and unobstructed crossview,
  - D. A supporting member or appurtenance to a permanent building lawfully existing on the date this standard becomes effective.
  - E. An official warning sign or signal.
  - F. The post section of a pole sign when there are no more than two posts and any post is less than 8 inches in diameter.
  - G. Existing or new buildings within the Historical Business District overlay zone.
2. A clear vision area consists of a triangular area, two sides of which are lot lines or a driveway and a lot line for a distance specified in this section, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides (See illustration below). The following measurements shall establish the clear vision areas:

<u>Type of Intersection</u>	<u>Measurement Along Each Lot Line or Drive Edge*</u>
Controlled Intersection (stop sign or signal)	20 feet
Uncontrolled Intersection (60' right-of-way)	30 feet
Uncontrolled Intersection (less than 60' right-of-way)	30 feet
Commercial and Industrial District driveways	20 feet
Residential District driveways	15 feet
Alley (less than 25 feet)	20 feet

*\* When there is an intersection of two or more streets of different right-of-way width, the distance to be measured along the lot lines shall be the distance specified for each type street.*

<p><i>Reserved for illustrations</i></p>	

**18.05.096 Cul-de-sacs.** The street pattern may include cul-de-sacs only if no other development opportunity exists and block length standards have been met. A cul-de-sac must be as short as possible and may not exceed 400 feet as measured from the center line of the intersecting street to the outer edge of the bulb. A cul-de-sac must terminate with a circular turnaround, except as approved by the Silverton Fire Department and the City Engineer.

**18.05.097 Street Abutting New Development.** Sections of existing streets not meeting City standards which directly abut new development shall be constructed to City standards. The City Public Works Director may approve construction of a partial width street provided the design is determined to be adequate to accommodate needed public facilities, storm drainage runoff, traffic volumes, and traffic loadings. The design of the improvement shall consider the ultimate design of the fully widened street. For purposes of this section, “development” means a land division, new commercial or industrial development, construction of multi-family residential units or a manufactured home or recreational vehicle park.

A future improvement assurance, as described in Section 18.04.600, may be accepted by the City where the City Public Works Director determines that the street improvement would not be timely.

**18.05.097.01 Street Abutting Existing Single Family Lots of Record.** A future improvement assurance, as described in Section 18.04.600, may be accepted by the City where the City Public Works Director determines that the street improvement would not be timely.

**18.05.098 Slope and Curves.** Slope shall not exceed 8 percent on arterials, 10 percent on collector streets or 12 percent on other streets. Center line radii of curves shall not be less than 600 feet on arterials, 400 feet on collectors, or 200 feet on other streets. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, steeper grades and sharper curves may be approved by the review body. In flat areas, allowance shall be made for finished street grades having a minimum slope of at least 0.5 percent, where possible.

**18.05.099 Street Adjacent to Railroad.** Wherever a proposed development contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of the railroad right-of-way at a distance suitable for the appropriate use of the land between each street and the railroad. The distance shall be determined with due consideration at each cross street of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way in non-industrial areas.

**18.05.100 Access to Arterials.** Where a residential development abuts or contains an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements may include any of the following:

1. A parallel access street along the arterial.
2. Lots of suitable depth abutting the arterial to provide adequate buffering and having frontage along another street.
3. Screen planting at the rear or side property line to be contained in a non-access reservation along the arterial.
4. Other treatment, as determined by the City Public Works Director, suitable to meet the objectives of this subsection.

**18.05.101 Setbacks Adjacent to Arterial and Collector Streets.**

1. **Purpose.** The special setbacks in this section are based upon the functional classification of streets and roads described in the Silverton Transportation System Plan (STSP). The purpose of these special setbacks is to provide for adequate air movement, solar access, visibility, aesthetics and compliance with the development standards of the zoning district when a major street is improved to City standards for the classification of the street.
2. **Setback Requirements.** The required setbacks adjacent to a street shall be in addition to the special setbacks required in this section. The special setback distances shall be measured at right angles to the center line of the original street right-of-way.
3. **Special Provisions.** Buildings, structures and paved surfaces or required parking or loading areas shall not be located within the special setbacks EXCEPT as specifically provided for in the zoning district. Any portion of a building or structure lawfully established within a special street setback prior to April 17, 2006, shall be considered a nonconforming structure.

4. **Special Building Setback Standards.** Special setback standards by street classification are established as shown in the following table. The special setback standards shall be applied to streets within the City of Silverton as functionally classified in the Silverton Transportation System Plan.

Functional Classification	Special Setback From Center Line
<b>Arterials</b>	
C Street, between McClaine and First Streets	40'
First Street, between north UGB & Lewis Street	40'
Lewis Street, between Water and First Streets	40'
Main Street, between Water and First Streets	40'
Oak Street, between Water Street and the east UGB	40'
Silverton Road, between west UGB and Westfield Street	40'
Water Street, between C Street and the south UGB	40'
Westfield Street, between Main and McClaine Streets	40'
<b>Collectors</b>	
Eureka Avenue	35'
Evans Valley Road	35'
Hobart Road	35'
Ike Mooney Road	35'
James Street (Hobart Road to Water Street)	35'
Jefferson Street (James Street to Second Street)	35'
McClaine Street (West Main Street to C Street)	35'
Monitor Road	35'
Pine Street (James Street to UGB)	35'
Pioneer Drive	35'
Second Street (Jefferson Street to C Street)	35'
Steelhammer Road	35'
Water Street (James Street to C Street)	35'
West Main Street (First Street to Westfield Street)	35'

**18.05.102 Exceptions.** Certain specific sections of the City's collector streets are located in well established neighborhoods with special features such as street trees, narrow streets, substandard rights-of-way and/or substandard home setbacks (i.e., Historic Districts). Because new wider urban collector street widths could destroy the appearance and character of the neighborhood, the city desires to specifically exempt these neighborhoods from future consideration for upgrades that would use the new urban collector standard. Figure 27 of the Silverton Transportation System Plan shows the Established Neighborhood Collector Streets that have been determined to be exempt from the full urban collector standard.

**18.05.103 Property Monuments.** Upon completion of a street improvement and prior to acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an Oregon licensed surveyor retained by the developer.

**18.05.104 Private Streets.** Unless the review body determines that public streets are needed to provide for circulation and/or access to neighboring properties, private streets are permitted solely within Manufactured Home Parks. Streets classified as arterials or collectors that run through these developments must be public streets. Local streets needed for connectivity purposes shall be public streets. Gated residential streets are prohibited. Private streets shall be designed and constructed with a 20-year design life. Plats for developments containing private streets (such as the conversion of a manufactured home park to a manufactured home

subdivision as required by Oregon Revised Statutes) must show that streets are private and upkeep and maintenance the responsibility of the abutting property owners or Homeowners Association. The review body may require legal assurances for the construction and continued maintenance of private streets. Street signs within the development shall indicate “private street” and shall be installed at the developer’s expense and maintained by the Home Owner’s Association or owner of the development. The City may not accept transfer of private streets or alleys to public streets or alleys unless the private street or alleys meet the City’s construction standards at the time of acceptance and the construction is inspected by the City Public Works Department during construction. Streets constructed to City standards or those that provide evidence of compliance with City standards (such as, but not limited to, providing core samples), inspected, and approved by the City and public emergency services agencies, may be eligible for transfer to public ownership if approved by the City Council during a public hearing.

**18.05.105 Traffic Signals.** Where a single development or concurrent group of developments will create a need for a traffic signal at an intersection, such installation may be a condition of development approval as indicated by a Traffic Impact Analysis (TIA).

**18.05.106 Railroad Crossings.** Where an adjacent development results in a need to install or improve a railroad crossing, such improvement may be a condition of development approval.

**18.05.107 Street Signs.** The City shall install all street signs, relative to traffic control and street names, as specified by the City Public Works Director for any development. The cost of signs and installation shall be included in the developer’s project costs.

**18.05.108 Traffic Impact Analysis.** For each development proposal that exceeds the Analysis Threshold of 18.05.108.2, the application for land use or design review approval shall include a Traffic Impact analysis as required by this Code. The Traffic Impact Analysis (TIA) shall be based on the type and intensity of the proposed land use change or development and its estimated level of impact to the existing and future local and regional transportation systems.

1. **Engineer Certification.** The Traffic Impact Analysis (TIA) shall be prepared and certified by a traffic engineer or civil engineer licensed in the State of Oregon.
2. **Analysis Threshold.**
  - A. A Traffic Impact Analysis is required when the proposed land use change or development will generate 200 vehicles or more per day (vpd) in average weekday trips as determined by the City Public Works Director.
  - B. A Traffic Impact Analysis or some elements of a Traffic Impact Analysis may be required when the volume threshold under subsection A of this section is not met but the City finds that the traffic impacts attributable to the development have the potential to significantly impact the safe and efficient operation of the existing public transportation system.
3. **Study Area.** The Traffic Impact Analysis shall evaluate the Area of Influence of the proposed development and all segments of the surrounding transportation system where users are likely to experience a change in the quality of traffic flow. The City Public Works Director may identify additional locations for study if existing traffic operation, safety, or performance is marginal or substandard. Prior to report preparation, the applicant shall submit the proposed scope and analysis assumptions of the Traffic Impact Analysis to the City Public Works Director. The Public Works Director shall determine whether the scope and analysis assumptions are adequate.

4. **Contents of the Traffic Impact Analysis Report.** The Traffic Impact Analysis report shall contain the following information organized in a logical format:
- A. **Executive Summary.** An Executive Summary of no more than three single-sided pages shall be included at the beginning of the Traffic Impact Analysis report. The Executive Summary shall summarize the analysis and conclusions and identify recommended transportation improvements.
  - B. **Description of Proposed Development.** The Traffic Impact Analysis shall provide a comprehensive project description including but not limited to the following:
    - (1) Vicinity map.
    - (2) Site plan.
    - (3) Project phasing.
    - (4) Time schedule.
    - (5) Intended use of the site, including the range of uses allowed without additional land use approvals.
    - (6) Intensity of use.
  - C. **Existing Conditions.** The Traffic impact Analysis shall provide a complete evaluation of existing conditions and include maps and/or tables displaying the following information:
    - (1) Street system including street names and functional classifications.
    - (2) Pavement and shoulder widths.
    - (3) Striping and channelization.
    - (4) Driveways.
    - (5) Freight access and loading areas.
    - (6) Intersections.
    - (7) Traffic Volumes.
      - (a) Existing traffic shall be measured within the previous twelve months.
      - (b) Traffic volumes shall be based on data from a minimum of three typical weekdays. In addition, data shall be provided for weekends if weekends are the peak traffic period for either the existing street or the proposed development.
      - (c) Seasonal variations in traffic volumes shall be considered.
    - (8) Existing intersection performance indicators including volume-to-capacity ration and control delay.
    - (9) Bicycle ways, sidewalks, and accessways.
    - (10) Collision data for the most recent three-year period for which collision data is available.
  - D. **Traffic Forecasts.** The Traffic Impact Analysis report shall provide forecasts of future traffic within the Area of Influence and any additional locations identified by the Public Works Director. Traffic forecasts shall be provided for both the Buildout Year and the Long-Range Forecast Year. The report shall include complete documentation of trip generation calculations including Institute of Transportation Engineers (ITE) *Trip Generation* (latest published edition) use code(s) or an alternative basis of trip generation and the rationale for using the alternative.
    - (1) Buildout Year Analysis.
    - (2) Long-Range Forecast Year Analysis.
    - (3) Traffic Forecast Analysis Assumptions.
    - (4) Intersection and Highway Interchange Analysis.

- E. Traffic Impacts. The Traffic Impact Analysis shall evaluate access, safety, operation, capacity, circulation, level of service, and performance of the transportation system within the proposed development's Area of Influence and any additional locations identified by the City Public Works Director for both the Buildout Year and any phases thereof, and the Long-Range Forecast Year.
- F. Mitigation Identification.
- G. Recommendations.

### **18.05.109 Street and Bicycle and Pedestrian Connection Requirements**

1. All streets shall provide for safe and efficient circulation and access for motor vehicles, bicycles, and pedestrians.
2. The Comprehensive Plan Transportation Element shall be used to identify ultimate right-of-way width and future potential street, bicycle, and pedestrian connections in order to provide adequate multi-modal access to land uses, improve area circulation, and reduce out-of-direction travel.
3. Where a future street or bicycle and pedestrian connection is not identified in the Comprehensive Plan Transportation Element, where abutting properties are undeveloped or can be expected to be redeveloped in the near term, and where a street or bicycle and pedestrian connection is necessary to enable reasonable direct access between and among neighboring properties, the applicant shall submit as part of a complete application, a future connections plan showing the potential arrangement of streets and bicycle and pedestrian connections that shall provide for the continuation or appropriate projection of these connections in surrounding areas.
4. Potential pedestrian connections between the proposed development and existing or future development on adjacent properties other than connections via the street system shall be identified. The development application shall designate these connections on the proposed site plan or findings shall be made demonstrating that the connection is infeasible.

## **SIDEWALKS**

**18.05.200 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 by Section 18.02.045 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.

**18.05.205 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.

**18.05.210 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.

**18.05.220 Design, Width, and Location.** All sidewalks must be constructed, replaced or repaired in accordance with 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. If a planter strip at least five (5) feet in width separates the sidewalk from the street, the sidewalk may be five (5) feet in width. If no planter strip is provided, sidewalks along residential or other local street must be a minimum of six 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 Historical Business District, as defined on the zoning map, sidewalks must be at least ten (10) feet in width and be installed adjacent to the curb. The following portions of streets within the City shall have sidewalks constructed on both sides of the street of a width of not less than ten (10) feet:
  - A. Both sides of Water Street between Jersey and Park Streets;
  - B. Both sides of Lewis Street between Water and Second Streets;
  - C. Both sides of First Street between Park and Jersey Streets;
  - D. Both sides of Oak Street between Water and Second Streets;
  - E. Both sides of Main Street between Water and Second Streets.
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 7 – On-Site Improvements and Environmental 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 18.07.400.060.

**18.05.230 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.

**18.05.240 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 18.05.073) 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.

**18.05.250 New Sidewalks or Repairs - When Required.**

- 1. Property owners shall maintain at all times any sidewalk or curb adjacent to their land in a reasonably safe condition. The owner of property adjacent to a defective sidewalk shall be liable to any person suffering bodily injuries, property damage, or both as a result of any breach of a duty imposed under this Chapter.
- 2. No recourse whatsoever shall be had against the city, its council, mayor, employees or agents for damage or loss to person or property arising out of the negligent or otherwise harmful maintenance of any sidewalk or curb described in subsection 1 of this section.
- 3. A property owner described in subsection 1 of this Section shall indemnify, defend and hold the city, its council, mayor, employees and agents harmless against any claim, suit or action made against the city, its council, mayor, employees and agents as a result of any person's failure to fulfill the duty imposed by subsection A of this section.
- 4. The Public Works Director or his/her designee shall prescribe standards for the maintenance of sidewalks in usable condition and any other standards the Director deems appropriate to maintain the effective use of sidewalk surfaces by pedestrians. Whenever, the Director learns of any condition in a sidewalk which may not conform to the standards, the Director shall cause the sidewalk to be inspected and, if found to be defective under those standards, document the substandard conditions and prioritize them for repairs. Repairs required to be made by the abutting property owner(s) are to be in accordance with the applicable provisions of this chapter.
- 5. In case the owner fails to keep such sidewalk in repair, the council may proceed to repair or replace the same on the same notice and in the same manner as specified in this chapter for the construction of new walks.
- 6. No walk shall be repaired where, in the judgment of the council, a new walk should be installed, and the decision of the council as to whether an existing walk should be repaired or a new walk constructed in the place thereof shall be final and binding upon all property owners.

7. Requirements for New Construction Abutting Improved Streets. Except as otherwise provided in Section 18.05.240, it is the duty and shall be required of every property owner whose property abuts any street that has been improved with hard surface pavement and curbs, to construct a sidewalk conforming to the provisions of this chapter within one hundred (100) days from the completion of construction of any building located upon the property of such owner. For the purposes of this section, sidewalks shall be required along the entire length of said property composing the building site abutting any improved street. This section shall not apply to accessory buildings as defined in Article 1 of this Code, provided such accessory buildings are located in a residential district.
8. Requirements for Undeveloped Lots Abutting Improved Streets.
  - A. Every property owner whose property abuts upon any street that has been improved with hard surface pavement and curbs, shall construct a sidewalk conforming to the provision of this chapter, under the following circumstances:
    - (1) At least seventy (70) percent of the property frontage is developed along that side of the block;
    - (2) At least seventy (70) percent of the required sidewalks on that side of the block are already constructed; and
    - (3) It has been at least three (3) years since the abutting street was improved to hard surface pavement and curbs, beginning with street constructed on or after January 1, 2004.
  - B. For the purposes of subsection 8(A)(2), a property having a sidewalk construction deferral pursuant to Section 18.05.240, shall be counted as if a sidewalk were constructed, and shall be subject to having its deferral terminated and sidewalk construction required. All property owners affected by the requirements of this section must be in compliance within twelve (12) months of notification by the Public Works Director.
  - C. Property owners failing to comply with this section shall be subject to actions taken by the Public Works Director pursuant to Section 18.05.300.

#### **18.05.260 Sidewalks Reconstruction Or Repairs – City Work And Assessments.**

1. Whenever, in the judgment of the Public Works Director or his/her designee it is necessary that any existing sidewalk be repaired or any new sidewalk be constructed, the Public Works Director or his/her designee shall cause written notice of the damaged sidewalk to be mailed to the owner or owners by certified mail of the property abutting the sidewalk.
  - A. The notice shall specify therein the name of the owner, if known, and a description of the property adjacent to which such walk is to be constructed, sufficient for identification, and for that purpose the notice shall be sufficient if it shall specify the street and number of such property.
  - B. The notice shall direct that thirty (30) days' notice shall be given to the owner to obtain a permit to begin the construction of a sidewalk, and shall specify generally, according to the district in which such walk is to be constructed, whether the same shall be constructed of concrete or other material.
  - C. The notice shall state that if the owner of the property affected fails to make such reconstruction or repair within the time limited by the notice, then the Public Works Director shall proceed to reconstruct or repair such sidewalk. The cost of labor and material required for the reconstruction or repair, including inspection services plus 10

percent to cover overhead, shall be charged to the owner of the property abutting the reconstructed or repaired sidewalk.

- D. The notice shall state that the owner shall obtain a permit to undertake repair or reconstruction within 30 days of the date of notice and that the repair or reconstruction must be completed with a reasonable period of time.
  - E. The notice may also specify the nature and location of lighted barricades to be placed and maintained by the owner.
  - F. The notice shall inform the property owner reconstruct or repair a sidewalk may appeal therfrom to the City Council by giving written notice of appeal to the City Manager within fourteen (14) days of the date the notice was mailed. The notice of the appeal shall state one or more of the following grounds for the appeal:
    - (1) That the alleged defect is not in violation of the standards adopted under this chapter;
    - (2) That the alleged defect is not hazardous in fact because of special condtions in the particular case;
    - (3) That the compliceance period is unreasonable;
    - (4) That an extension of the compliance period was unreasonably denied;
    - (5) That warning devices or barricades specified in the notice are unreasonable; or
    - (6) That the person to whom notice has been given is not the owner of the property adjacent to the allegedly defective sidewalk.
2. If, in the opinion of the Public Works Director or his/her designee, the defect in the sidewalk represents an immediate and extreme hazare to the public, her/she may cause lighted barricades or warning devices to be immediately placed to give warning of the hazard; and shall if the abutting property is occupied, give written notice to the occupant, as well as the owner, that such lighted barricades have been erected, from which time it shall be the responsibility of the owner to maintain adequate lighted barricades or warning devices continually in place. The owner may place substitute lighted barricades in which event the Director or his/her designee shall cause the City's equipment to be removed; but in any event the abutting owner shall pay to the City a fee as prescribed by resoltution of the City Council.
3. The owner whose property is so charged with such construction shall, within thirty (30) days from date of such service, obtain a permit to undertake repair or reconstruction as required by Section 18.05.260(1). The construction or repair of the sidewalk described in the notice shall be completed within a reasonable period of time considering limitation of weather and season, not to exceed 120 days from the date of the notice of non-compliance. If the owner shall fail so to do, he or she shall be deemed to have waived his or her right to himself or herself construct such sidewalk, and the city shall proceed to construct the same in the manner hereinafter provided; provided, however, that the City Manager or his/her designee may, on application of such owner and for good cause shown, extend, for such reasonable time as it shall deem proper, the time limit within which the owner shall proceed with the work.
4. Any person to whom the notice prescribed in subsection 18.015.260(1) is directed to reconstruct or repair a sidewalk may appeal to the City Council by giving written notice of

appeal to the City Manager within fourteen (14) days of the date the notice was mailed. The notice of the appeal shall state one or more of the following grounds for the appeal:

- A. That the alleged defect is not in violation of the standards adopted under this chapter;
  - B. That the alleged defect is not hazardous in fact because of special conditions in the particular case;
  - C. That the compliance period is unreasonable;
  - D. That an extension of the compliance period was unreasonably denied;
  - E. That warning devices or barricades specified in the notice are unreasonable; or
  - F. That the person to whom notice has been given is not the owner of the property adjacent to the allegedly defective sidewalk.
5. Upon receiving a notice of appeal, the City Manager shall set the matter for public hearing before the City Council and give notice thereof to the appellant. Following the hearing, the City Council may affirm, reverse, or modify the Public Work Director's action.
  6. If no appeal is filed within the time provided in subsection 18.04.260(5) and no permit has been obtained or the repairs or reconstruction are not completed as required by the notice, or if the direction of the City Council following an appeal is not complied with, the Public Works Director shall make full report to the City Council and the Council may proceed as provided herein after.

#### **18.05.270 Repair And Maintenance Of Sidewalks, Curbs, Or Monolithic Curbs And Gutters In The Public Right-Of-Way.**

1. It is declared to be the duty of the owners, lessees, and occupants abutting upon or adjacent to any sidewalk to keep such sidewalk clean and clear of ice, snow, dirt, vegetation, debris, or obstructions for the safe use of the public at all times.
2. No person owning real property shall cause or allow the sidewalk, curb or monolithic curb and gutter in the abutting public right-of-way to present an unreasonable risk of harm to persons or property.
3. For purposes of this section, a sidewalk, curb or monolithic curb and gutter shall be deemed to present an unreasonable risk of danger to person or property if, among other things:
  - A. Panels or pieces of same are gap separated more than one-half inch from adjacent panels or pieces; or
  - B. Panels or pieces of same are vertically displaced from each other more than one-quarter (1/4) inch.
  - C. Entire pieces or panels are absent, or there exist pieces or panels broken into parts smaller than one square foot; or
  - D. The grade from one piece or panel to the adjacent piece changes by more than one-half inch per foot in any direction; or
  - E. Handicap access ramps or driveways deviate from the slopes and dimensions included in the standards and specifications set by the city engineer; or

- F. Curb pieces exist less than two feet in length; or
  - G. Monolithic curb and gutter sections are cracked or broken longitudinally, or displaced one-half inch or more from the adjacent paving.
  - H. The surface irregularities are generally more than one-half (1/2) inch from the original surface.
  - I. This list is not intended to be exclusive.
4. The existence of sidewalks, curbs or monolithic curbs and gutters in such condition as to present an unreasonable risk of danger to persons or property hereby is declared to be a public nuisance and may be abated by any of the procedures set forth in SMC 8.04.050 et seq.
  5. A person who owns property that abuts a sidewalk, curb or monolithic curb and gutter in such condition as to present an unreasonable risk of danger to persons or property is civilly liable for all claims arising from that condition.

**18.05.280 Filling of Space Between Sidewalk and Curb.** It shall be the duty of all property owners to fill in the space between the curb and sidewalks in front of or abutting their property, and to the curb line of the street at the intersections, with earth or other material approved by the Public Works Director or his/her designee to a level and grade with the curb and sidewalk. If such space is filled with earth, at least 75 percent of the surface area shall be covered with perennial living plant material which conforms to all other required of this Code, and which is kept free of noxious vegetation.

**18.05.290 Permit To Construct, Reconstruct, or Repair And Fees.**

1. No person shall construct a sidewalk in the public right-of-way, except in accordance with current standards and specifications established by the Public Works Director or in accordance with SMC 18.05.220 through 18.05.280.
2. The Public Works Department shall issue a permit upon approval of a permit application for construction and repairs to all sidewalks on city rights-of-way. No persons shall construct, reconstruct, or repair any sidewalk without first obtaining said permit.
  - A. **Permit and Service Fees.** Application for the permits required shall be made to the Public Works Department and shall describe the location, width, length, and material proposed to be used, and shall include a plan view drawing with such other information as the Public Works Director or his/her designee may deem necessary to demonstrate compliance with the provisions of this chapter. The application shall be accompanied with an inspection fee in the amount prescribed by resolution of the City Council.
  - B. **Compliance.** It shall be unlawful for any person to wilfully construct, reconstruct, or repair any sidewalk upon a grade or alignment contrary to the specifications or directions of any permits granted by the Public Works Department.
  - C. **Inspection of Sidewalks Constructed Under Permit.** The owner or his/her contractor shall notify the Public Works Department in accordance with the prescribed schedule that forms are ready for inspection and prior to placing concrete. After a permit to construct, reconstruct, or repair a sidewalk is issued and notification is given by the owner or contractor, it shall be the duty of the Public Works Director or his/her designee to make inspection of the sidewalk forms as, in his judgement, is necessary to have full compliance with the provisions of this chapter and other ordinances that may be

applicable. If the forms are not placed in accordance with the specifications, the owner or his/her contractor shall make the required corrections before placing concrete. After forms are approved by the Director or his/her designee, concrete shall be placed and finished in accordance with the specifications. If the finished sidewalk is not constructed in accordance with the specifications and other terms of this chapter, it shall be the duty of the Director or his/her designee to proceed in accordance with Section 18.05.290(2)(D) against the owner of the property affected, being the owners of the property abutting upon that part of the street where the sidewalks is being constructed.

- D. **Failure to Obtain a Permit.** In the event the owner or his contractor fails to obtain a permit as required by Section 18.05.280(1) or fails to call for a form inspection as required by 18.05280(2)(C), the Director or his/her designee shall collect a fee double the normal fee currently prescribed by resolution of the City Council. In addition is hshall be unlawful for the owner, lessee, or occupant of any property, or for any person or agent of either, or for any contractor, or any agent or employee of any contractor, to construct any siewalk or area between the sidewalk and curb in anhy manner contrary to the terms and provisions of this chapter. Any sidewalk or area between the sidewalk and curb constructed contrary to the provisions of this chapter shall be removed and corrected or caused to be removed and corrected by the property owner affected, within ten (10) days after he or she receives notice from the Director or his/her designee, and each day the offending situation remains in place after ten (10) days of the owner receiving notice from the Director or his/her designee shall constitute a separate violation of this chapter. Violation of this chapter is an infraction.
- E. **Deposit or Bond.** A deposit or bond in the amount established by council resolution shall be collected from all applicants for new sidewalk construction prior to issuance of a permit. The deposit shall be returned to the applicant upon inspection and approval by the city engineer's designee of the constructed or repaired sidewalk. The deposit or bond shall be waived in the case of repairs to existing sidewalk. The permit for each construction or repair shall declare the applicants responsibility for repair or replacement of any defective or damaged sidewalk affected by this work.

**18.05.300 Procedure when Owner Refuses to Construct or Repair.** Whenever the Public Works Director or his/her designee determines that the construction, reconstruction or repair of any sidewalk is necessary, per the requirements found in this chapter, and the owner of the property affected fails to make such construction, reconstruction, or repair within the time limits specified in this chapter, then the Public Works Director shall proceed to construct, reconstruct, or repair such walk, and shall keep an accurate account of the cost of labor and material required for such construction or repair, including inspection services. Such cost, plus ten (10) percent additional to defray the cost of preparing and serving the notice, engineering, and advertising, shall constitute the cost of construction, reconstruction, or repair of such sidewalk and shall constitute a lien upon the fenefitted property, which lien shall be entered by the recorder in the appropriate lien docket of the city and shall be collected and foreclosed as a lien.

## **BIKEWAYS**

**18.05.310 Master Bikeways Plan.** The City's adopted Master Bikeways Plan is in the Comprehensive Plan.

**18.05.320 Provisions for Bikeways.** Developments adjoining or containing proposed bikeways identified on the adopted Master Bikeways Plan shall include provisions for the future extension of such bikeways. Land use approvals issued for Planned Developments, subdivisions,



and other developments which will principally benefit from such bikeways may be conditioned to include bikeway improvements.

In the case of arterial or collector streets, bikelanes shall be built during their construction, and considered during their reconstruction. This provision shall also apply to local streets in other than single family residential developments.

**18.05.330 Bikeway Design.** Where possible, bikeways should be separated from other modes of travel, including pedestrian. Minimum width for bikeways shall be 6 feet per travel lane where adjacent to a curb (one-way) and 10 feet where not on roadway (two-way). A reduction in standards may be allowed where the City Public Works Director finds that no safety hazard will be created and other special circumstances (such as physical constraints) exist.

## **PARKS and OPEN SPACE**

**18.05.400 Intent.** The availability of park land and open space is a critical element in maintaining and improving the quality of life in Silverton. Land that features trees, grass and vegetation provides not only an aesthetically pleasing landscape but also buffers incompatible uses, and preserves sensitive environmental features and important resources. Parks and open space, together with support facilities, also help to meet the active and passive recreational needs of the citizens of Silverton. This Section implements policies of the Open Space, Natural and Cultural Resources Element of the Silverton Comprehensive Plan and the Parks Master Plan by outlining the provisions of parks and open space within the City.

**18.05.405 When Required.** New residential subdivisions, planned developments, multi-family or manufactured home park developments shall be required to provide park land to serve existing and future residents of those developments. Multi-family developments which provide some “congregate” services and/or facilities, such as group transportation, dining halls, emergency monitoring systems, etc., but which have individual dwelling units rather than sleeping quarters only, are considered to be multi-family development for the purpose of park land dedication. Licensed adult congregate living facilities, nursing homes, and all other similar facilities which provide their clients with individual beds and sleeping quarters, but in which all other care and services are communal and provided by facility employees, are specifically exempt from park land dedication and system development fee requirements.

**18.05.415 Public Acquisition.** The Planning Commission may require the reservation for public acquisition, at a cost not to exceed acreage values in the area prior to subdivision, or appropriate areas within the subdivision for a period not to exceed one year providing the City has an interest or has been advised of interest on the part of the school district or other public agency to acquire a portion of the area within the proposed subdivision for a public purpose, including substantial assurance that positive steps will be taken in the reasonable future for the acquisition.

**18.05.420 Dedication of Park and Playgrounds.** The Planning Commission may require the dedication of suitable areas for the parks and playgrounds that will be required for the use of the population which is intended to occupy the subdivision and the area within a quarter (1/4) of a mile or the formation of a Home Owners Association for the maintenance of a mini-park. Park land shall be required as a condition of approval for the following:

1. Tentative Plat for a subdivision or partition;
2. Interim Planned Unit Development;
3. Design Review for a multi-family development or manufactured home park; and

4. Replat or amendment of any site plan for multi-family development or manufactured home park where dedication has not previously been made or where the density of the development involved will be increased.

**18.05.425 Calculation of Required Dedication.** The required park land acreage to be dedicated is based upon a calculation of the following formula rounded to the nearest 1/100 (0.01) of an acre:

$$\text{Required park land dedication (acres)} = (\text{proposed units or lots}) \times (\text{persons/unit}) \times 0.01156 \text{ (per person park land dedication factor)}$$

1. **Population Formula:** The following table shall be used to determine the number of persons per unit to be used in calculating required park land dedication:

Type of Unit	Total Persons Per Unit
Single Family Residential	3.0
Standard Multi-Family Unit	2.0
Manufactured Dwelling Park	2.0
Congregate Multi-Family Unit	1.5

Persons per unit, age distribution, and local conditions change with time. The specific formula for the dedication will, therefore, be subject periodic review and amendment.

2. **Per Person Park Land Dedication Factor:** The total park land dedication requirement shall be 0.01156 of an acre per person based on the adopted standard of 0.01156 acres of land per one thousand of ultimate population per the Parks Master Plan. This standard represents the citywide land to population ration for city parks, and may be adjusted periodically through amendments to the Parks Master Plan. (Note: The Parks Master Plan, page 20, indicates a required park acreage total of 115.2 acres. This number divided by population (2020) of 9,965 equates to 11.64 acres per 1000 population or 0.01156 per person.)

**18.05.430 Minimum Park Land Standards.** Land required or proposed for park land dedication shall be contained within a continuous unit and must be suitable for active use as a neighborhood or mini-park, based upon the following criteria:

1. The required dedication shall be contained as a contiguous unit and not separated into pieces or divided by roadways.
2. The proposed park land area must be able to accommodate play structures, play fields, picnic areas, or other active park use facilities. The average slope of the active use park land shall not exceed five (5) percent.
3. Any retaining wall constructed at the perimeter of the park adjacent to a public right-of-way or private street shall not exceed four (4) feet in height.
4. Once dedicated, the City will assume maintenance responsibility for the neighborhood or mini park.

**18.05.435 Dedication Procedures.** Prior to approval of the final plat, the developer shall dedicate the land as previously determined by the City in conjunction with approval of the tentative plat. Dedication of land in conjunction with multi-family development shall be required prior to issuance of permits and commencement of construction.

1. Prior to acceptance of required park land dedications, the applicant/developer shall complete the following items for all proposed dedication area(s):

- A. The developer shall clear, fill, and/or grade all land to satisfaction of the City, install sidewalks on the park land adjacent to any street, and seed the park land; and
- B. The developer shall submit a Phase I Environmental Site Assessment completed by a qualified professional according to American Society of Testing and Materials (ASTM) standards (ASTM E 1527). The results of this study shall indicate a clean environmental record.

2. Additional Requirements

- A. 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.

The subdivider or developer shall be required to present to the City a title insurance policy on the subject property ensuring the marketable state of the title.

- B. Where any reservations, encumbrances or easements exist, the City may require payment in lieu of the dedication of lands unless it chooses to accept the land subject to the encumbrances.

- 3. Phased Developments. In a phased development, the required park land for the entire development shall be dedicated prior to approval of the final plat for the first phase. Improvements to the land as required by 18.05.435 shall be made prior to approval of the final plat for the phase that includes the park land.

**18.05.440 Cash in Lieu of Dedication.** At the City’s discretion only, the city may accept payment of a fee in lieu of land dedication. The City may require payment in lieu of land when the park land dedicated is less than three (3) acres. A payment in lieu of land dedication is separate from Park Systems Development Charges, and is not eligible for a credit of Park Systems Development Charges. The amount of the fee in lieu of land dedication (in dollars per acre) shall be set by City Council Resolution, and it shall be based on the typical market value of developed property (finished lots) in Silverton net of related development costs.

- 1. The following factors shall be used in the choice of whether to accept land or cash in lieu of dedication:
  - A. The topography, geology, access to, parcel size, and location of land in the development available for dedication;
  - B. Potential adverse/beneficial effects on environmentally sensitive area;
  - C. Compatibility with the Parks Master Plan, Public Facilities Element of the Comprehensive Plan, and the City of Silverton Capital Improvements Program in effect at the time of dedication;
  - D. Availability of previously acquired property; and
  - E. The feasibility of dedication.
- 2. Cash in lieu of park land dedication shall be paid prior to the signing of the final plat.

**18.05.445 Minimum Standards for Open Space Dedication.** The applicant through a Subdivision, Planned Unit Development or Design Review process may propose the designation and protection of open space areas as part of that process.

1. The types of open space that may be provided are as follows:
  - A. **Natural Areas:** Areas of undisturbed vegetation, steep slopes, stream corridors, wetland, wildlife habitat areas or areas replanted with native vegetation after construction.
  - B. **Greenways:** Linear green belts linking residential areas with other open space areas. These greenways may contain bicycle paths or footpaths. Connecting greenways between residences and recreational areas are encouraged.
2. A Subdivision, Planned Unit Development or Design Review application proposing designation of open space shall include the following information as part of the application:
  - A. Designate the boundaries of all open space areas; and
  - B. Specify the manner in which the open space shall be perpetuated, maintained, and administered; and
  - C. Provide for public access to trails included in the Park Master Plan, including but not limited to the Silver Creek path.
3. Dedication of open space may occur concurrently with the development of the project. At the discretion of the City, for development that will be phased, the open space may be set aside in totality and/or dedicated in conjunction with the first phase of the development or incrementally set aside and dedicated in proportion to the development occurring in each phase.
4. Open space areas shall be maintained so that the use and enjoyment thereof is not diminished or destroyed. The recorded covenant shall state: "This tract is held in reserve as a permanent open space and shall not be considered as a building lot, or encroached upon in any manner." Open space areas may be owned, preserved, and maintained by any of the following mechanisms or combinations thereof:
  - A. Dedication to the City of Silverton or an appropriate public agency approved by the City, if there is a public agency willing to accept the dedication. Prior to acceptance of proposed open space, the City may require the developer to submit a Phase I Environmental Site Assessment completed by a qualified professional according to American Society of Testing and Materials (ASTM) standards (ASTM E 1527). The results of this study shall indicate a clean environmental record.
  - B. Common ownership by a homeowner's association that assumes full responsibility for its maintenance.
  - C. Dedication of development rights to an appropriate public agency with ownership remaining with the developer or homeowner's association. Maintenance responsibility will remain with the property owner; and/or
  - D. Deed-restricted private ownership preventing development and/or subsequent subdivision and providing for maintenance responsibilities.
5. Common areas including indoor recreation areas within a development shall be a functional part of the development prior to issuance of a Building Permit for the first unit or lot over 25

percent of the total number of units or lots in the proposed development. Outdoor open space shall be provided with a lawn or hard surface areas in which user amenities such as trees, shrubs, pathways, food and ornamental garden spaces, covered picnic tables, benches, and drinking fountain(s) have been installed. The remaining area may be maintained in its natural state but must be maintained in compliance with Silverton's Noxious Vegetation Ordinance. A Final Landscape Plan shall be submitted for common areas incorporating the previously described amenities

6. In the event that any private owner of open space fails to maintain it according to the standards of this Code, the City of Silverton, following reasonable notice, may demand that the deficiency of maintenance be corrected, and may enter the open space for maintenance purposes. All costs thereby incurred by the City shall be charged to those persons having the primary responsibility for maintenance of the open space.

**18.05.450 Designation of Permanent Open Space.** Open space shall be designated in the following priority order:

1. The first priority for open space designation is the protection of natural features, environmentally sensitive areas, and scenic features of the site. This priority is satisfied by any of the following:
  - A. Wetland identified on the city's Local Wetland Inventory.
  - B. Riparian area identified on the city's Riparian Inventory.
  - C. Slope greater than 15 percent.
  - D. Wooded area with five or more trees over 24 inches in diameter measured four (4) feet from the ground.
  - E. Spring.
  - F. Land providing connectivity to parks, trails, inventoried natural features, or areas zoned or protected as permanent open space.
2. The second priority for open space designation is to create open spaces in and around neighborhoods. This priority is satisfied by any of the following:
  - A. Continuity of adjacent open space corridors or parkways.
  - B. A network of interconnected open space corridors.
  - C. A buffer between neighborhoods.
3. The third priority for open space designation is to incorporate public parks, trails or open space designated in the Parks, Recreation and Open Space Plan to create private parks and trails that may be connected to public streets, parks, trails or open space.

**18.05.455 Protection of Permanent Open Space.**

1. Except as necessary to meet transportation or utility infrastructure requirements, the development shall avoid encroachment into significant wetlands and riparian corridors.
2. For other natural features, permanent alteration by grading or placement of structures or impervious surfaces may be authorized upon demonstration that equal or better protection for natural resources found on site or in the same basin will be ensured through restoration or

enhancement or similar measures. In no case shall such alterations encroach more than is necessary to accommodate the use.

3. Significant wetlands, riparian corridors, and intermittent streams preserved as open space may be used for conveyance of storm waters but shall not be used for drainage improvements, such as detention or retention ponds, or any other utility improvement necessary for development of the lots.
4. Areas set aside for permanent open space cannot be further subdivided.
5. Fences are permitted in and around the open space if consistent with the expressed purpose of the open space.

## **SANITARY SEWERS**

**18.05.500 When Public Sewer is Available.** All new development must extend and connect to the public sewer system when service is available within 300 feet of the property.

**18.05.510 When Public Sewer is Not Available.** Where sanitary sewer is not available within 300 feet of the property, no development is allowed on private septic systems, except for construction of one single family dwelling on an existing lot of record or on a parcel no smaller than five acres created through the land division process provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public sanitary sewer. Any private on-site system allowed by this section must be approved by Marion County.

**18.05.520 Extension Along Property Frontage and Within Interior.** Sanitary sewer collection mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Public Works Director as necessary to accommodate likely system expansion. Where private sanitary sewer services will exceed 100 feet in length, as measured from the public main to the structure, the City Public Works Director may require extension of public sewers into the interior of the property.

**18.05.530 Sewer Plan Approval.** All proposed sanitary sewer plans and systems must be approved by the City Public Works Director as part of the tentative plat or site plan review process.

**18.05.540 Design Requirements for New Developments.** All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing sanitary sewer lines serving surrounding areas. Line extensions may be required through the interior of a property being developed where the City Public Works Director determines that the extension is needed to provide service to upstream properties.

**18.05.550 Restriction of Development.** The review body may restrict development approvals where a deficiency exists in the sanitary sewer system or portion thereof which cannot be corrected as a part of the development improvements.

## **STORM DRAINAGE**

**18.05.600 General Provisions.** The review body will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City Public Works Director. The storm water drainage system must be separate and independent of any sanitary sewerage system. Where possible, inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water

drainage patterns and proposed storm drainage must be shown on every development proposal plan. All proposed storm sewer plans and systems must be approved by the City Public Works Director as part of the tentative plat or site plan review process.

Ditches are not allowed without specific approval of the City Public Works Director. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance may be permitted. For the purposes of this article, an open natural drainageway is defined as a natural path that has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation.

**18.05.610 Easements.** Where a subdivision is traversed by a water course, drainageway, channel or stream, there shall be provided a public storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as the City Public Works Director determines will be adequate for conveyance and maintenance. Improvements to the drainageway, or streets or parkways parallel to water courses may be required.

**18.05.620 Accommodation of Upstream Drainage.** A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Public Works Director must review and approve the necessary size of the facility, based on the provisions of the Storm Drainage Master Plans, and sound engineering principles and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.

**18.05.630 Effect on Downstream Drainage.** Where it is anticipated by the City Public Works Director that the additional run-off resulting from the development will overload an existing drainage facility, the review body will withhold approval of the development until provisions have been made for improvement of said potential condition.

**18.05.640 Drainage Management Practices.** Development must employ drainage management practices approved by the City Public Works Director which minimize the amount and rate of surface water run-off into receiving streams or drainage facilities or onto adjoining properties. Drainage management practices must include, but are not limited to one or more of the following practices:

1. Temporary ponding or detention of water;
2. Permanent storage basins;
3. Minimization of impervious surfaces;
4. Emphasis on natural drainageways;
5. Prevention of water flowing from the development in an uncontrolled fashion;
6. Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion;
7. Runoff from impervious surfaces must be collected and transported to a natural drainage facility with sufficient capacity to accept the discharge; and
8. Other practices and facilities designed to transport storm water and improve water quality.

**18.05.650 Design Requirements for New Development.** All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of

existing storm sewer lines or drainageways serving surrounding areas. Extensions may be required through the interior of a property to be developed where the City Public Works Director determines that the extension is needed to provide service to upstream properties.

**18.05.660 When Public Storm Drainage is Not Available.** Where public storm drainage is not available within 300 feet of the property, no development is allowed except for construction of one single family dwelling on an existing lot of record or on a parcel no smaller than 8,000 square feet created through the land division process provided the lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public storm drainage. Any private on-site system allowed by this section must be approved by the Public Works Director and the Building Official. On-site retention systems may not be placed within required setback areas.

**18.05.670 NPDES Permit Required.** A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb one (1) or more acres of land.

## **WATER**

**18.05.700 When Public Water is Available.** All new development, including a single family residence, must extend and connect to the public water system when service is available within 150 feet of the property. Fire hydrants, mains, and related appurtenances shall be installed as required by the City Public Works Director and the Silverton Fire District.

**18.05.710 When Public Water is Not Available.** No new development is allowed on private well systems, except for construction of one single family dwelling on an existing lot of record. Residential lots created by a land partition may be served by private wells if approved by the City Public Works Director and provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel, the application will be subject to the subdivision requirement that the development be served by public water.

**18.05.720 Extension Along Property Frontage and Within Interior.** Water distribution mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Public Works Director as necessary to accommodate likely system expansion. Main extensions may be required through the interior or properties when necessary to provide for service to other properties or to provide looping for fire flows.

**18.05.730 Water Plan Approval.** All proposed water plans and systems must be approved by the City Public Works Director as part of the tentative plat or site plan review process.

**18.05.740 Design Requirements for New Development.** All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing principal water lines serving surrounding areas.

**18.05.750 Restriction of Development.** The review body may restrict development approvals where a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the development improvements.



## FIRE PROTECTION STANDARDS

**18.05.800 When Required.** All land divisions of lots containing less than one acre shall be required to provide water supplies for fire protection which shall be in addition to those water supplies required for domestic purposes. Water supplies for fire protection of lots over one acre in size may be required by the Planning Commission.

**18.05.810 Ingress and Egress.** Subdivisions Planned Unit Developments and apartment developments consisting of 40 or more units shall provide at least two public road ingress/egress routes.

**18.05.820 Provision of Water.** Water distribution main on which fire hydrants are located shall be a minimum of six inches in diameter. Minimum fire flows in one- and two-family developments shall be 1,000 gallons per minute for two hour's duration in all cases where water supplies for fire protection are required.

**18.05.830 Hydrants.** In one- and two- family subdivisions, fire hydrants shall be spaced no further than 500 feet apart. The size, type and location of fire hydrants shall meet the approval of the Public Works Director and the Silverton Fire District.

**18.05.840 Special Considerations.** Where it is determined that in the future, additional developments will also be served by the distribution mains being installed as part of the plat, the approval authority may require additional fire safety precautions, including but not limited to, the provision of easements for access to adjacent lands, and/or the installation of larger than minimum distribution mains. In cases of partitioned lots with inadequate fire protection, the installation of residential fire sprinkler systems may be an option when a Petition for Improvement/Waiver of Remonstrance is recorded for future fire protection for the area.

**18.05.850 Additional Requirements.** Subdivisions and Planned Unit Developments, intended for other than one- and two- family dwellings shall provide fire protection facilities consistent with the standards established by the Uniform Fire Code as administered by the Silverton Fire District.

## PRIVATE UTILITIES—GENERAL

**18.05.900 Utility Easements.** The developer shall make arrangements with the City of Silverton and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. All utility easements must be public easements.

**18.05.910 Utility Easement Width.** The standard width for public utility easements adjacent to street rights-of-way is ten (10) feet. The minimum width for all other public utility easements shall be twelve (12) feet for water, twelve (12) feet for sewer, and twelve (12) feet for piped storm drainage unless otherwise specified by the utility company or City Public Works Director. Where feasible, utility easements shall be centered on a lot line. Combined public utility easements for sanitary sewer, water, and storm drainage may be thirty (30) feet wide. Wider easements for sanitary sewer lines may be required based upon the depth and size of the line.

**18.05.920 Information on Development Plans.** The developer must show easements for all utilities. Plans showing the location of all utilities shall be submitted to the City as part of the site plan review or land division process.

**18.05.930 Requirement for Underground Utilities.** Except as exempted in Section 18.05.400, all utility lines, cables, or wires (including but not limited to those used for electricity,

communication, street lighting, and cable television) constructed upon, adjacent to, or within land subdivided or prepared for development after the effective date of this Code, must be placed underground. The intent of the City is that no poles, towers, or other structures associated with utility facilities shall be permitted on any street or lot within such a subdivision or development.

**18.05.940 Exceptions.** Overhead facilities are only permitted in the following instances:

1. Emergency installations, electric transmission lines, or through feeders operating at distribution voltages which act as a main source of supply to primary laterals and to direct connected distribution transformers and primary loads. Should it be necessary to increase the capacity of major power transmission facilities for service to the area, such new or revised installations shall be made only on rights-of-way or easements on which overhead facilities exist at the time of such capacity increase.
2. Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, connection boxes, and the like.
3. Structures without overhead wires, used exclusively for fire alarm boxes, street lights, or municipal equipment installed under the supervision and with the approval of the City Public Works Director.
4. Power substations, pumping plants, and similar facilities necessary for transmission or distribution of utility services.
5. Television antennas and satellite dishes [See Section 18.08.080(12)].
6. Industrial developments, except for those utility lines, cables, and/or wires providing service to an individual lot. Such lines must be placed underground from the nearest power pole to the facility ultimately being operated on the individual lot. Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of Site Plan approval. Underground utilities may be required in Industrial Park developments and Planned Developments in the Industrial Districts.
7. New development on existing individual lots of record in areas where service is currently by overhead utilities.

**18.05.950 Property Monuments.** Upon completion of a utility project and prior to acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an Oregon licensed surveyor retained by the developer.

## **STREETS NUMBERING AND NAMING**

**18.05.1000 All Buildings to be Numbered.** All buildings within the city shall be numbered in the manner provided in this Chapter.

**18.05.1010 Numbering System – Placement of Numbers.**

1. There shall be a uniform system of numbering all houses, stores and other buildings, except sheds and outbuildings, erected or to be erected within the city, by placing on the door or doorframe of the main entrance to such building, or as near thereto as may be practical, the number assigned thereto, as hereinafter provided, such number to be painted on the building

or on metal or glass, or a metallic figure used, at the option of the owner, and so placed as to be readily seen from the street.

2. The figures designating the numbers, whether printed or otherwise, shall not be less than six (6) inches in height.

### **18.05.1020 Numbering System – Described.**

1. The houses or buildings erected on lots which abut upon streets running northerly and southerly shall be numbered as follows:
  - A. That part of each of such streets lying south of Main Street shall be numbered southerly from the south side of Main Street, beginning with the number 100 and allowing 100 numbers to each block, both sides of the street to be considered a block; the even numbers to be used for numbering houses and buildings on the east side of such street, and the odd numbers to be used for such numbering on the west side of such street. The first tier of blocks south of Main Street shall be numbered southerly, beginning such numbering with the figure 100 and continuing with successive numbers thereafter to and inclusive of the figure 199.
  - B. The second tier of blocks shall be numbered beginning with the number 200 and continuing with successive numbers thereafter to and inclusive of the number 299, and continuing in like manner, the numbering of each successive tier of blocks, giving 100 numbers to each tier of blocks and ending such numbering at the southern boundary of the city.
  - C. All the portion of such street north of Main Street shall be numbered in the same manner, but northerly from Main Street, beginning with the number 100 and allowing 100 numbers to each tier of blocks northerly, and numbering in the same manner as hereinbefore provided for the numbering of buildings southerly of Main Street.
  - D. In case any streets in the city, running northerly and southerly, do not intersect with Main Street, the numbering thereof shall nevertheless commence and continue in the same manner as if such streets actually intersected Main Street; that is to say, if two tiers of blocks intervene between Main Street, the first numbers on such street shall be 300, and if one tier of blocks intervenes, then 200 shall be the first number for each intervening tier of blocks, and then proceeding from such commencing point in the manner hereinbefore specified.
2. The buildings or houses erected on lots abutting on streets running easterly and westerly shall be numbered as follows:
  - A. That part of each of such streets east of Silver Creek shall be numbered easterly therefrom, beginning with the number 100 and allowing 100 numbers to each block, both sides of the street being considered a block, the even numbers to be used for numbering houses and buildings on the north side of such streets, and the odd numbers for such numbering on the south sides of the streets.
  - B. The first tier of blocks east of Silver Creek shall be numbered easterly, beginning such numbering with the number 100 and continuing with successive numbers thereafter to and inclusive of the figure 199.
  - C. The second tier of blocks shall be numbered beginning with the number 200, and continuing with successive numbers thereafter to and inclusive of the number 299, and continuing in like manner the numbering of each successive tier of blocks, giving 100

numbers to each tier of blocks and ending such numbering at the eastern boundary of the city.

- D. All that part of the streets west of Silver Creek shall be numbered in the same manner, but westerly from Silver Creek, beginning with the number 100 and giving 100 numbers to each tier of blocks westerly, and numbering in the same manner as hereinbefore provided for the numbering of houses and buildings easterly from Silver Creek.
  - E. In case any streets in the city, running easterly and westerly, do not intersect with Silver Creek, the numbering thereof shall, nevertheless, commence and continue in the same manner as if the streets actually intersected Silver Creek; that is to say, if two tiers of blocks intervene between Silver Creek and the nearest portion of the street to Silver Creek, the first number on the street shall be 300; and if one tier of blocks only so intervenes, then the first number shall be 200, and so on, allowing 100 numbers for each intervening tier of blocks, and then proceeding from such commencing point in the manner hereinbefore provided.
- 3. All buildings and houses located upon lots abutting on short and irregular streets which are not covered by the foregoing provisions shall be numbered as nearly alike as possible to the nearest adjacent block of regular streets running in relatively the same direction.
  - 4. In order to ascertain the proper position of numbers in a block, the side of the block along which it is desired to locate the number shall, if within the fire limits of the city, as at present constituted, be divided by 25, and if outside the fire limits aforesaid, then by 50, and this will give the relative distance apart of each number.
  - 5. Where streets pass through acreage, not regularly divided into blocks, the size of the blocks, for the purpose of so numbering the same, shall correspond, as near as may be, to the size of the regular blocks nearest adjacent thereto.

**18.05.1030 Additional Numbers.** As additional numbers and memoranda may from time to time be required, on account of subdivision of existing blocks, or for other reasons, the numbering thereon shall be extended by the recorder to include such changes.

**18.05.1040 Numbers For Houses And Buildings.** All houses and buildings now erected shall be numbered as provided in this chapter within 30 days from the time of the taking effect of the ordinance codified herein, and all buildings and houses hereafter erected shall be numbered before being occupied.

**18.05.1050 All Streets To Be Named.** All streets, public and private, within the city shall be named in the manner provided in this chapter.

**18.05.1060 Street Names Shall Be Approved By The City.** In the course of development by public and private parties, there shall be new streets established. When development is proposed by the city, the council shall establish the names of public streets. In the course of other development such as subdivisions or planned developments, the officials designated to make final decisions on such development (typically the planning commission or development director) shall establish a name for any public and private streets as part of that development decision.

**18.05.1070 Street Names Shall Not Be Confusing.** Developers may propose names for streets as part of their application for development or improvement (such as an unnamed alley). Proposed names shall be reviewed by the city, the fire district, and the 911 district to avoid conflicts with similar or closely sounding names. Except for extensions of existing streets, no street names shall be used that will duplicate or be confused with names of existing streets.

Street names and numbers shall conform to the established pattern in the surrounding area and be subject to approval of the city.

**18.05.1080 Signage.** All non-public access ways serving more than 4 houses shall be named, signed and shall be designated as a "Private Lane or Street." All houses shall be addressed consistent with the name of the "Private Lane" as well as with the provisions within this chapter. Signs shall be uniform in size, shape and color and shall be available from the city at the applicant's expense. Non-public accessways serving 4 or fewer houses shall be addressed consistent with the name of the public street but shall be provided with a sign available from the city at the applicant's expense indicating the addresses of residences located on the accessway.

**18.05.1090 Street Name Changes.**

1. An action to rename a street in the City may be initiated by the Council:
  - A. On its own action; or
  - B. If a person or persons files a petition as described in this section accompanied by a fee reasonably related to the costs of the process.
2. A petition for naming or renaming a street shall include the following:
  - A. A statement of the reasons for the proposed name change.
  - B. The names and addresses of all persons owning any real property abutting the street proposed to be renamed and the existing addresses abutting the street proposed to be renamed. For the purposes of this section, "owner" means the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sales contract, the purchaser is the owner.
  - C. Signatures of sixty percent of all owners of the land abutting the street proposed to be renamed.
3. Notice and Hearing:
  - A. The processing procedure for a street name change shall occur in conformance with a Type IV Procedure as specified in Section 18.02.290.
  - B. Upon adoption of an Ordinance approving the street name change by the City Council, notice shall be sent to the Marion County Surveyor and Marion County Tax Assessment Department, all Departments within the City, and all property owners and addressed properties impacted by the street name change.
4. Criteria for Approval:
  - A. The Planning Commission and City Council shall determine whether the name change is in the public interest and is necessary due to confusion as a result of similarity in sound or spelling such as Fairview and Farview, complexity of pronunciation or spelling, or the result of the need for the continuation of a street name where confusion may be created as the result of two different street names on a through street. No street shall be given a name that is the same as, similar to, or pronounced the same as any other street in the City unless that street is an extension of an already existing street. Whenever practicable, historical names, names of Native American tribes of Marion County, heirs of original settlers or long-time residents of Silverton (50-100 years) or names relating to Silverton's natural environment will be considered in the renaming of public streets.

# Chapter 18 - ARTICLE 6

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# Chapter 18 - ARTICLE 6

## SPECIAL PURPOSE OVERLAY DISTRICTS

**18.06.010 Overview.** Special purpose districts are overlay districts which are combined with a base zoning district. The special purpose districts are intended to regulate development in areas where topographic or natural features or proximity require that specific limitations or requirements be imposed.

The regulations of a special purpose district are supplementary to the regulations of the zoning district. Both the zoning district and special purpose district regulations apply to sites within a special purpose district. Where the regulations and permitted uses of a zoning district conflict with those of a special purpose district, the more restrictive standards apply, except as noted below. The following is a list of the overlay districts created in this article.

- Hillside Development
- Wildfire Lands
- Landslide Hazards
- Floodplains
- Wetlands
- Riparian Corridors

### HILLSIDE DEVELOPMENT

**18.06.020 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 insuring 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.

**18.06.030 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 Planning 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.

**18.06.040 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.

**18.06.050 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:

1. Index Map
2. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.
3. 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 8-inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities.
4. 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.
5. 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.
6. Suitability of site for proposed development from a geologic standpoint.
7. Specific recommendations for cut and fill slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.
8. 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.
9. A scale-drawing grading plan, including all of the features and detail required for the site plan listed in 2 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.
10. Signature and registration number of the engineer and/or geologist.
11. Additional information or analyses as necessary to evaluate the site.
12. Inspection schedule for the project.

**18.06.060 Density Standards.** 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. Density transfers are permitted in order to utilize the more buildable portions of a site.

When density is transferred from areas in excess of 25% slope, density transfers shall be allowed at a rate of two dwelling units per acre. 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.

**18.06.070 Lot Standards.** Minimum lot sizes for the portion of the development area where the slope of the land is greater than 12% shall be as specified in the following table:

Average Slope	Minimum Lot Size Per Dwelling Unit	Minimum Lot Frontage	Minimum Lot Depth
12 – 14.9%	10,000 Sq. Ft.	70 Feet	100 feet
15 – 24.9%	12,000 Sq. Ft.	80 Feet	100 feet
25 – 29.9%	15,000 Sq. Ft.	90 Feet	100 feet
30 – 34%	20,000 Sq. Ft.	100 Feet	100 feet

**18.06.080 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:

1. **Building Envelopes.** All newly created lots, either by subdivision or partition or property line adjustment, shall contain building envelopes conforming to the following standards:
  - A. 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.
  - B. Building envelopes and lot design shall address the retention of the following percentage of the lot in landscaping or in a natural state:

Average Slope	Minimum Lot Size Per Dwelling Unit	Maximum Lot Coverage (Impervious Surface)	Maximum Impervious Surface
12 – 14.9%	10,000 Sq. Ft.	40 %	4,000 square feet
15 – 24.9%	12,000 Sq. Ft.	35 %	4,200 square feet
25 – 29.9%	15,000 Sq. Ft.	30 %	4,500 square feet
30- 34%	20,000 Sq. Ft.	25 %	5,000 square feet

- C. 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.
  - D. 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.
2. **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

3. **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:
  - A. **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.
  - B. **Fire Suppression.** All buildings served by streets or roadways in excess of 10% grade shall have a fire suppression system installed.
  - C. **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.

**18.06.090 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.

**18.06.100 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.

**18.06.110 Grading and Erosion Control.** All development on lands classified as Hillside Lands shall be required to conform to the following items:

1. **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.
2. **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 Planning 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.

3. **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:

A. 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.

B. 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.

(1) 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.

(2) 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 18.06.110.04A.

C. 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.

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

A. 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.

B. 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.

- C. 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.
  - D. 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.
5. **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 15.08.070 of the Silverton Municipal Code.
6. **Maintenance, Security, and Penalties for Erosion Control Measures.**
- A. **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.
  - B. **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 Planning 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.
7. **Site Grading.** The grading of a site on Hillside Lands shall be reviewed considering the following factors:
- A. Hazardous or unstable portions of the site shall be avoided.
  - B. Existing natural drainage systems shall be utilized, as much as possible, in their natural state, recognizing the erosion potential from increased storm drainage.
  - C. 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.

- D. Storm water facilities shall be designed, constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties.
- E. 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.

**18.06.120 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.

**18.06.130 Street Standards.**

1. 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.
2. 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.
3. 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.
4. 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. In addition, 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. All walls on public right-of-way shall be limited to a maximum height of fifteen (15) feet unless specifically approved by the City Engineer.

**18.06.140 Driveway Standards.** The maximum difference in elevation between the curblin 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:

1. 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.
2. Have a maximum grade of twelve percent (12%) for no more than three hundred (300) feet; and
3. Driveways 150 feet in length or more shall be provided with a vehicle turn-around meeting the approval of the Silverton Fire District.
4. Provide adequate sight-distance at the intersection with a public street.

**18.06.150 Tree Conservation, Protection and Removal.** All development on Hillside Lands shall conform to the following requirements:

1. **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.
2. **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:
  - A. **Tree Health.** Healthy trees can better withstand the rigors of development than non-vigorous trees.
  - B. **Tree Structure.** Trees with severe decay or substantial defects are more likely to result in damage to people and property.
  - C. **Species.** Species vary in their ability to tolerate impacts and damage to their environment.
  - D. **Potential Longevity.**
  - E. **Variety.** A variety of native tree species and ages.
  - F. **Size.** Large trees provide a greater protection for erosion and shade than smaller trees.
3. **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.

- A. 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.
  - B. 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.
  - C. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.
  - D. Trees shall be retained in significantly large areas and dense stands so as to ensure against windthrow.
  - E. 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.
  - F. Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
4. **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:
- A. 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 Planning Department.
  - B. 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.
  - C. 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.
  - D. 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.
  - E. 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.

5. **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:

- A. The tree is located within the building envelope.
- B. The tree is located within a proposed street, driveway, or parking area.
- C. The tree is located within a water, sewer, or other public utility easement.
- D. 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.
- E. 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.

6. **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:

- A. 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.
- B. 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.
- C. 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.

7. **Enforcement.**

- A. 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.
- B. 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.

- C. 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 1.080 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.

**18.06.160 Modification of Standards.** If the Approval Authority determines that the applicant's plan adequately implements the policies of the Comprehensive Plan, the Approval Authority may modify the standards of this Code as they apply to the entire proposed development, within the following limitations:

1. 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.
2. The reduction of public right-of-way, pavement width, and/or requirements for the installation of sidewalk as specified in Article 4, Public Improvements, 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:
  - A. Detached Dwelling Units: 2 additional off-street parking spaces.
  - B. 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.

**18.06.170 Administrative Variance From Hillside Lands Development Standards.** In addition to the Variance criteria listed in Article 4, Land Division, the following circumstance must also be found to exist:

1. The variance is consistent with the stated purpose and intent of the physical and environmental constraints of the Hillside Development provisions.

## **WILDFIRE LANDS**

**18.06.210 Purpose.** The purpose of the Wildfire Lands overlay standards is to establish minimum regulations for the safeguarding of life and property. Regulations in this section are intended to mitigate the risk to life and structures from intrusion of fire from wildland fire exposures and fire exposures for adjacent structures and to mitigate structure fires from spreading to wildland fuels. The extent of this regulation is intended to be tiered commensurate with the relative level of hazard present.

The unrestricted use of property in urban-wildland interface areas is a potential threat to life and property from fire and resulting erosion. Safeguards to prevent the occurrence of fires and to provide adequate fire-protection facilities to control the spread of fire in urban-wildfire areas shall be in accordance with this title.

This Title is taken from the 2003 International Urban-Wildland Interface Code. It may or may not include all aspects considered by the Silverton Fire District when reviewing a land division proposal. The information contained in this Title is meant to provide information on which the

approval authority shall base their review and conditions of approval and upon which an applicant shall base findings for approval.

**18.06.220 Retroactivity.** The provisions of this section shall apply to conditions arising after the adoption thereof, to conditions not legally in existence at the time of adoption of this title of the Silverton Code, and/or to conditions which, in the opinion of the Silverton Fire District Chief, constitute a distinct hazard to life or property.

**18.06.230 Definitions.** As used in this Title the following words and phrases shall have the following meanings:

**Accessory Structure:** A building or structure used to shelter or support any material, equipment, chattel or occupancy other than a habitable building

**Certificate of Completion:** Written documentation that the project or work for which a permit was issued has been completed in conformance with the requirements of Section 18.06.210 through 18.06.300.

**Critical Fire Weather:** A set of weather conditions (usually a combination of low relative humidity and wind) whose effects on fire behavior make control difficult and threaten fire fighter safety.

**Defensible Space:** An area either natural or man-made where materials capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur. Defensible space is the area between a house and an oncoming wildfire where the vegetation has been modified to reduce the wildfire threat and to provide an opportunity for firefighters to effectively defend the house. Sometimes, a defensible space is simply a homeowner's properly maintained backyard.



**Driveway:** A vehicular ingress and egress route that serves no more than two buildings or structures, not including accessory structures, or more than five (5) dwelling units.

**Fire Area:** The floor area, in square feet used to determine the adequate water supply.

**Fire Chief:** The chief officer or the chief officer's authorized representative of the Silverton Fire District.

**Fire Protection Plan:** A document prepared for a specific project or development proposed for the urban-wildland interface area. It describes ways to minimize and mitigate the fire problems created by the project or development, with the purpose of reducing impact on the community's fire protection delivery system.

**Fire Weather:** Weather conditions favorable to the ignition and rapid spread of fire. In wildfires, this generally includes high temperatures combined with strong winds and low humidity. See "critical fire weather."

**Fire-Resistance-Rated Construction:** The use of materials and systems in the design and construction of a building or structure to safeguard against the spread of fire within a building or structure and the spread of fire to or from buildings or structures to the urban-wildland interface area.

**Fire-Wise Plant Material:** Although there are no fire proof plant materials, the following is a list of some fire-wise plants that can be used in landscaping for fire prevention. Landscape maintenance is far more important to fire prevention than the selection of plant materials. When planning your landscaping, use the characteristics of fire-wise plants along with site characteristics such as slope, aspect, hardiness zone and amount of precipitation to choose plant materials suitable to your site. The traditional foundation planting of junipers is not a viable solution in a firescape design. Junipers, other conifers, and broadleaf evergreens contain oils, resins and waxes that make these plants burn with great intensity. Use of these plants should be minimized within 30 feet of a structure. A firescape landscape lets plants and garden elements reveal their innate beauty by leaving space between plants and groups of plants.

<b>TREES</b>	<b>COMMON NAME</b>	<b>PERENNIALS</b>	<b>COMMON NAME</b>
<b>Conifers</b>		Achillea spp.	Yarrow
Calocedrus decurrens	Intense Cedar	Allium Schoenoprasum	Chives
Thuja Plicato	Western Red Cedar	Bergenia spp.	Bergenia
		Brodiaea spp.	Lillies
<b>Deciduous</b>		Coreopsis spp.	Coreopsis
Acer spp.	Maple	Erysimum Linifoliu,	Wall Flower
Alnus spp.	Alder	Eschscholzia spp.	California Poppy
Betula	Birch	Fragaria spp.	Wild Strawberries
Catalpa Speciosa	Northern Catalpa	Geranium spp.	Geranium
Celtis Occidentalis	Hackberry	Hemerocallis Hydrids	Daylilies
Cornus Florida	Flowering Dogwood	Heuchera spp.	Coral Bells
Fogus spp.	Beech	Hosta spp.	Hosta
Fraxomis spp.	Ash	Iris spp.	Iris
Gleditsia Tricanthos	Honey Locust	Kniphofia Uvaria	Red Hot Poker
Liquidambar Styraciflua	Sweetgum	Lupinus spp.	Lupine
Malus spp.	Apple	Oenothera spp.	Evening Primrose
Populus spp.	Aspen, Cottonwood, Poplar	Penstemon spp.	Beard Tongue
Prunus spp.	Cherry	Solidago spp.	Goldenrod
Quercus spp.	Oak (White, Burr or Red)	Strachys Byzantina	Lamb's Ear
		<b>GROUND COVERS</b>	<b>COMMON NAMES</b>
Robinia Pseudoacacia	Black Locust	<i>Succulents:</i>	
Salix spp.	Willow	Delosperma Nubigenum	Hardest Ice Plant
		Echeveria spp.	Hens and Chicks

SHRUBS	COMMON NAMES	Sedum spp.	Stone Crops
Amelanchier spp.	Serviceberry	<i>Non-Succulents:</i>	
Atriplex Canescens	Four Wing Saltbush	Achillea Tomentosa	Wolly Yarrow
Berberis spp.	Oregon Grape	Ajuga Reptans	Carpet Bugle
Buddelia Davidi	Butterfly Bush	Arctostaphylos uva-ursi	Kinnikinnick
Caryopteris x Clandonensis	Blue-mist Spirea	Armeria Maritima	Sea Pink; Thrift
Cornus Sericea	Red Osier Dogwood	Cerastium Tomentosa	Snow in Summer
Cotoneaster spp.	Cotoneaster	Cotoneaster Dammeri	Bearberry Catoneaster
Gaultheria Shallon	Salal	Euonymus Fortunei	Winter Creeper
Holodiscus Discolor	Oceanspray	Hypericum Calycinum	St. Johnswort
Liqustrum spp.	Privet	Potentilla Tabernaemontanii	Spring Cinquefoil
Mahonia spp.	Creeping Grape Holly	Senecio Cineraria	Dusty Miller
Pachistima Canbyi	Dwarf Mountain Lover	Thymus Praecox Arcticus	Mother of Thyme
Philadelphus spp.	Mock Orange, Springa	Verbenia Bipinnatifida	Verbenia
Rhamnus Fragula	Buckhorn	Vinca Minor	Periwinkle
Rhododendron spp.	Azaleas, Rhododendrons		
Rhus spp.	Sumac		
Ribes spp.	Currant		
Sheperdia Argentea	Silver Buffaloberry		
Symphoricarpos Albus	Snowberry		
Viburnum Trilabum	Cranberry Bush		
Yucca spp.	Yucca		

**Flame Spread Rating:** As used herein refers to rating obtained according to tests conducted as specified by a nationally recognized standard.

**Fuel Break:** An area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for fire fighting. A fuel break is further defined as an area which is free of dead or dying vegetation, and has native, fast-burning species sufficiently thinned so that there is no interlocking canopy of this type of vegetation. Where necessary for erosion control or aesthetic purposes, the fuel break may be planted in slow-burning species. Establishment of a fuel break does not involve stripping the ground of all native vegetation. "Fuel Breaks" may include structures, and shall not limit distance between structures and residences beyond that required by other sections of this title.

**Fuel Break, Primary:** A primary fuel break will be installed, maintained and shall extend a minimum of 30 feet, or to the property line, whichever is less, in all directions around structures, excluding fences, on the property. The goal within this area is to remove ground cover that will produce flame lengths in excess of one foot. Such a fuel break shall be increased by ten feet for each 10% increase in slope over 10%. Adjacent property owners are encouraged to cooperate on the development of primary fuel breaks.

**Fuel Breaks, Secondary:** A secondary fuel break will be installed, maintained and shall extend a minimum of 100 feet beyond the primary fuel break where surrounding landscape is owned and under the control of the property owner during construction. The goal of the secondary fuel break is to reduce fuels so that the overall intensity of any wildfire is reduced through fuels control including the removal of dead wood from shrubs, the removal of low tree branches and mowing dead grass.

Reserved for Illustration

**Fuel, Heavy:** Vegetation consisting of round wood 3 to 8 inches in diameter (see the 2003 International Urban-Wildland Interface Code).

- **Fuel, Light:** Vegetation consisting of herbaceous plants and round wood less than ¼ inch in diameter (see 2003 International Urban-Wildland Interface Code).
- **Fuel, Medium:** Vegetation consisting of round wood ¼ inches to 3 inches in diameter (see 2003 International Urban-Wildland Interface Code).

**Fuel Modification:** A method of modifying fuel load by reducing the amount of nonfire-resistive vegetation or altering the type of vegetation to reduce the fuel load.

**Fuel, Mosaic:** A fuel modification system that provides for the creation of islands and irregular boundaries to reduce the visual and ecological impact of fuel modification.

**Fuel-Loading:** The oven-dry weight of fuels in a given area, usually expressed in pounds per acre. Fuel loading may be referenced to fuel size or timelag categories, and may include surface fuels or total fuels.

**Greenbelt:** A fuel break designated for a use other than fire protection.

**Hazardous Materials:** As defined in the International Fire Code.

**Heavy Timber Construction:** As described in the International Fire Code.

**Ignition-Resistant Construction, Class 1:** A schedule of additional requirements found in the International Urban-Wildland Interface Fire Code for construction in urban-wildfire interface areas based on extreme fire hazards.

**Ignition-Resistant Construction, Class 2:** A schedule of additional requirements found in the International Urban-Wildland Interface Fire Code for construction in urban-wildfire interface areas based on high fire hazards.

**Ignition-Resistant Construction, Class 3:** A schedule of additional requirements found in the International Urban-Wildland Interface Fire Code for construction in urban-wildfire interface areas based on moderate fire hazards

**Insurance Services Office (ISO):** An agency that recommends fire insurance rates based on a grading schedule that incorporates evaluation of fire fighting resources and capabilities.

**Log Wall Construction:** A type of construction in which exterior walls are constructed of solid wood members and where the smallest horizontal dimension of each solid wood member is a least 6 inches.

**Multilayered Glazed Panels:** Window or door assemblies that consist of two or more independently glazed panels installed parallel to each other, having a sealed air gap in between, within a frame designed to fill completely the window or door opening in which the assembly is intended to be installed.

**Noncombustible:** As applied to building construction material means a material that in the form in which it is used, it either one of the following:

1. Material of which no part will ignite and burn when subjected to fire. Any material conforming to ASTM E136 shall be considered noncombustible within the meaning of this section.
2. Material having a structural base of noncombustible material as defined in Item 1 above, with a surfacing material not over 1/8 inch thick, which has a flame-spread rating of 50 or less. Flame-spread rating as used herein refers to rating obtained according to test conducted as specified in ASTM E 84.

“Noncombustible” does not apply to surface finish materials. Materials required to be noncombustible for reduced clearances to flues, heating appliances or other sources of high temperature shall refer to material conforming to Item 1. No material shall be classed as noncombustible that is subject to increase in combustibility or flame-spread rating, beyond the limits herein established, through the effect of age, moisture or other atmospheric condition.

**Noncombustible Roof Covering:** One of the following:

1. Cement shingles or sheets.
2. Exposed concrete slab roof.
3. Ferrous or copper shingles or sheets.
4. Slate shingles.
5. Clay or concrete roofing tile.
6. Approved roof covering of noncombustible material.

**Slope:** The variation of terrain from the horizontal; the number of feet rise or fall per 100 feet measured horizontally, expressed as a percentage.

**Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some manner.

**Tree Crown:** The primary and secondary branches growing out from the main stem, together with twigs and foliage.

**Unenclosed Accessory Structure:** An accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

**Urban-Wildland Interface Area:** That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

**Wildfire:** An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

**Wildland:** An area in which development is essentially nonexistent, except for roads, railroads, power lines and similar facilities.

**18.06.240 Requirements for Subdivisions, Planned Unit Developments and Partitions.** A Fire Prevention and Control Plan shall be required with the submission of any application for preliminary plat approval which contains areas of slope of twelve percent (12%) or more. The Planning Department will forward a copy of the submitted plan to the Silverton Fire District within 5 days of submittal of the plan. The Fire Chief or his designee shall review the plan and submit a written report to the Planning Department no less than 14 days prior to the scheduled hearing. The Fire Chief's report shall be a part of the record of the Planning action. The Fire Prevention and Control Plan shall be prepared at the same scale as the development plans and shall include the following items:

1. An analysis of the fire hazards on the site from wildfire, as influenced by existing vegetation and topography.
2. A map showing the areas that are to be cleared of dead, dying, or severely diseased vegetation.
3. A tree management plan showing the location of all trees that are to be preserved and removed from each lot. In the case of heavily forested parcels, only trees scheduled for removal shall be shown.
4. The areas of Primary and Secondary Fuel Breaks that are required to be installed around each structure as defined in 18.06.230 above.
5. Road and driveways sufficient for emergency vehicle access and fire suppression activities, including the slope of all roads and driveways within the Wildfire Lands area.

**18.06.250 Criteria for Approval.** The approval authority for the Silverton Fire District shall approve the Fire Prevention and Control Plan, when, in addition to the findings required by this Title, the additional finding is made that the wildfire hazards present on the property have been reduced to a reasonable degree, balanced with the need to preserve and/or plant a sufficient number of trees and plants for erosion prevention, wildlife habitat, and aesthetics.

**18.06.260 Conditions of Approval.** The approval authority for the Silverton Fire District and the City of Silverton may require through the Land Use Review process, the imposition of conditions attached to the approval. The following requirements for the development of the property may be attached as deemed appropriate:

1. Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.
2. Clearing of sufficient vegetation to reduce fuel load.
3. Removal of all dead and dying trees and severely diseased vegetation.
4. Relocation of structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.
5. Recordation of Covenants, Conditions, and Restrictions for the development or land division for the maintenance of the property in accord with the requirements of the Fire Prevention and Control Plan as approved by the Hearing Authorities.



**18.06.270 Implementation of Fire Prevention and Control Plan.** The Fire Prevention and Control Plan shall be implemented during the construction of public improvements required of a subdivision or a planned unit development, and shall be considered part of the subdivider's obligation for land development. The Plan shall be implemented prior to the issuance of any building permit for structures to be located on lots created by partitions, subdivisions, or planned unit developments. The Fire Chief, or his designee, shall inspect and approve the implementation of the Fire Prevention and Control Plan, and the Plan shall not be considered fully implemented until the Fire Chief has given written notice to the Planning Department that the Plan was completed as conditioned by the preliminary approval of the land division.

**18.06.280 Maintenance of the Fire Prevention and Control Plan.** In subdivision and planned unit developments, provisions for the maintenance of the Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the development. On lots created by partitions, the property owner shall be responsible for maintaining the property in accord with the requirements of the Fire Prevention and Control Plan as approved by the approval authority.

**18.06.290 Requirements for Construction of all Structures.**

1. All new construction and any construction expanding the size of an existing structure, shall have a "Primary" and "Secondary Fuel Break" as described in 18.06.030 above.
2. All structures shall be constructed or re-roofed with Class B or better non-wood roof coverings, as determined by the Oregon Structural Specialty Code. All re-roofing of existing structures in the Wildfire Lands area for which at least 50% of the roofing area requires reproofing shall be done under approval of a zoning permit. No structure shall be constructed or re-roofed with wooden shingles, shakes, wood-product material or other combustible roofing material, as defined by the Building Code.
3. All structures shall be constructed in accordance with the International Building Code and Chapter 5 (Special Building Construction Regulations) and Chapter 6 (Fire Protection Requirements) of the International Building Code.

**18.06.300 Private Access Requirements.** When any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road, a driveway shall be provided in accordance with the following requirements:

1. Driveways shall provide a minimum unobstructed width of 20 feet and a minimum unobstructed height of 13 feet 6 inches.
2. Driveways in excess of 150 feet in length shall be provided with turn-arounds. Driveways in excess of 200 feet in length and less than 20 feet in width shall be provided with turnouts in addition to turnarounds.
3. Driveway turnarounds shall have inside turning radii of not less than 30 feet and outside turning radii of not less than 48 feet.
4. Driveways that connect with a road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radii requirements for driveway turnarounds. Driveways and private turnarounds shall be an all-weather road surface at least twelve-feet wide.

Private access ways shall also conform to Section 18.06.130 unless a Variance is approved by the approval authority.

## LANDSLIDE HAZARDS

**18.06.410 Purpose.** The intent of the Landslide Hazards overlay provisions are:

1. To implement the Natural Hazards goal of the Silverton Comprehensive Plan to “Protect life and property from natural disasters and hazards.”
2. To review development applications for properties within landslide hazard areas;
3. To assess the risk that a proposed use or activity will adversely affect the stability and slide susceptibility of an area; and thus promote the public health, safety, and welfare;
4. To establish standards and requirements for the use of lands within landslide hazard areas;
5. To mitigate risk within landslide hazard areas, not to act as a guarantee that the hazard risk will be eliminated, nor as a guarantee that there is a higher risk of hazard at any location. Unless otherwise provided, the landslide hazard regulations are in addition to generally applicable standards provided elsewhere in this code.

**18.06.420 Definitions.** As used in this Title the following words and phrases shall have the following meanings:

**Certified Engineering Geologist:** Is a Registered Geologist who is certified in the speciality of Engineering Geology under provisions of ORS672.505 to 672.705

**Erosion:** Is the wearing away of the earth’s surface as a result of movement of wind, water, or ice.

**Excavation:** Is any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

**Fill or Backfill:** Is a deposit of earth or other natural or manmade material placed by artificial means.

**Geological Assessment:** Is an assessment prepared and stamped by a Certified Engineering Geologist, detailing the surface and subsurface conditions of the site and delineating the areas of a property that might be subject to specified geologic hazards. Geological assessment requirements are identified in the City of Silverton Public Works Design Standards.

**Geotechnical Engineer:** Is a Professional Engineer, registered in the State of Oregon as provided by ORS667.002 to 672.325, who by training, education and experience is qualified in the practice of geotechnical or soils engineering practices.

**Geotechnical Report:** Is a report prepared and stamped by a Certified Engineering Geologist and Geotechnical Engineer, evaluating the site conditions and mitigation measures necessary to reduce the risks associated with development in geologically hazardous areas. Geotechnical report requirements are identified in the City of Silverton Public Works Design Standards.

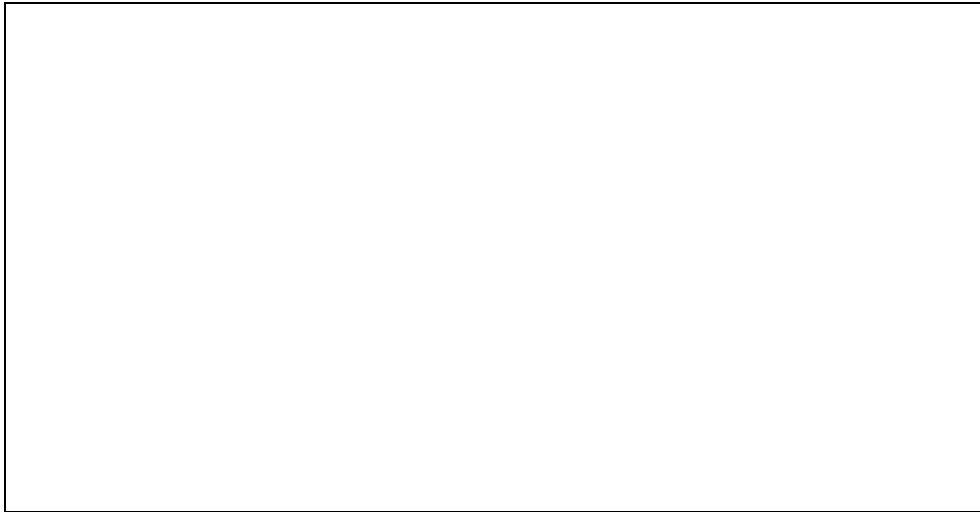
**Grading:** Is the act of excavating and filling.

**Landslide:** Is the downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, debris flows, and rockfalls.

**Mitigation Measure:** Is an action designed to reduce project-induced geologically hazardous area impacts.

**Noxious Vegetation:** Is the removal or control of noxious vegetation as that term is defined in Section 8.04.110 of the Silverton Municipal Code.

**Slope:** Is an inclined earth surface, the inclination of which is expressed denoting a given rise in elevation over a given run in distance. A forty (40) percent slope, for example, refers to a forty-foot rise in elevation over a distance of one hundred feet. A one hundred percent slope equals a forty-five degree angle. Slopes are measured across a horizontal rise and run calculation within any horizontal twenty-five (25) foot distance.



**Tree:** Any living, standing, woody plant, having a six (6) inch caliper trunk or more in diameter or eighteen (18) inches in circumference, measured at a point four feet above grade at the base of the trunk.

**Tree Removal:** Means to cut down a tree or remove all or 50% or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline or die. "Removal" includes but is not limited to topping, damage inflicted upon a root system by change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. "Removal" does not include normal trimming or pruning of trees.

**18.06.430 Regulated Activities; Permit and Approval Requirements; Applicability.**

Except as provided under 18.06.440, no person shall engage in any of the following regulated activities in areas designated on maps adopted under this Title, without first obtaining permits or approvals as required:

1. Excavation;
2. Fill;
3. Installation or construction of an accessory structure greater than 500 square feet in area;

4. Construction, reconstruction, structural alteration, relocation or enlargement of any building or structure for which permission is required pursuant to other sections of this Code.
5. Land divisions, Planned Unit Developments, Manufactured Home Park development; or
6. Tree removal on slopes greater than 25%; or
7. Retaining wall structure or multiple retaining walls of natural or man-made materials with a overall height exceeding 30 inches.

The requirements of this Section are in addition to other provisions of this code. Where the provisions of this Section conflict with other provisions of this code, the provisions that are the more restrictive of the regulated development activity shall govern.

**18.06.440 Exemptions.** The following activities and persons engaging in same are EXEMPT from the provisions of this Title:

1. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
2. A fill which does not exceed two feet in depth or twenty-five cubic yards of volume;
3. Structural alteration of any structure of less than 500 square feet that does not involve grading as defined in this Title.
4. Maintenance, operation, or reconstruction of public and private roads, streets, driveways, utility lines, and buildings or structures existing on April 17, 2006, provided that such maintenance, operation, or reconstruction does not extend outside the previously disturbed area.
5. Installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electric substations.
6. The removal or control of noxious vegetation.
7. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the Building Official on all regulated activities associated with any building permit or Director of Public Works on all others within one working day following the commencement of the emergency activity. If the Director of Public Works or Building Official determines that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

**18.06.450 Areas Subject to Review.** Areas subject to this Section are shown on Figure 6, Natural Hazards in the City of Silverton Comprehensive Plan. Lands having 15% slope or more are susceptible to landslides. When such areas are developed at urban densities, up to 50% of the ground surface area is often covered by buildings, driveways, sidewalks and streets. Runoff from these impermeable surfaces concentrates moisture in the ground and can eventually lead to a disastrous landslide in areas that may have had no previous history of landslide or slope instability.

**18.06.460 Geological Assessment.** A Geological Assessment shall be submitted at the preliminary application stage for all areas of 15% slope or more for which a land division, planned unit development or development is proposed. The assessment shall include

information and data regarding the nature, distribution of underlying geology, and the physical and chemical properties of existing soils; an opinion as to stability of the site, and conclusions regarding the effect of geologic conditions on the proposed development.

## FLOODPLAINS

**18.06.510 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.

**18.06.520 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 Silverton Municipal Code Sections 18.05.670 and 18.06.100.

**18.06.530 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 Planning 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 Planning Director regarding a determination of a base flood elevation or interpretation of a district boundary may be appealed in accordance with Section 18.03.800 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.

**18.06.540 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:

1. The applicant can show good and sufficient cause; and

2. Failure to grant the variance would result in exceptional, non-financial hardship to the applicant; and
3. 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
4. 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:
  - A. 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 Planning 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.

**18.06.550 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 B-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 18.06.620.

**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 resistivity and strength.

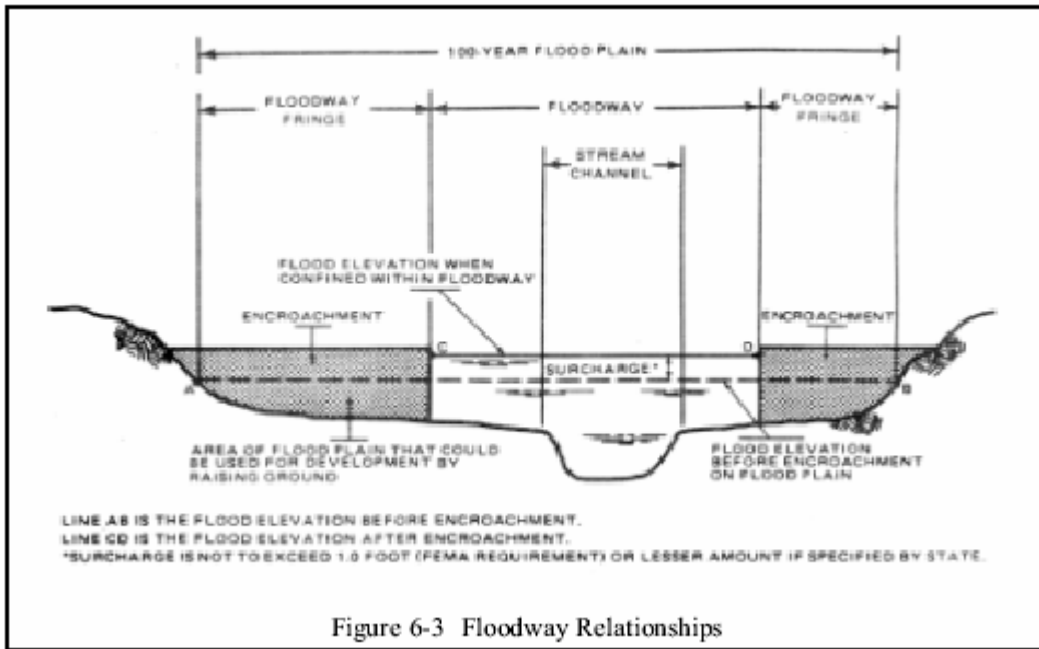
**Special Flood Hazard Area:** Areas subject to inundation during the occurrence of the 100-year flood.

**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 18.03.100 through 18.03.100.090, 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.



**18.06.560 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:

1. Permits and associated wetland development regulations administered by the Oregon Division of State Lands.
2. Permits administered by the U.S. Army Corps of Engineers.
3. All discharge permits covered by the U.S. Environmental Protection Agency and Oregon Department of Environmental Quality.

**18.06.570 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:

1. The development does not involve the construction of permanent or habitable structures.
2. The development is a public or private park or recreational use or municipal utility use.
3. 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.

**18.06.580 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 Type 'B' Design Review application. 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.

**18.06.590 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:

1. Elevations of the original contours.
2. Final elevations of proposed fills and excavations.
3. Base flood (100-year flood) elevations of the site.
4. Location of any designated floodway and base flood boundary.
5. Location of any designated wetlands and/or wildlife habitat (if applicable).
6. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures (if applicable).
7. Which a watercourse will be altered or relocated as a result of proposed development (if applicable).
8. If floodproofing is required, the proposed description and elevation of floodproofing.

**18.06.600 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:

1. All land division proposals shall be consistent with the need to minimize flood damage.
2. 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.
3. All land division proposals shall have adequate drainage provided to reduce exposure to flood damage.
4. 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.

5. 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.
6. 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."

**18.06.610 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 in Article 12, 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 18.06.620 also apply to the placement of manufactured homes within a floodplain.

**18.06.620 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 18.06.640, shall be subject to the following building standards:

1. 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.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
4. 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.
5. 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).

6. 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.
7. All new and replacement public water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
8. 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.
9. 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:
  - A. The actual elevation (in relation to mean sea level) of the lowest floor including basement;
  - B. The elevation of any floodproofing; and
  - C. Whether or not the structure contains a basement.
10. If flood-proofing methods are required as per Section 18.06.620(2), 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.

**18.06.630 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.

**18.06.640 Flood Hazard Reduction Standards.** All flood hazard reduction measures are required, as applicable, and must be certified as required in 18.06.620 (9) and (10) above to at least meet the following standards (these standards do not apply to structures exempted in Section 18.06.640 below:

1. 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:
  - A. 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.
  - B. The bottom of all openings shall be no higher than one foot above grade.
  - C. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

2. Non-habitable construction meeting the certification requirements of 18.06.620 (9) & (10) can have the lowest floor and attendant utility and sanitary facilities located lower than one foot above the 100-year flood elevation if:
  - A. 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.
  - B. The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - C. The applicant is notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.
  - D. 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 18.06.620(9).
  - E. Non-habitable construction that is elevated, not floodproofed, must meet the elevation standards of 18.06.620 and the standards for space below the first floor as described in (1) of this Section.

**18.06.650 Accessory Buildings in Floodplain Districts that Represent a Minimal Investment are Exempt from the Standards of 18.06.620 and 18.06.630.** 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.

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

**18.06.660 Recreation Vehicles in Floodplain Districts.** Recreation vehicles placed on sites in the floodplain are required to either:

1. Meet the requirements of Section 18.06.620, including the elevation and anchoring requirements for manufactured homes; or
2. Be on the site for fewer than 180 consecutive days; or
3. 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.

**18.06.670 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.

**18.06.680 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:

1. Site Plan approval has been received.
2. 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.
3. 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.

## **WETLANDS**

**18.06.710 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.

**18.06.720 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 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 18.06.510 to 18.06.660 shall also apply.

**18.06.730 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:

1. 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.

2. The encroachment within the wetlands is the minimum required to complete the development.
3. Any encroachment or change in drainage which would adversely impact favorable wetland characteristics in the short- or long-term has been mitigated.
4. Development review is coordinated with the Division of State Lands and any other applicable agencies and other required permits have been obtained.
5. The applicable floodway or floodplain requirements of 18.06.510 - 18.06.660 have been met.
6. The open space, vegetation, and wildlife protection policies of the Comprehensive Plan have been addressed.

**18.06.740 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:

1. Land which has been approved for development features (structures, roads, required yard areas, etc.) under the provisions of Section 18.06.600 or 18.06.730.
2. 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.

## **RIPARIAN CORRIDOR**

### **18.06.800 Purpose.**

1. 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.
2. To protect fish and wildlife habitat, enhance water quality, control erosion and sedimentation, and reduce the effects of flooding.
3. To protect and restore the natural beauty and distinctive character of Silver Creek as a community asset.
4. To enhance coordination among local, state, and federal agencies regarding development activities near waterways.

**18.06.810 Definitions.** The following definitions shall apply to Section 18.06.800 to 18.06.880:

**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:** The area adjacent to a stream consisting of the area of transition from the aquatic ecosystem to a terrestrial ecosystem.

**Riparian Vegetation:** Native ground cover, shrubs, trees, and other vegetation predominately influenced by their association with water.

**Top-of-bank:** The elevation at which water overflows the natural bank and begins to inundate upland areas. In absence of physical evidence, the two-year recurrence interval flood elevation may be used to delineate the top of bank.

#### **18.06.820 Riparian Corridor, Applicability.**

1. The provisions of Section 18.06.800 through 18.06.880 “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.
2. 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.
3. 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 18.06.800 in determining the extent of the impact on the riparian corridor.
4. 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 3 applications in accordance with Section 18.02.280. 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.”

**18.06.830 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 18.06.820(1) 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 18.06.870. 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.

#### **18.06.840 Permitted Activities within Riparian Corridors.**

1. 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.

2. The following activities, and maintenance thereof, are permitted within a riparian corridor, subject to obtaining applicable permits, if any, from the Oregon Division 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."
  - A. Waterway restoration and rehabilitation activities such as channel widening, realignment to add meanders, bank grading, terracing, reconstruction of road crossings, or water flow improvements.
  - B. 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.
  - C. Normal farm practices, other than structures, in existences at the date of adoption of the provisions herein, on land zoned for Farm Use.
  - D. Normal flood control channel maintenance practices within a waterway, other than structures, necessary to maintain flow.
  - E. 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 Article 3, "Non-conforming Situations."
  - F. 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 Sections 18.03.100 through 18.03.100.090 "Non-conforming Situations."
  - G. Perimeter mowing and other cutting necessary for hazard prevention.
3. New fencing may be permitted subject to consideration by the Planning 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.

**18.06.850 Conditional Uses within Riparian Corridors.** The following activities, and maintenance thereof, are allowed within a riparian corridor if compatible with Section 18.06.800 and if designed to minimize intrusion. Such activities shall be subject to approval of a Conditional Use Permit, 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 18.03.096. Application permits, if any, from the Oregon Division 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."



1. Water-related or water-dependent uses, such as drainage facilities and irrigation pumps.
2. Utilities or other public improvements.
3. Streets, roads, or bridges where necessary for access or crossings.
4. Multiuse paths, accessways, trails, picnic areas, or interpretive and educational displays and overlooks, including benches and outdoor furniture.

**18.06.860 Prohibited Activities within Riparian Corridors.** The following activities are prohibited within a riparian corridor, except as permitted in Sections 18.06.840 and 18.06.850:

1. Placement of new structures or impervious surfaces.
2. Excavation, grading, fill, stream alteration or diversion, or removal of vegetation except for perimeter mowing for fire protection purposes.
3. Expansion of areas of pre-existing non-native ornamental landscaping such as lawn, gardens, etc.
4. Dumping, piling, or disposal of refuse, yard debris, or other material.

**18.06.870 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 Planning 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 18.06.860(1) through (3) 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 Planning Director may be appealed to the Planning Commission as provided in Article 2 of the Silverton Development Code.

**18.06.880 Conservation and Maintenance of Riparian Corridors.** When approving applications for the following applications: Land Divisions, Planned Unit Developments, Conditional Use Permits, 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:

1. 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 18.06.800 through 18.06.880 and any imposed by state or federal permits; or
2. 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 18.06.800 through 18.06.880 and any imposed by state or federal permits; or
3. 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 18.060.800 through 18.06.880 and any imposed by state or federal permits; or

4. The area shall be protected through other appropriate mechanisms acceptable to the City of Silverton which ensures long-term protection and maintenance.

# CHAPTER 18 - ARTICLE 7

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# CHAPTER 18 - ARTICLE 7 ENVIRONMENTAL AND ON-SITE DEVELOPMENT STANDARDS

## ENVIRONMENTAL

**18.07.010 Overview.** The City of Silverton has established standards for on-site improvements and environmental protection. These standards are intended to foster high quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. This article contains the following standards:

- Environmental
  - Erosion Control
  - Noise
  - Visible Emissions
  - Water Quality
  - Vibration
  - Odors
  - Glare and Heat
  - Insects and Rodents
  - Hazardous Waste
- Off-Street Parking
- Landscaping Including Street Trees
- Tree Felling
- Buffering and Screening

**18.07.020 Purpose.** These regulations are designed to protect all uses in all zones from certain objectionable offsite impacts. These impacts include but are not limited to uncontrolled runoff, noise, vibration, noxious odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards or nuisances. The use of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of similar industries in the past.

**18.07.030 Exemptions.** The off-site impact standards do not apply to machinery, equipment, and facilities that were at the site and in compliance with existing regulations at the effective date of these regulations. Any new or additional machinery, equipment, and facilities must comply with the standards of this chapter. Documentation is the responsibility of the proprietor of the use if there is any question about when the equipment was brought to the site.

**18.07.040 Relationship to Other Regulations.** The environmental standards are in addition to all other regulations of the Silverton Municipal Code. These standards do not replace or supercede regulations of the Department of Environmental Quality (DEQ), relevant county regulations, or standards such as the International Building Code or International Fire Code.

**18.07.050 Evidence of Compliance.** Prior to approval of a development application, the Planning Director may require submission of evidence demonstrating compliance with state, federal and local environmental regulations and receipt of necessary permits.

**18.07.060 Responsibility.** Compliance with state, federal and local environmental regulations is the continuing obligation of the property owner and operator.

**18.07.070 Measurements.** Measurements for compliance with these standards are made from the property line or within the property of the affected site. Measurements may be made at ground level or at habitable levels of buildings. If the City does not have the equipment or expertise to measure and evaluate a specific complaint, it may request assistance from another agency or may contract with an independent expert to perform such measurements. The City may accept measurements made by an independent expert hired by the owner or operator of the off-site impact source. If the City contracts to have measurements made and no violation is found, the City will bear the expense, if any, of the measurements. If a violation is found, City expenses will be charged to the violator. Nonpayment of the costs is a violation of the Code and shall be assessed as set forth in Section 1.08.010 of the Silverton Municipal Code.

**18.07.080 Neighborhood Compatibility.** If a site is located within 300 feet of residentially zoned property and environmental impacts regulated by this article have not been adequately determined, the Community Development Director may require that a proposed use be considered under the Conditional Use process to provide an opportunity for public review and comment and to establish conditions to mitigate potential impacts.

**18.07.090 Erosion and Sediment Control.** The purpose of this chapter is to require erosion prevention measures and sediment control practices for all development during construction to prevent and restrict the discharge of sediments, and to require final permanent erosion prevention measures, which may include landscaping, after development is completed. Erosion prevention techniques shall be designed to protect soil particles from the force of water and wind and other mechanical means so that they will not be transported from the site. Sediment control measures shall be designed to capture soil particles after they have become dislodged by erosion and attempt to retain the soil particles on site.

The objective of these measures is to control, at the source, waterborne and airborne erosion and the air and water pollution that results from such erosion mechanisms. This chapter recognizes that all non-point discharges eventually end up in surface water bodies. This chapter is intended to control water quality degradation from construction and development activities and it applies in addition to any other applicable provision of this code, state, or federal law. This chapter is not intended to serve as a guideline for stormwater management control measures for already constructed developments.

**18.07.090.100 Definitions.** Unless specifically defined below, words and phrases in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**Development:** Any man-made changes to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, sewers, streets, or other structures or facilities, mining, dredging, paving, filling or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than ten (10) percent of the existing vegetation in the water quality resource area on a lot is defined as development. Development does not include the following:

1. Stream enhancement or restoration projects approved by the city;
2. Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this chapter; and

3. Construction of lots in subdivisions meeting the criteria of ORS 92.040(2)(1995). "Development Site" means any lot or lots on any part of which development is taking place.

**Disturb:** Man-made changes to the existing physical status of the land that are made in connection with development. The following uses are excluded from the definition:

1. Enhancement or restoration of the water quality resource area;
2. Planting native cover identified in the City of Silverton native plant list.
3. Installation of erosion control measures pursuant to an approved erosion and sediment control plan as specified in this Chapter.

**Emergency:** Any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or release of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

**Erosion:** The movement of soil particles resulting from actions of water, wind or mechanical means.

**Excavation:** Any act of development by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, exposed or relocated.

**Fill:** Any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed for the purposes of development or redevelopment.

**Invasive Non-Native, Nuisance, Prohibited or Noxious Vegetation:** Plant species that have been introduced and, due to aggressive growth patterns and/or lack of natural enemies in the area where introduced, spread rapidly into native plant communities, or which are listed as invasive, nuisance, prohibited or noxious plants on the City of Silverton nuisance plants.

**Manager:** The City Manager of the City of Silverton or the City Manager's designated representative.

**Mitigation:** The reduction of adverse effects of a proposed project by considering, in the following order:

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
5. Compensating for the impact by replacing or providing comparable substitute water quality resource areas.

**Native Vegetation:** Any vegetation listed on the City of Silverton native plant list as adopted by resolution.



**Open Space:** Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests, and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and schools.

**Ordinary Mean High Water Line:** As defined in OAR 141-82-005, means the line on the bank or shore to which water ordinarily rises in season, synonymous with mean high water (ORS 274-005).

**Owner:** Any party, including an owner, part owner or agent that has a legal interest in a piece of real property upon which development is proposed.

**Sediment:** Any soil, sand, dirt, dust, mud, rock, gravel, refuse or any other organic or inorganic material that is in suspension, is transported, has been moved or is likely to be moved by erosion.

**Utility Facilities:** Buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pre-treatment facilities.

**Visible or measurable erosion:** Includes, but is not limited to:

1. Deposits of mud, dirt, sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
2. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on site.
3. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.

**Water Quality Resource Area:** Vegetative corridors along streams which reduce water temperature and enhance water quality and aquatic habitat.

**18.07.090.110 Applicability.** This Article, which may also be referred to as “erosion control” in this Code, applies to development that may cause visible or measurable erosion on any property within the city limits of the City of Silverton. This Article does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.

**18.07.090.120 Abrogation and Greater Restrictions.** Where the provisions of this Article are less restrictive or conflict with comparable provisions of the zoning ordinance, regional, state or federal law, the provisions that are more restrictive shall govern. Where this Article imposes restrictions that are more stringent than regional, state and federal law, the provisions of this Article shall govern. However, nothing in this Article shall relieve any party from the obligation to comply with an applicable federal, state or local regulations or permit requirements.

**18.07.090.130 Severability.** The provisions of this Article are severable. If any section, clause, or phase of this Article is adjudged to be invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this Article.

**18.07.090.140 Permit Required.** The applicant must obtain an erosion and sediment control permit prior to, or contemporaneous with, the approval of an application for any building, land use or other city-issued permit that may cause erosion.

**18.07.090.150 Erosion and Sediment Control Plans.** An application for an erosion and sediment control plan, which contains methods and interim measures to be used during and following construction to prevent or control erosion prepared in compliance with the City of Silverton Public Works Standards for erosion and sediment control. These standards are incorporated herein and made a part of this title and are on file in the office of the City Recorder.

1. Approval Standards. An erosion and sediment control plan shall be approved only upon making the following findings:
  - A. The erosion and sediment control plan meets the requirements of the City of Silverton public works standards for erosion and sediment control incorporated by reference as part of this chapter;
  - B. The erosion and sediment control plan indicates the erosion and sediment control measures will be managed and maintained during and following development. The erosion and sediment control plan indicates that erosion and sediment control measures will remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures.
2. The erosion and sediment control plan shall be reviewed in conjunction with the requested development approval. If the development does not require additional review, the Public Works Director may approve or deny the permit with notice of the decision to the applicant.
3. The City may inspect the development site to determine compliance with the erosion and sediment control plan and permit.
4. Erosion that occurs on a development site that does not have an erosion and sediment control permit, or that results from a failure to comply with the terms of such a permit, constitutes a violation of this chapter.
5. If the Public Works Director finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion, the manager shall notify the owner or his/her designated representative shall immediately install interim erosion and sediment control measures as specified in the City of Silverton Public Works Standards for erosion and sediment control. Within seven (7) business days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the City. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.
6. Approval of an erosion and sediment control plan does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.).

**18.07.090.160 Plan Performance Guarantee and Security.** After the plan is approved by the manager and prior to construction or grading, the owner shall provide a financial guarantee. Erosion and sediment control shall be included in the cost estimate for the primary project, such as land division or site plan, and included in that project's performance guarantee.

### **18.07.090.170 Correction of Ineffective Measures and Enforcement.**

1. If the owner or his/her designated representative fails to follow the plan as approved, the Public Works Director, or his designee, may, after inspecting the property, issue a stop work order halting all work on the development site until the requirements of the plan are met or implemented as applicable. Accompanying the stop work order shall be a written statement or list specifying what is wrong and what steps the owner must take to bring the development into compliance. The stop work order shall not be lifted until mitigation measures are implemented that comply with the City of Silverton performance standards for erosion and sediment control and are approved by the Public Works Director or his designee.
2. If the facilities and techniques in the approved plans are not effective or sufficient to meet the purposes of this chapter, based on an on-site inspection, the Public Works Director, or his designee, may require a revision to the plan. Such requirement shall be in writing and shall explain the problem and suggested measures to remedy the problem. The notice shall be presented to the owner and any other responsible parties.
  - A. The revised plan shall be provided within seven (7) business days of when written notification by the Public Works Director is received. Receipt of such notice shall be deemed complete three (3) days after simultaneous regular mail and certified mail is deposited in the mail.
  - B. The owner or his/her designated representative shall implement fully the revised plan within three (3) business days or receipt of the revised plan as provided in the previous subdivision, or within such time frame as the Public Works Director may specify.
  - C. In cases where significant erosion is occurring, the Public Works Director may require the owner or his/her representative to install immediately interim control measures before submittal of a revised plan.
  - D. If there is a confirmed or imminent threat of significant off-site erosion, the Public Works Director or his designee, shall issue a stop work order, upon issuance of which work on the development site shall halt. The stop work order shall not be lifted until mitigation measures are implemented that comply with City of Silverton performance standards for erosion and sediment control and are approved by the Public Works Director or his designee.
3. Enforcement . Erosion that migrates off of a development site is considered to be a nuisance that threatens the health, safety and welfare of the citizens of the city of Silverton and is a violation of this chapter. Any owner who violates, or is responsible for a violation of this chapter or an approved plan, shall be subject to the enforcement procedures of this code including by the Code Enforcement Officer.

**18.07.100 Noise.** The City noise standards are stated in Silverton Municipal Code Title 8.04.140, Public Peace, Morals and Safety. In addition, the Department of Environmental Quality (DEQ) has regulations that apply to firms adjacent to or near noise-sensitive uses such as dwellings, religious institutions, schools, and hospitals.

1. **Additional City Standards.** The following restrictions are in addition to the State DEQ standards for purposes of City noise regulation:
  - A. For purposes of measuring permitted sound levels from noise generating sources under the provisions of DEQ rules, any point where a noise sensitive building could be

constructed under the provisions of this Code shall apply as if such point contained a noise sensitive building.

- B. Within the Industrial Park (IP), each property or building under separate ownership shall be considered a noise sensitive property under the provision of DEQ rules with the exception that the allowable noise levels shall be increased by 5 db.
2. **Expert Evaluation.** A noise analysis may be required in the development review process to show that a proposed activity can meet the noise standards or that residential uses are adequately buffered from noise sources.
  3. **Mitigation Measures.** The following noise mitigation measures may be required through development review:
    - A. Increased building setbacks;
    - B. Special berms and heavy vegetation areas;
    - C. Site layout to establish buffer areas or locate low-noise buildings to serve as buffer between the noise-sensitive areas and the sound source;
    - D. Special sound insulation construction techniques;
    - E. Improvements as recommended by the DEQ or a qualified noise consultant;
    - F. Issuance of a bond or other financial agreements to ensure that the required noise reduction features are installed.

**18.07.110 Visible Emissions.** Within the commercial and industrial park (IP) zoning districts there shall be no use, operation, or activity which results in a stack or other point source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line.

**18.07.120 Water Quality.** Direct discharge of storm water and process waste from operation of industries shall comply with the water quality standards adopted by DEQ and as authorized in a National Pollutant Discharge Elimination System (NPDES) Permit.

**18.07.130 Vibration.** Continuous, frequent, or repetitive vibrations that exceed 0.002g peak may not be produced. Exceptions: Vibrations from temporary construction and vehicles that leave the site (such as trucks, trains, or aircraft) are exempt; vibrations lasting less than 5 minutes per day are also exempt. Vibrations from primarily on-site vehicles and equipment are not exempt. Seismic or electronic vibration measuring equipment may be used for measurements when there are doubts about the level of vibration.

**18.07.140 Odors.** Continuous, frequent, or repetitive noxious odors or the emission of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. Odor is regulated by the Department of Environmental Quality. Exceptions: An odor detected for less than 15 minutes per day is exempt.

**18.07.150 Glare and Heat.** No direct or sky-reflected glare in excess of 0.5-foot candles of light, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this Code. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line of the

source. Strobe lights visible from another property are not allowed, except as may be required by the Federal Aviation Administration.

**18.07.160 Insects and Rodents.** All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

**18.07.170 Hazardous Waste.** Hazardous wastes are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.

## OFF-STREET PARKING

**18.07.200 Purpose.** These parking requirements are intended to provide sufficient vehicle parking in close proximity to the various uses for residents, customers and employees, and to establish standards which will maintain the traffic carrying-capacity of nearby streets. At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the city, except for the Downtown Historic District, off-street parking shall be provided in accordance with this Chapter. Where calculation in accordance with the following lists result in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space. Compact spaces may make up no more than 40% of the total number of parking spaces.

**18.07.200.010 Residential Space Requirements.** Off-street parking shall be provided for all residential development in the amounts indicated in Table 1 below. For uses not listed in this Table, see the parking standards of the Commercial or Industrial Districts. All parking lots in residential districts must comply with applicable requirements in Section 18.07.200.140 and 18.07.200.150. Visitor parking must be centrally located or distributed throughout the development. Required bicycle parking facilities shall also be centrally located within or evenly distributed throughout the development.

**TABLE 1  
RESIDENTIAL PARKING STANDARDS**

USE	STANDARD
Single Family Dwellings (Attached or Detached)	2.0 spaces if street parking is provided on both sides and 3.0 spaces if parking is provided on one side of the street only unless alley loaded.
Multiple Family Dwellings	
Studio and 1-bedroom units	1.0 space/ unit, plus 1 visitor space every 4 units
2-bedroom units	2.0 spaces / unit, plus 1 visitor space every 4 units
3- and 4-bedroom units	2.25 spaces / unit, plus 1 visitor space every 4 units
Senior citizen apartments	1.0 space / each 2 bedrooms
Boarding and rooming houses	1.0 space / 2 occupants at capacity
Group care homes/Rest Homes/Nursing Home	1.0 space / employee plus 1 space per each 5 beds

**18.07.200.020 Commercial, Industrial and Public and Semi-Public Space Requirements.** Off-street parking and loading must be provided for all development in the amounts indicated in Table 2 and must be developed in accordance with Sections 18.07.200.140 and 18.07.200.150. The area measured in the combined floor area of each level of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, storage rooms and room designed and used for the purpose of storage and operation of maintenance

equipment, and covered or enclosed parking areas. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season. Fractional space requirements shall be counted to the nearest whole space; half spaces will be rounded up. In the case of mixed uses, the total requirements for off-street parking shall be the sum of the requirements for the various uses. Off-street parking for one use shall not be considered as provided parking facilities for any other use except through the provision of Section 18.07.200.090, Joint Use of Parking Facilities.

**TABLE 2  
COMMERCIAL, INDUSTRIAL, PUBLIC AND  
SEMI-PUBLIC PARKING STANDARDS**

USE	STANDARD
Air, rail and motor freight terminals	Subject to Design Review
Animal hospitals and clinics	1.0 space / 400 sq. ft.
Banks and financial institutions	1.0 space / 200 sq. ft. on 1 <sup>st</sup> floor + 1 space / 600 sq. ft.
Beauty and barber shops	1.0 space / 200 sq. ft. + 1.0 space / 3 employees
Bowling alley	4.0 spaces / lane + 1.0 spaces / 2 employees
Building materials sales	1.0 space / 500 sq. ft. GFA
Churches & other places of religious assembly	1.0 spaces / 6 seats or 12 ft. of bench length (1)(2)(3)
Commercial recreation & assembly	Subject to Design Review
Drive-in restaurants	1.0 space / 50 sq. ft. GFA
Funeral houses	1.0 space / 4 seats or 8 ft. of bench length
Furniture, machine & office equipment sales	1.0 space / 500 sq. ft. GFA
Golf courses (including clubhouses & accessory uses)	Subject to Design Review
Greenhouses & nurseries	2.0 spaces / employee
Hospitals	1.5 / bed + 1.0 per staff doctor + 1.0 space / 2 employees
Hotels	1.0 space / 2 guest rooms + 1.0 space / 2 employees + additional as required for accessory uses
Laundries and cleaners	1.0 space / 300 sq. ft. of GFA
Libraries, reading rooms, museums & art galleries	1.0 / 2 employees + 1.0 / 500 sq. ft. GFA
Manufacturing, production or processing	1.0 space / 2 employees + 1.0 / company vehicle
Medical & Dental clinics or offices	1.0 space / 200 sq. ft.
Meeting rooms, private clubs & lodges	1.0 space / 1 <sup>st</sup> 100 sq. ft. GFA + 1.0 space / 200 sq. ft. GFA (2) + additional as required for accessory uses
Motels	1.0 space / rental room + 1.0 space for owner or manager + additional as required for accessory uses
Motor vehicle repair & gas stations	1.0 space / 2 employees + 2.0 spaces / service bay
Offices: all business and profession except medical and dental	1.0 space / 300 sq. ft.
Philanthropic, charitable and nonprofit institutions (excluding churches)	1.0 space / 2 employees + 1.0 space / 500 sq. ft. GFA
Radio & television stations & studios	1.0 space / 2 employees + 1.0 space / 300 sq. ft. over 2,000 sq. ft. GFA
Rail & bus passenger terminals	5.0 spaces + 1.0 space / 100 sq. ft. waiting area
Sales & rental of motor vehicles, trailers, mobile homes, boats, modular houses	2.0 spaces / employee
Schools: College, commercial school for adults	1.0 space / 5 seats in classroom

USE	STANDARD
Schools: Elementary, middle school & other day schools	1.0 space/ classroom + 1.0 space / administrative employee or 1.0 space / 4 seats or 8 ft. of bench length in the auditorium or assembly room, whichever is greater
Schools: High schools	1.0 space/ classroom + 1.0 space / administrative employee + 1.0 space / 6 students or 1.0 space / 4 seats or 8 ft. of bench length in the main auditorium whichever is greater
Schools: preschool, nursery, kindergarten	2.0 spaces / employee
Shopping centers, food, drugs, hardware, variety and department stores	Minimum: 1.0 space / 400 sq. ft. gross sales floor area Maximum: 1.0 space / 200 sq. ft. gross sales floor area
Sit-down & carryout restaurants, taverns, bars and nightclubs	1.0 space / 100 sq. ft. GFA
Skating rinks	1.0 space / 100 sq. ft. GFA + 0.5 space / employee
Specialty shops and other retail stores (under 6,000 sq. ft.)	Minimum: 1.0 space / 400 sq. ft. GFA + 1.0 space / 3 employees Maximum: 1.0 space / 300 sq. ft. GFA + 1.0 space / 3 employees
Stadiums, grandstands, coliseums, auditoriums and theaters	1.0 space / 4 seating capacity (3)
Swimming pools	For pool only, 10 spaces + 1.0 space / 150 sq. ft. of pool surface area
Storage warehouse, manufacturing establishments	1.0 space / employee or 1,000 sq. ft. of GFA whichever is greater
Wholesale establishment	1.0 space / employee or 1,000 sq. ft. of GFA whichever is greater + 1.0 space per 700 sq. ft. of patron serving area

- (1) On-street parking within 500 feet of the building, except in residential areas, may be used toward fulfilling this requirement.
- (2) On-street parking in non-residential area within 800 feet of the main assembly room or building may be used toward fulfilling this requirement.
- (3) On-street parking in non-residential area within 1,000 feet of the main assembly room or building may be used toward fulfilling this requirement.

**18.07.200.030 Parking Requirements for Unlisted Uses.** The Planning Director may rule that a use, not specifically listed in Section 18.07.200.010 or 18.07.200.020, is a use similar to a listed use and that the same parking standards shall apply. The Director shall maintain a list of approved unlisted use parking requirements which shall have the same effect as an amendment to this Chapter.

**18.07.200.040 Responsibility/Prerequisite.** Provision for and maintenance of off-street parking and loading space are responsibilities of the property owner. Plans showing property that is and will be available for exclusive use as off-street parking and loading must be presented before the City will issue building permits or approve land use applications.

**18.07.200.050 Elimination of Existing Space.** If a parking space has been provided in connection with an existing use or is added to an existing use, the parking space may not be eliminated if elimination would result in less space than is required by this Code.

**18.07.200.060 Company Vehicles.** Required parking spaces must be made available for the parking of passenger automobiles of residents, customers, patrons, and employees only,

and may not be used for storage of company vehicles or materials. Spaces for company vehicles must be provided in addition to the number of spaces required by this Code.

**18.07.200.070 Maintenance.** Parking lots must be maintained by the property owner or tenant in a condition free of litter and dust, and in good repair at all times. Breaks in paved surfaces shall be repaired promptly and broken or splintered wheels stops shall be replaced in compliance with the standards of Section 18.07.200.140.

**18.07.200.080 Mixed Uses.** In the case of mixed uses, the total requirements for off-street parking spaces, is the sum of the requirements for the various uses. Off-street parking facilities for one use may not be considered as providing parking facilities for any other use, except as provided below:

1. Primary use, i.e., that with the largest proportion of total floor area within the development, at 100% of the minimum vehicle parking required for that use in Section 18.07.200.020;
2. Secondary use, i.e., that with the second largest percentage of total floor area within the development, at 90% of the vehicle parking required for that use in Section 18.07.200.020;
3. Subsequent use or uses, at 80% of the vehicle parking required for that use(s) in Section 18.07.200.020.
4. The maximum parking allowance shall be 150% of the total minimum parking as calculated in 1-3 above.

**18.07.200.090 Joint Use of Parking Facilities.** The Planning Commission upon application by all involved property owners may authorize the joint use of parking facilities, provided that:

1. The applicant shows that there is no substantial conflict in the principal operating hours of the buildings or uses for which the joint use of parking facilities is proposed.
2. The size of the joint parking facility shall be at least as large as the number of vehicle parking spaces required by the larger(est) user per Section 18.07.200.020.
3. The parking facility for which joint use is proposed is no farther than 500 feet from the building or use required to provide parking.
4. The parties concerned in the joint use of off-street parking facilities shall provide evidence of an agreement for such joint use by a legal instrument approved by the City Attorney. An agreement for joint use of parking facilities shall be for a period of not less than ten (10) years and shall provide for maintenance of jointly used parking facilities.

**18.07.200.100 Parking Plan.** A parking plan, drawn to scale, must accompany land use applications. Depending on the nature and magnitude of the development, it may be possible to show the needed parking information on the site plan. The plan must show the following elements that are necessary to indicate that the requirements of this Code are being met:

1. Delineation of individual parking spaces, including handicapped parking spaces.
2. Loading areas and docks.
3. Circulation area necessary to serve spaces.
4. Location of bicycle and motorcycle parking areas.



5. Access to streets, alleys, and properties to be served.
6. Curb cuts.
7. Type of landscaping, fencing, or other screening materials.
8. Location of abutting land uses.
9. Grading, drainage, surfacing, and subgrading details.
10. Location of lighting fixtures.
11. Delineation of all structures and obstacles to circulation on the site.
12. Specifications of signs and bumper guards.
13. Location of planter bays where required.
14. Proposed number of employees and amount of floor area space applicable to the parking requirements for the proposed use.

**18.07.200.120 Downtown Historical Boundary.** Parking spaces are not required for uses located within the Downtown Historical Zoning Overlay Boundary as shown on the City of Silverton Zoning Map. However, the improvement of parking areas within this Boundary must comply with the standards of this Article.

**18.07.200.130 Public Right-of-Way.** Parking spaces in a public right-of-way may not be counted as fulfilling any part of the parking requirements, except as described in Section 18.07200.020 (1), (2), and (3) for churches.

**18.07.200.140 Parking Area Improvement Standards.** All public or private parking areas, loading areas and outdoor vehicle sales areas must be improved based on the following standards:

1. **General.** Required parking spaces must be improved in accordance with these standards and available for use at the time of project completion.
2. **Other Requirements.** All parking areas shall conform to the setback, clear vision, landscaping, and buffering/screening provisions of this Code.
3. **Location.** Parking areas shall not be located between the front of the building and the street but between buildings or on one or both sides. Parking lots with 35 spaces or more shall be divided into separate areas and divided by landscaped areas or walkways at least ten (10) feet in width, or by a building or group of buildings.

Developments of one acre or more must provide a pedestrian and bicycle circulation plan for the site. On-site pedestrian walkways must be lighted to a level where the system can be used at night by employees, residents and customers. Pedestrian walkways shall be directly linked to entrances and the internal circulation of the building.

4. **Surfacing.** All parking areas and access ways including those provided for single and two-family residences shall have a durable, dust-free surfacing of asphaltic concrete, cement concrete, or other materials approved by the Director of Public Works. Parking lot surfacing shall not encroach upon the public right-of-way except where it abuts a concrete public sidewalk, or has been otherwise approved by the Director of Public Works.

5. **Drainage.** Adequate drainage shall be provided to dispose of the run-off generated by the impervious surface area of the parking area. Provisions shall be made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way, and abutting private property. All drainage systems must be approved by the Director of Public Works.
6. **Perimeter Curb.** Perimeter curbing is required for protection of landscaped areas, pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas except those required in conjunction with a single- or two-family dwelling shall provide a curb of not less than 6 inches in height along the perimeter of all parking areas.
7. **Wheel Stop.** All parking stalls fronting a sidewalk, alleyway, street or property line, except for those required in conjunction with a single or two family dwelling, shall provide a secured wheel stops not less than 6 inches in height nor less than six (6) feet in length, to be set back from the front of the stall a minimum of 2-1/2 feet. If the sidewalk is widened to 7'6" to allow for vehicle encroachment, no wheel stops are required. The front 2'6" feet of the parking stall may be low lying landscape material that does not exceed the height of a wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.
8. **Loading Standards.** Loading spaces for commercial, industrial and public buildings and uses shall be off the street, and shall be provided in addition to the required parking spaces, and shall meet the following requirements:
  - A. Vehicles in the berths shall not protrude into a public right-of-way or sidewalk. Loading berths shall be located so that vehicles are not required to back or maneuver in a public street.
  - B. A school having a capacity greater than twenty-five students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.
  - C. The minimum standards for required loading spaces are as follows:
    - (1) 250 square feet for buildings of 5,000 to 19,999 square feet.
    - (2) 500 square feet for buildings of 20,000 to 50,000 square feet
    - (3) 750 square feet for buildings in excess of 50,000 square feet
    - (4) The required loading area shall not be less than ten feet wide by twenty-five feet long and shall have an unobstructed height of fourteen feet.
    - (5) Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.
    - (6) Loading areas shall be subject to the same provisions as parking areas relative to plan information, setbacks, buffering/screening requirements and lighting.
9. **Turnaround.** Except for single family and duplex dwellings, groups of more than three (3) parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
10. **Striping.** Lots containing more than three (3) parking spaces must have all required spaces permanently and clearly marked. If parking spaces are provided for motorcycle parking, they shall be so designated.

- 11. **Adjacent Parking Areas.** Where a proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, the proposed parking area must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Director where it is deemed impractical or inappropriate due to the nature of the adjoining uses.
- 12. **On-site Vehicle Stacking for Drive-in Use.**
  - A. All uses providing drive-in service as defined by this title shall provide on the same site a stacking lane for inbound vehicles as noted in Table 3 below:
  - B. The Director may reduce the length of the inbound stacking lane by means of an Adjustment to be reviewed through a Type I procedure.
  - C. Stacking lanes must be designed so that they do not interfere with parking and vehicle, pedestrian and bicycle circulation. Stacking lanes for the purpose of selling food must provide at least one clearly marked space per service window for the use of vehicles waiting for an order to be filled. The wait spaces shall be in addition to the minimum spaces required per Section 18.07.200.020.

**TABLE 3  
STACKING LANE REQUIREMENTS**

USE	RESERVOIR REQUIREMENT
Drive-in Banks	75 feet/service terminal
Automated Teller	50 feet/service terminal machines
Drive-in Cleaners, Repair Services	50 feet
Drive-in Restaurants	150 feet
Gasoline Service	75 feet between curb cut and nearest pump
Mechanical Car Washes	75 feet/washing unit
Parking Facilities:	
Free Flow Entry	25 feet/entry driveway
Ticket Dispense Entry	50 feet/entry driveway
Manual Ticket Dispensing	100 feet/entry driveway
Attendant Parking	100 feet

- 13. **Parking Lot Landscaping.** Parking lots shall be landscaped in accordance with the standards listed in Section 18.07.300.010. Parking areas for more than five (5) vehicles shall be screened from the public right-of-way and surrounding residential properties by a fence, hedge, or other plantings a minimum of 42-inches in height from the abutting street grade. Screening shall meet the vision clearance standards. Acceptable design techniques to provide the screening include plant materials; berms; freestanding, architectural walls with an anti-graffiti finish, or a depressed grade for the parking lot area.
- 14. **Compact Car Parking.** Not more than 40% of the total parking spaces in a parking lot may be designated for compact cars. The minimum dimensions for a compact space are 8 feet by 16 feet. Such spaces must be signed and/or the space painted with the words "Compact Car Only."
- 15. **Handicapped Parking.** All parking areas must provide handicapped parking spaces in conformance with the International Building Code.

- 16. **Bicycle Parking.** For each parking area containing more than fifteen (15) spaces, an area shall be created and designated for bicycle parking. Each space must be a minimum of six (6) feet in length, two (2) feet in width, and have an overhead clearance of seven (7) feet. Required spaces must be located as near as possible to building entrances used by automobile occupants. Bicycle parking space requirements are as follows:
  - A. For multiple family dwellings (3 or more units) – 1 space per unit.
  - B. For industrial development – 1 space for every 10 automobile spaces required.
  - C. For commercial or office development – a minimum of 2 spaces, and 1 space for every 10 automobile spaces required.
  - D. Exemptions – the Planning Director may allow exemptions to required bicycle spaces in connection with temporary uses or uses that are not likely to generate the need for bicycle parking.
  - E. Design Requirements: The following design requirements apply to the installation of bicycle racks:
    - (1) The racks required for required bicycle parking spaces shall ensure that bicycles may be securely locked to them without undue inconvenience. Provision of bicycle lockers for long-term (employee) parking is encouraged but not required;
    - (2) Bicycle racks must be securely anchored to the ground, wall or other structure;
    - (3) Bicycle parking spaces shall be at least 2 feet wide by six feet long, and when covered, have a vertical clearance of seven feet. An access aisle of at least five feet in width shall be provided and maintained beside or between each row of bicycle parking;
    - (4) Each bicycle parking space must be accessible without moving another bicycle;
- 17. **Lighting.** Any lights provided to illuminate any public or private parking area or vehicle sales area must be arranged to reflect the light away from any abutting or adjacent residential district.
- 18. **Pedestrian Access.** Walkways and access ways shall be provided in all new off-street parking lots and additions to connect public sidewalks adjacent to the new development to the entrance of the new building(s).
- 19. **Designated Employee Parking.** Where employee parking is designated in new developments, parking for carpools and vanpools shall be provided and located nearest the employee entrances to buildings.

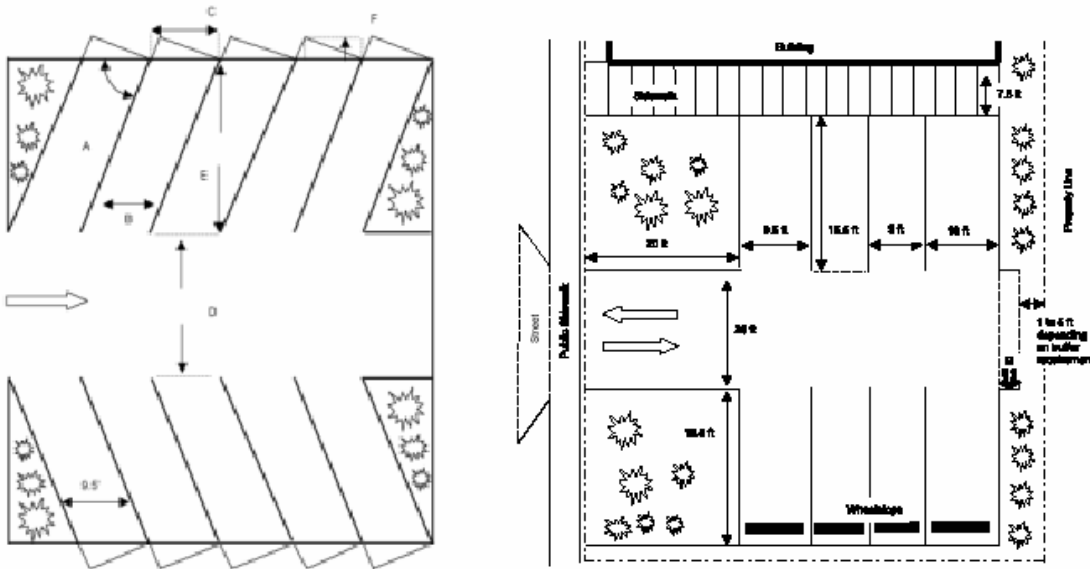
**18.07.200.150 Off-Street Parking Lot Design.** All off-street parking lots must be designed in accordance with City standards for stalls and aisles as set forth in the following table and drawing.

**Table 1: PARKING LOT DESIGN (in feet)**

<b>A</b> Parking Angle	<b>B</b> Stall Width (1)	<b>C</b> Curb Width (1)	<b>D</b> Aisle Width 1-way	<b>D</b> Aisle Width 2-way	<b>E</b> Stall Depth	<b>F</b> Bumper Overhang	Dead-end Back-up
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0 degrees (Parallel)	8.0 feet	25.0 feet (2)	12.0 feet	20.0 feet	8.0 feet	N/A	
45 degrees	9.0	12.7	12.0	20.0	17.5	2.0	5.0
	9.5	13.4	11.0	20.0	17.5	2.0	5.0
	10.0	14.1	11.0	20.0	17.5	2.0	5.0
60 degrees	9.0	10.4	16.0	24.0	19.0	2.5	5.0
	9.5	11.0	15.0	24.0	19.0	2.5	5.0
	10.0	11.6	14.0	24.0	19.0	2.5	5.0
Compact	8.0C	8.0C	24.0C	24.0C	16.0C	3.0	5.0
90 degrees	9.0	9.0	24.0*	26.0	18.5	3.0	5.0
	9.5	9.5	24.0*	25.0	18.5	3.0	5.0
	10.0	10.0	24.0	24.0	18.5	3.0	5.0

- (1) For one row of stalls, use "C" plus "D" as minimum width.
- (2) Public alley width may be included as part of dimension "D," but all stalls must be on private property, off the public right-of-way.
- (3) For estimating available parking area, use 350 square feet per vehicle for stall, aisle, and access areas.
- (4) The stall width for self-parking of long duration is 8.6 feet; for higher turnover, self-parking it is 9.0 feet; and for supermarkets and similar facilities (shoppers with packages), it is 9.5-10 feet.
- (5) The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24 feet. The minimum aisle width for emergency vehicle access (one-way traffic) is 20 feet.
- (6) Where appropriate bumper overhang area is provided (extruded curbs), "G" can be subtracted from "C" to determine stall depth.



### **18.07.200.160 Off-Street Parking Structure Design.**

1. **Ground-floor windows/wall openings.** All parking structures shall provide ground floor windows or wall openings along the street frontages. Blank walls are prohibited. Any wall facing the street shall contain windows, doors or display areas equal to at least 20% of the ground floor wall area facing the street excluding those portions of the face(s) devoted to

driveway entrances and exists, stairwells, elevators, and centralized payment booths. Required windows shall have a sill no more than four (4) feet above grade. Where the interior floor level prohibits such placement, the sill may be raised to allow it to be no more than two (2) feet above finished floor wall up to a maximum sill height of six (6) feet.

2. **Exit warning bell.** A warning bell or other signal must be provided for exits from parking structures that cross public sidewalks where a standard vision clearance area cannot be provided.
3. **Other standards.** Parking structures must comply with all standards of the International Building Code for the State of Oregon as it pertains to structural design, ventilation, lighting and fire/safety requirements and disabled accessibility.
4. **Parking layout and internal circulation.** The layout of the parking structure shall be subject to the requirements contained in 18.07.200.150. An applicant may request approval of an alternative layout and internal circulation by means of a Variance application.

**18.07.200.170 Driveways.** It shall be unlawful for any person, firm, or corporation to cut or remove any curb along any public street in the city or to construct any driveway from the curb to private property, except as provided in this chapter.

**18.07.200.170.010 Definitions.** Unless specifically defined below, words and phrases in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

**Commercial Driveway:** All driveways from a public street to private property, which are not residential or industrial driveways as defined in this Section.

**Garage:** Any covered or enclosed structure used for the parking of motor vehicles.

**Industrial Driveway:** All driveways running from a public street to private property, occupied by a wholesale only business or manufacturer and having significant truck traffic.

**Off-Street Parking Space:** A garage or uncovered parking area paved with asphaltic concrete or Portland cement concrete and used for the parking of motor vehicles. Each such space being more or less perpendicular to the street. Multiple spaces are counted on the basis of their location being benefited by additional driveway width.

**Recreational Vehicle Pad:** Any uncovered area paved with asphaltic concrete or Portland cement concrete and used for storage or parking of a recreational trailer, boat, or motorhome.

**Residential Driveway:** All driveways running from a public street to private property, occupied by dwelling houses, apartment houses, or other places of residence.

**18.07.200.170.020 Driveway Standards.**

1. Any person, firm or corporation wishing to so construct a driveway shall make a permit application therefore to the City Public Works Department, such application to specify the location of the property, the purpose for which the property is used, and the width of the proposed driveway.
2. All driveways constructed on city rights-of-way shall be in accordance with City Standard Specifications and detail plan for street as kept on file in the City Engineer's office.

**18.07.200.170.030 Single Family Residential Driveway Widths.**

1. Maximum widths: 12 feet of driveway width 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 two driveways shall allowed. Each driveway may be a maximum of 12 feet wide except that a combined maximum width of 24 feet is allowed for two parking spaces and 32 feet for three or more off-street parking spaces.
4. In no case shall a combined driveway of neighboring properties exceed a total width of 40 feet.
5. Separate driveways must be spaced a minimum of six feet apart.

**18.07.200.170.040 Multiple Family Residential Driveway Widths.**

1. Each family unit having separate access and fronting a street shall be treated as a single-family residence except that no more than one driveway per unit is allowed.
2. Duplexes, tri-plexes and four-plexes with side-by-side off-street parking space on to the fronting street shall be limited to a 12-foot driveway width per space up to a combined driveway width of 32 feet.
3. Multiple family units with combined access onto a street shall be determined as follows:

	<b>Maximum Width Per Driveway</b>
<b>Single Driveway</b>	32 feet
<b>Two Driveways</b>	
10 or less units	24 feet
11 or more units	32 feet

**18.07.200.170.050 Commercial Driveway Widths.**

1. A single driveway width for a commercial property shall be determined as follows:

<b>Frontage</b>	<b>Maximum Width</b>
Less than 60 feet	24 feet
60 feet or more	32 feet

2. Two driveway widths for a commercial property shall be determined as follows:

<b>Frontage</b>	<b>Maximum Width</b>
Less than 80 feet	Not allowed
80 feet to 120 feet	24 feet
Over 120 feet	32 feet

3. Three driveways per commercial property may only be allowed where three or more streets are fronted by said property and driveway widths on each fronting street shall be limited as follows:

Frontage	Maximum Width
Less than 80 feet	Not allowed
80 feet to 120 feet	24 feet
Over 120 feet	32 feet

**18.07.200.170.060 Industrial Driveway Widths.** A single driveway width for an industrial property shall be determined as follows:

Width of Fronting Street	Maximum Width
36 feet or more	32 feet
Less than 36 feet	36 feet

**18.07.200.170.070 Driveway Permit Issuance.**

1. The Building Permit clerk shall issue a permit upon approval of a permit application for construction and repairs to all driveways on city rights-of-way.
2. A deposit or bond in the amount established by Council Resolution shall be collected from all applicants prior to issuance of a permit. The deposit shall be returned to the applicant upon inspections and approval by the City engineer's designee of the constructed or repaired driveway. The permit for each construction or repair shall declare the applicant's responsibility for repair or replacement of any defective or damaged driveway affected by this work.
3. A permit fee shall be collected by the city for each driveway repair or construction permit in the amount established by Council Resolution.

**18.07.200.170.080 Variances and Appeals.** Any citizen making application for a driveway construction permit and taking issue with standards or fees set by this chapter may make application for a variance or relief from said standards of fees to the City Manager or his designee. The City Manager or his designee shall hear the appeal and give a written determination to the person appealing and also forward a copy to the City Council.

**LANDSCAPING - PRIVATE**

**18.07.300 General Requirements.** Landscaping requirements by type of use are listed below:

1. Landscaping Required – **Residential, Single Family.** All front yards (exclusive of access ways and other permitted intrusions) are required to be landscaped prior to issuance of an occupancy permit. In all residential districts, the minimum landscaping acceptable per 1,000 square feet of required yard areas is as follows:
  - (a) One (1) tree at least six (6) feet in height and a minimum 1 ½ inch caliper.
  - (b) Four (4) 1-gallon shrubs or accent plants.
  - (c) The remaining area treated with attractive ground cover (e.g. lawn, bark, rock, ivy, and evergreen shrubs).
2. Landscaping Required – **Multi-Family and Commercial.** All required yards adjacent to a street (exclusive of access ways and other permitted intrusions) are required to be landscaped prior to issuance of an occupancy permit. Minimum landscaping acceptable per



1,000 square feet of required yard area in all multi-family and commercial zoning districts is as follows:

- (a) One (1) tree at least six (6) feet in height and a minimum 1 ½ inch caliper.
- (b) Five (5) five-gallon or eight one-gallon shrubs, trees or accent plants.
- (c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

3. Landscaping Required – **Industrial and Public and Semi-Public.** All required yards adjacent to a street (exclusive of access ways and other permitted intrusions) are required to be landscaped prior to issuance of an occupancy permit. Minimum landscaping acceptable per 1,000 square feet of required yard area in all industrial and public and semi-public zoning districts is as follows:

- (a) One (1) tree at least six (6) feet in height and a minimum 1 ½ inch caliper.
- (b) Five (5) five-gallon or eight one-gallon shrubs, trees or accent plants.
- (c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
- (d) Where the yard adjacent to a street of an industrially or a publicly or semi-publicly zoned property is across a right-of-way from other industrially, commercially or publicly or semi-publicly zoned property, only 30% of such yard area must be landscaped.

**18.07.300.010 Parking Lot Landscaping.** Parking lots must be landscaped in accordance with the following minimum standards:

1. **Parking Lot Landscaping.** Parking lot landscaping shall consist of a minimum of 5% of the total paved area in addition to required landscaping adjacent to streets and for required buffering and screening areas. Parking areas shall be shaded by large canopied deciduous trees at a minimum of one (1) tree for every ten (10) parking spaces.
2. **Planter Bays.** Parking areas shall be divided into bays of not more than 10 parking spaces. Between or at the end of each parking bay there shall be curbed planters of at least 5 feet in width. Each planter shall contain one (1) tree at least ten (10) feet high and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area.
3. **Entryway Landscaping.** Entryways into parking lots shall be bordered by a minimum five (5) feet wide landscape planter strip meeting the same landscaping provisions as for planter bays, except that no sight obscuring trees or shrubs are permitted.
4. **Parking Space Buffers.** Parking areas shall be separated from the exterior wall of a structure by pedestrian entrance ways or loading areas a minimum of five feet (5') in width or by a landscaped strip that is a minimum of five feet (5') strip in width.
5. **Landscape Protection.** Required landscaped areas adjacent to graveled areas must be protected, either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of providing protection. Landscaped areas adjacent to paved surfaces shall be protected by the use of perimeter curbing a minimum of six (6) inches in height.

Reserved for Illustration

**6. Pedestrian Circulation.**

- A. Pedestrian connections shall be provided to the abutting public street system and on-site buildings, parking areas, and other facilities where pedestrian access is desired. Pedestrian connections shall be provided except when one or more of the following conditions exist:
- (1) Where physical or topographic conditions, such as a grade change of ten (10) feet or more at a property line to an adjacent pedestrian facility, make connections impractical; or
  - (2) Where uses including manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a building in industrial districts occur; or
  - (3) Where on-site activities such as movement of trucks, forklifts, and other large equipment would present potential conflicts with pedestrians; or
  - (4) Where buildings or other existing development on adjacent lands physically preclude a connection now or in the future.
- B. A reasonably direct walkway connection is required between primary entrances, which are the main point(s) of entry where the majority of building users will enter and leave, and public and private streets, transit stops, and other pedestrian destinations.
- C. A reasonable direct pedestrian walkway into a site shall be provided for every 150 feet of street frontage or for every four aisles of vehicle parking if parking is located between the building and the street. A reasonably direct walkway shall also be provided to any accessway abutting the site. This standard may be waived when topographic conditions, man-made features, natural areas, etc. preclude walkway extensions to adjacent properties.

- D. Pedestrian connections through parking lots shall be physically separated from adjacent vehicle parking and parallel vehicle traffic through the use of curbs, landscaping, trees, and lighting, if not otherwise provided in the parking lot design.
  - E. Where pedestrian connections cross driveways or vehicular access aisles, a continuous walkway shall be provided, and shall be composed of a different paving material than the primary on-site paving (e.g., scored concrete or modular paving materials).
  - F. Pedestrian walkways shall be a minimum unobstructed width of five (5) feet. In the event that the Americans with Disabilities Act (ADA) contains stricter standards for any pedestrian walkway, the ADA standards shall apply.
7. Surface parking areas abutting a public street shall provide the following minimum landscaping in addition to the required street trees if a planter strip is provided within the right-of-way:
- A. A minimum ten-foot (10') wide planting strip between the right-of-way and the parking area. Pedestrian walkways and vehicular driveways may cross the planting strip. Trees shall be planted at a maximum of thirty (30) feet on center and shall be a minimum 1 ½ inch caliper if a planting strip is provided in the right-of-way and a minimum of 2 inches if no planting strip has been provided in the right-of-way. The planting strip shall be planted with an evergreen hedge that will provide a thirty-inch (30") high screen and fifty (50) percent opacity within two years. The maximum height shall be maintained at no more than thirty-six (36) inches. Areas not covered by trees or hedge shall be landscaped with live ground cover. Where bumper overhands intrude into the planting strip, the landscape strip shall be increased by two and one-half (2½) feet.

**18.07.300.020 Irrigation of Required Landscaping.** All required landscaped areas except for single family dwellings, duplexes and triplexes must be provided with a piped underground water supply irrigation system 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.

**18.07.300.030 Identification of Existing Trees.** In all proposed developments, existing trees over six (6) inches in diameter as measured four (4) feet from ground level will be noted on all development plans, with notations indicating whether they are to be removed or utilized in the development. Clusters of trees in open space and floodplain areas may be noted in approximate locations.

**18.07.300.040 Landscape Plans.** With the exceptions noted below, all development applications involving buildings and parking areas must include landscape plans. The following uses are required to meet the landscaping requirements of this code but are not required to submit landscape plans:

1. Single-family dwellings, duplexes and triplexes.
2. Accessory buildings.
3. Changes internal to an existing structure.
4. Building additions involving less than 500 square feet.

**18.07.300.050 Completion Guarantees.** Occupancy of a development that required land use approval may be allowed prior to the complete installation of all required landscaping and irrigation only under the following circumstances:

1. Occupancy is requested between December 1 and March 1.
2. A security is provided to the City equal to 110% of the cost of the labor and materials (plants, ground covers, and any required irrigation) that have not been installed, as verified in writing by a landscape contractor. Security may consist of a performance bond payable to the City, cash, certified check, time certificate of deposit, or lending agency certification that funds are being held until completion or such other assurances as may be approved by the Planning Director and City Attorney.
3. The applicant and City agree to a specified installation completion date. The date chosen will be the soonest date possible after it is safe to plant (i.e. chance of freezing has past).
4. To verify that the landscaping, and irrigation, if required, has been installed per the approved plan, an inspection shall be made prior to any security being returned.

**18.07.300.060 Maintenance of Landscaped Areas.** It shall be the continuing obligation of the property owner to maintain required landscaped areas in an attractive manner free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained.

## **LANDSCAPING – PUBLIC**

**18.07.400.010 Definitions.** As used in this Chapter:

**City Manager:** Means City Manager or his/her designee.

**Person:** Means and includes a firm, association or corporation, and the singular shall include the plural.

**Private Grounds:** Means and includes all real property not contained within the area of any public street or alley.

**Trees, Shrubs and Plants:** Means all woody vegetation.

**18.07.400.020 Administrative Jurisdiction - Enforcement.** The City Manager, or the City Manager's duly authorized representative, shall have jurisdiction over all trees, plants and shrubs planted or growing in or upon the public streets and alleys of the city and the planting, removal, care, maintenance and protection thereof, as specified in this Chapter. The City Manger shall be charged with the duties of enforcing the provisions of this Chapter, and shall discharge all duties in connection therewith that may be required or imposed upon the City Manager by the City Council.

**18.07.400.030 Permit Required for Trimming or Removal.** It is unlawful for any person, without a written permit from the City Manager to remove, destroy, cut, break or injure any tree shrub or plant, or to remove or prune any branch thereof more than two and one-half inches in diameter that is planted or growing in or upon any public street or alley within the city, or cause, authorize or procure any person to do so, or injure misuse or remove, or to cause, authorize or procure any person to injure, misuse or remove any devise set for the protection of any tree, plant or shrub in or upon any public street or alley.

**18.07.400.040 Application Requirements.**

1. Any person desiring for any lawful purpose to remove, destroy, cut, trim, prune or treat with a view to its preservation from disease or insects any tree, plant or shrub in or upon any public street or alley shall make application to the City Manager on forms furnished by the City. Such application must state the number and kind of trees to be trimmed, removed or treated, the name of the permittee and contractor, the time the proposed work is to be done, and such other information as the City Manager may deem pertinent.
2. Any work done under such written permit must be performed in strict accordance with the terms thereof, and the provisions of this Chapter.

**18.07.400.050 Planting Permit Requirements.**

1. It is unlawful for any person to plant or set out any tree or shrub, or cause, authorize or procure any person to plant or set out any tree or shrub in or upon any part of any public street or alley, without obtaining from the City Manager a written permit to do so, and without first complying in all respects with the conditions set forth in such written permit and with the provisions of this Chapter.
2. All applications for such permits shall describe the work to be done, and the variety, size and precise location of each tree or shrub. After the receipt of such application, the City Manager shall investigate the locality where the tree or trees are to be placed, and shall grant a permit only if the location is such as to permit the normal growth and development of each tree.
3. Such permits shall specify the location, variety and grade of each tree, and method of planting, including among other things the supplying of suitable soil.
4. The permit shall be good only for the planting season stated in the same year issued.
5. The Developer or Subdivider or a parcel subject to a land use review shall have the option of planting trees, obtaining a bond to ensure that trees are planted, or paying a deposit with City to ensure that trees are planted. Failure to plant and maintain said trees shall result in City forces completing the work and assessing all costs to the developer. The Developer or Subdivider shall be required to maintain the street trees for a period of one year after the installation of said street trees to insure their survival. Any trees lost during the one year period shall be replaced at the Developer or Subdivider's expense.

**18.07.400.060 Street Trees.** Street trees shall be planted within the planting strip or within the right-of-way of all street rights-of-way. A minimum of two (2) trees will be required on each street frontage of more than eighty (80) feet. Frontages of eighty (80) feet or less, but more than twenty-five (25) feet shall have one (1) tree planted. A tree type that is in accordance with the City of Silverton list of preferred street trees shall be selected. Species planted under power lines shall not have a mature height of more than 20 feet. A minimum of two (2) inch caliper tree shall be planted. Street trees shall be planted within one (1) year of building permit application on in-fill situations or prior to issuance of Occupancy Permits for projects requiring Design Review or prior to signing of the Final Plat for Subdivisions unless a financial assurance acceptable to the city is provided.

<b>SPECIES</b>	<b>HEIGHT</b>	<b>SPREAD</b>	<b>FOLIAGE</b>
Red Sunset Maple	45'	35'	Fall – Red
Red Bowhall Maple	40'	15'	Fall – Orange
Commemoration Sugar Maple	50'	35'	Fall – Orange

<b>SPECIES</b>	<b>HEIGHT</b>	<b>SPREAD</b>	<b>FOLIAGE</b>
October Glory Maple	40'	35'	Fall – Red
Rocky Mt. Glow Maple	25'	15'	Fall – Red
Paperbark Maple	25'	15'	Fall – Red/Orange
Purple Prince Crabapple	20'	20'	Sprg-Red Flw/Fall- Purple-Bronze
Sargent Cherry	30'	30'	Sprg – Pink Flower
Aristocrat Pear	40'	30'	Sprg-White/Fall-Red
Capital Ornamental Pear	35'	12'	Sprg-White/Fall- Yellow/Pur/Red
Newport Plum	20'	20'	Purple/Red
European Hornbeam	35'	25'	Fall – Yellow
Summit Ash	45'	25'	Fall – Yellow
Raywood Ash	35'	25'	Fall – Red/Purple
Corithian Linden	45'	15'	Fall – Yellow
Flowering Ash	30'	25'	Fall – Yellow
Golden Desert Ash	20'	18'	Fall – Golden
Rivers Purple Beech	50'	40'	Fall – Purple/Bronze
Frontier Elm	40'	30'	Fall – Burgundy
Princeton Elm	65'	50'	Fall – Yellow
Hackberry	40'	30'	Fall – Yellow
Pyramidal Serviceberry	30'	20'	Fall – Red/Orange
Allegheny Serviceberry	25'	15'	Fall – Orange

**18.07.400.070 Regulations of Planting and Trimming.** The following regulations are established for the planting, trimming and care of trees in or upon the public streets or alleys of the City.

1. When trees are cut down, the stump thereof shall be removed to a depth of six inches below the surface of the ground or grade of the street, whichever is of greater depth.
2. The tree(s) shall be replaced in conformance with a tree variety and spacing requirements listed in Section 18.07.400.060
3. When pruning, all cuts must be flush-cut, and those above two inches in diameter must be waterproofed with a thin asphalt-base commercial paint of high quality.

**18.07.400.080 Protection of Trees During Building Activities.**

1. During the erection, repair, alteration or removal of any building or structure, it is unlawful for the person in charge of such erection, repair, alteration or removal to leave any tree in or upon any public street or alley in the vicinity of such building or structure without a good and sufficient guard or protectors, as shall prevent injury to such tree arising out of or by reason of such erection, repair, alteration, or removal.
2. Excavations and driveways shall not be placed within six feet of any tree in or upon any public street or alley without written permission of the City Manager. During such excavation or construction, any such person shall guard any tree within six feet thereof, and all building material or debris shall be kept at least four feet from any tree.

**18.07.400.090 Open Space Around Tree Trunks.** When any impervious material or substance is laid down or placed in or upon any street or alley near to any tree, there shall be provided about the trunk of the tree in such public street or alley at least six (6) square feet of ground for a tree up to three inches in diameter, and for every two inches of increase of such diameter there must be an increase of at least one square foot of open ground.

**18.07.400.100 Certain Varieties of Trees Prohibited on Right-of-Ways.** Because of their potential negative impact on the public infrastructure, it is unlawful to plant any of the following trees in or on any street right-of-way or parking strip in the city: 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.

**18.07.400.110 Trees Requiring Approval.** It is unlawful to plant willow, cottonwood, or poplar trees anywhere in the city unless the Director of Public Works approves the site thereof as one where the tree roots will not be likely to interfere with public sewers.

**18.07.400.120 Planting In Roadways Having No Gutter, Curb.** No trees, shrubs, or plantings more than eighteen (18) inches in height shall be planted in the public right-of-way abutting roadways having no established curb and gutter. If the said roadway is abutting a parcel subject to a Petition for improvement/Waiver of Remonstrance for a future street improvement, the street trees shall be planted within 10 feet of the right-of-way line within a landscape easement

**18.07.400.130 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 14 feet above streets or alleys.

**18.07.400.140 Trimming – Specifications – Owner Responsibility.**

1. 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:
  - A. 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;
  - B. The lowest branches shall not be less than a minimum of 8 feet above any surface of a sidewalk;
  - C. The highest branches of any bush or shrub on private property shall comply with the clear vision area requirements listed in Article 5 of this Code.
2. 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.

**18.07.400.150 Trimming – Notice to Comply.** Whenever the owner or owners, lessees, occupants or person in charge of private grounds shall neglect or refuse to trim any tree, shrub or plant, as provided in SMC 18.07.400.140, it shall be the duty of the City Manager to cause to be served 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, and in case such owner or owners, lessees, occupants or person in charge fail to do so, they shall be guilty

of a violation of this Chapter and subject to the penalties provided in SMC 18.07.400.200. 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.

**18.07.400.160 Trimming – City to Perform Work When.** If the owner or owners, lessees, occupants or persons in charge of the property shall fail and neglect to trim such trees, shrubs or plants within 10 days after receiving the notice provided for in SMC 18.07.400.150, 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.

**18.07.400.170 Removal of Trees or Shrubs.**

1. 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 an 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.
2. Whenever, in the opinion of the City Manager, trimming or treatment of any such tree or shrub located on private ground but having 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.

**18.07.400.180 Appeal Procedures.** Whenever any application for a permit under this Chapter is denied by the City Manager, whenever an order is issued by the City Manager directing certain trees, shrubs or plants to be trimmed or removed, or whenever a permit is granted by the City Manager containing conditions the applicant for the permit deems unreasonable, such applicant or person may appeal to the City Council. The appeal shall be made in writing and must be filed with the City Recorder within 10 days after the denial of the permit sought or the making of the order the applicant deems unreasonable. After hearing, the City Council may either grant or deny the application, rescind the order from which the appeal was taken, or modify the same.

**18.07.400.190 Attaching Wires or Signs Prohibited.** It is unlawful for any person to attach or keep attached to any tree, plant or shrub in or upon any public street or alley, or to the guard or stake intended for the protection of such tree, any rope, wire, chains, signs or other devices whatsoever, except as a support for any such tree, plant or shrub.

**18.07.400.200 Violation - Penalty.** Any person who, himself or herself, or by a clerk, agent, or employee, shall violate any of the provisions of this Chapter shall, upon conviction thereof, be fined not more than \$100.00, or be imprisoned in the City Jail not to exceed 20 days, or be punished by both such fine and imprisonment.

## **BUFFERING AND SCREENING**

**18.07.500 General Requirements/Matrix.** In order to reduce the impacts on adjacent uses which are of a different type, buffering and screening is required in accordance with the matrix that follows. The property owner of each proposed development is responsible for the installation and maintenance of such buffers and screens. The Director may waive the buffering/screening requirements of this section where such has been provided on the adjoining property in conformance with this Code. Where a use would be abutting another use except for separation by right-of-way, buffering (but not screening) shall be required as specified in the



matrix. Where a proposed use abuts undeveloped property, only one half of the buffer width shall be required.

**18.07.500.010 Delineation of Area.** A buffer consists of an area within a required setback adjacent to a property line. It has a depth equal to the amount specified in the buffer matrix and contains a length equal to the length of the property line of the abutting use or uses.

**18.07.500.020 Occupancy.** A buffer area may only be occupied by utilities, screening, sidewalks, bikeways and landscaping. No buildings, access ways or parking areas are allowed in a buffer area except where an access way has been approved by the City.

**18.07.500.030 Buffering.** The minimum improvements within a buffer area consist of the following:

1. At least one (1) row of trees. These trees will be not less than ten (10) feet high at time of planting for deciduous trees, a minimum 1 ½ inch caliper and spaced not more than thirty (30) feet apart and five (5) feet high at time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director where it can be demonstrated that such trees would conflict with other purposes of this Code (e.g. solar access).
2. At least five (5) five-gallon shrubs or ten (10) one-gallon shrubs for each 1,000 square feet of required buffer area.
3. The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, evergreen shrubs).

**18.07.500.040 Screening.** Where screening is required or provided, the following standards apply in addition to conditions (1) and (3) above:

1. One row of evergreen shrubs which will grow to form a continuous hedge at least four (4) feet in height within two years of planting and maintained at a height of 6 feet, or
2. A minimum six-foot (6') high fence or masonry wall constructed to provide a uniform sight-obscuring screen, or
3. An earth berm which when combined with evergreen shrubs or a fence will form a sight and noise buffer at least six feet in height within two years of installation of the evergreen shrubs.

**18.07.500.050 Clear Vision.** Buffering and screening provisions are superseded by the clear vision requirements of Section 18.05.095 and by the fence and wall height restrictions of the zone where applicable.

**18.07.500.060 Landscape Plan.** In lieu of these standards a detailed landscape plan, which provides the same degree of desired buffering and/or screening utilizing alternative designs, may be submitted for approval. These standards are the minimum necessary and may be increased based upon specific standards for a certain use. When the number is followed by an S, screening is required in addition to a buffer strip.

<b>BUFFER MATRIX</b>					
<b>ABUTING USE OR ZONING DISTRICT</b>	<b>Detached Dwelling</b>	<b>Attached Dwelling 1-story</b>	<b>Manufactured home park or subdivision</b>	<b>Commercial/ Professional Use (C-1, C-2)</b>	<b>Parking lot with more than 4 spaces</b>
Detached family dwelling units in RS-10, RS-7 RS-5, C-1, C-2 Districts	0'	0'	10' S	10' S	10' S
Detached unit 1-story in R-L district	0'	0'	0'	10' S	10' S
Attached dwelling units 2+ stories, or R-M or R-H district	0'	0'	0'	10' S	10' S
Manufactured home park or subdivision in any district	0'	0'	0'	10' S	10' S
Any arterial street (2)	10' S	10' S	10' S (1)	10'	10'
Commercial or professional uses, or C-1, C-2 Zoning Districts	10' S	10' S	10' S	0'	0'
Commercial Retail Use or C-3 Zoning District	15' S	15' S	15' S	0'	0'
Public/Semi Public Zoning Districts	20' S	20' S	20' S	0'	0'
Light Industrial Use or Industrial Park (IP) Zoning District	30' S	30' S	30' S	0'	0'
Heavy Industrial Use or Heavy Industrial (I-2 and I-3) Zoning Districts	40' S	40' S	40' S	20'	0'
Any parking lot with more than 5 spaces	10' S	10'S	10'S	0'	0'

<b>ABUTING USE OR ZONING DISTRICT</b>	<b>Commercial-Retail use or C-3 Zoning District</b>	<b>Public or Semi Public Use</b>	<b>Light Industrial use or IP zoning District</b>	<b>Heavy Industrial Use or I-2 Zoning District</b>	<b>Parking lot with more than 4 spaces</b>
Detached family dwelling units in RS-7 RS-5 Districts	15' S	20'S	30' S	40' S	10' S
Detached unit 1-story in RL district	15' S	15' S	0'	0'	10' S
Attached dwelling unit 2+ stories, or R-H or R-H district		10' S	0'	0'	10' S
Manufactured home park or subdivision in any district		0'	0'	0'	10' S
Any arterial street (2)					

		10' S	10' S	10' S (1)	10'
Commercial or professional uses, or commercial districts	10'S	10	10	10' S	0'
Public/Semi Public Zoning Districts		20'	20'	20' S	0'
Light Industrial Use or Industrial Park (IP) Zoning District		30' S	30' S	30' S	0'
Heavy Industrial Use or Heavy Industrial (I-2 and I-3) Zoning Districts		40' S	40' S	40' S	20'
Any parking lot with more than 5 spaces		10' S	5' S	5' S	0'

## TREE FELLING

**18.07.600 Purpose.** Trees of significant size represent a visual and aesthetic resource to the community. These standards are intended to balance the preservation of significant trees as a benefit to the community with the individual right to use and enjoy property.

**18.07.600.010 Definitions.** For the purposes of the following sections, these definitions apply:

1. **Fell:** To remove or sever a tree or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Fell does not in any context include normal pruning of trees.
2. **Tree:** A living, standing, woody plant having a trunk circumference of 18 inches (approximately 6 inches in diameter) or more.
3. **Tree, Circumference:** The circumference of a tree is measured at 4 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than six inches in circumferences.

**18.07.600.020 Applicability.** Review approval is required for the felling of five (5) or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any zone. The following activities are exempt from review:

1. The action of any City official or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service or to reopen a public street to traffic.
2. Felling of any tree that is defined as a nuisance under the Silverton Municipal Code.
3. Any felling necessary to maintain streets or public or private utilities within a public right-of-way or utility easement.

**18.07.600.030 Tree Felling Criteria.** The following review criteria replace the Design Review criteria found in Article 3 of this code for the purposes of reviewing tree felling. A site plan review for tree felling will be processed as a Type I-L land use decision.

1. The Planning Director or his/her designee shall approve a tree felling when the applicant demonstrates that the felling of the tree(s) is warranted because of the condition of the tree(s) with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular safety. The Director may require the applicant to provide a Certified Arborist's report.
2. For property where a Design Review, Conditional Use or Land Division application has been approved or is currently under review, the Planning Director or his/her designee shall approve a tree felling when the applicant demonstrates that all of the following review criteria are met:
  - A. It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved site plan review or conditional use review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this code, applicable plans adopted by the City Council, or a logging permit issued by the Oregon Department of Forestry.
  - B. The proposed felling is consistent with State Standards, City Ordinances, and the proposed felling does not negatively impact the environmental quality of the area, including but not limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality, and geological sites.
  - C. The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The Director may require that the trees determined to be unique in species, size, maturity, structure, or historic value are preserved.
3. For property where tree felling has not been approved as part of a Design Review, Conditional Use, or Land Division application, the Planning Director or his/her designee shall approve a site plan review application for tree felling, if the review criteria above are met, and the following criteria are met:
  - A. Trees shall be retained in significantly large areas and dense stands so as to ensure against windthrow.
  - B. Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.
  - C. 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 10 feet in width or as required elsewhere in this code.
  - D. Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
  - E. 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.

- F. Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide buffers from adjacent properties.
  - G. The plan for tree felling shall be consistent with the preservation of the site's future development potential and zoning.
4. The Planning Director or his/her designee may attach conditions to the approval of the tree felling to ensure the replacement of trees and landscape or otherwise reduce the effects of the felling, and may require an improvement assurance to ensure all conditions are met.
  5. Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process. The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.
    - A. Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch (4") depth unless a qualified arborist or forester has evaluated and approved the disturbance.
    - B. Prior to and during construction, barriers shall be erected around all protected existing trees with such barriers to be of orange fencing a minimum of four (4) feet in height, secured with metal T-posts, no closer than six (6) feet from the trunk or one-half (1/2) of the drip line, whichever is greater. There shall be no storage or movement of equipment, material, debris or fill within the fenced tree protection zone.
    - C. During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.
    - D. No damaging attachment, wires, signs or permits may be fastened to any protected tree.
    - E. Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than erecting protective fencing around each tree as required in subsection (5)(b) above. This may be accomplished by placing metal t-post stakes a maximum of fifty (50) feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.
    - F. The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than six (6) inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of twenty-four (24) inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree diameter at breast height as described in the chart below.

<b>Tree Diameter at Breast Height (48 inches)</b>	<b>Auger Distance from Face of Tree (feet)</b>
8-9	5
10-14	10
15-19	12
Over 19	15

# CHAPTER 18 - ARTICLE 12

## ZONING DISTRICTS SPECIAL USE STANDARDS

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18.12.015 Accessory Dwelling Units, Two Family Shared Housing.

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- 18.12.240 Religious Organizations or Other Charitable Institutions in a Residential Zoning Districts.
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- 18.12.295 Swimming Pools, Spas, and Hot Tubs Safety Barriers.
- 18.12.300 Temporary Use – Carnival or Circus.
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- 18.12.310 Temporary Use- Movable Structures and Vehicles.
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# CHAPTER 18 - ARTICLE 12

## ZONING DISTRICTS SPECIAL USE STANDARDS

**18.12.005 Overview.** Certain uses are subject to specific standards in addition to those applicable to permitted uses in a particular zone. The standards can be clearly defined so that a conditional use permit review process is unnecessary for uses that can meet the standards. The standards set forth in this Article apply where the particular use is identified as a permitted use in a particular zone. If the special standards are referenced for a conditional use, the standards are intended as guidelines and can be modified or eliminated if the evidence shows that the proposed use, as conditioned, will meet the applicable criteria for approval.

The standards in this Article are in addition to the use and development standards generally applicable in the zone unless specifically exempted by the provisions of this Article. Where the use and development standards herein impose a standard higher than the other applicable standards the higher standard shall be applied. Sites within overlay districts are also subject to the regulations in Article 6. The list below is a summary of the topics covered in this article.

- Accessory Structures, Residential
- Accessory Dwelling Unit, Two Family Shared Housing
- Accessory Uses in Group (Congregate) Living Facilities
- Adult Entertainment
- Aircraft Landing Facilities
- Arcades
- Automotive Dealers and Automotive Repair, Service, and Sales Lots
- Bed and Breakfast Establishments
- Bio-Mass Facilities
- Boat and Recreational Vehicle Storage Areas in Residential Zoning Districts
- Cemetery, Mausoleum, columbarium, Crematories, and Funeral Services
- Child Day Care Centers
- Common Open Space
- Community Buildings, Social Halls, Lodges, Fraternal Organizations and Clubs in Residential Zoning Districts
- Contractor's Office and Construction Equipment Sheds
- Conversion of a Single Family Residence to a Two Family Shared Housing
- Drive-in Theaters
- Drop Boxes
- Drive-up Window Facilities
- Duplex in Residential Zoning Districts
- Duplex on a Corner Lot
- Duplex on an Interior Lot
- Dwelling Units in Commercial Districts
- Eating and Drinking Places in Industrial Zoning Districts
- Eating Places as Accessory Uses
- Elementary and Secondary Schools
- Energy Facilities
- Fences – Setback and Height Limitations
- Garage and Yard Sales
- Gasoline Service Stations
- Grading



- Height Regulations
- Home Occupations
- Indoor Entertainment and Recreation
- Kennels, Riding Academies, and Public Stables
- Keeping of Livestock
- Manufactured Homes on Individual Lots
- Manufacturing and Production
- Mobile Food Vendors
- Motels/Hotels in Public Amusement Zoning District
- Nursery Schools, Day, or Child Care Facilities
- Nursing Home Facilities and Assisted Living Facilities
- Other Uses in Industrial Districts
- Outside Display of Merchandise
- Park and Ride Facilities
- Poultry Farms
- Projections into Required Yards
- Projections into Public Right-of-way
- Public and Private Golf Courses and Membership Sports Clubs
- Religious Organizations or Other Charitable Institutions in a Residential Zoning District
- Residence for Caretaker or Watchman
- Residential Care or Group Care Facilities
- Residential Care or Group Care Homes
- Residential Sales Offices
- Restaurants With Outdoor Eating Areas
- Retail Services
- Retail Sales and Services in the Residential Commercial, Residential Business, and Industrial Park Zoning Districts
- Scrap and Waste Material Establishments
- Self Service Storage/Mini-Storage Warehouses
- Special Status for Single Family Residences in Commercial and Industrial Zoning Districts
- Swimming Pools, Spas and Hot Tubs-Safety Barriers
- Temporary Use – Carnival or Circus
- Temporary Use – Manufactured Home or Recreational Vehicle
- Temporary Use – Movable Structures and Vehicles
- Temporary Use - Seasonal Sales
- Townhouse Dwellings
- Utilities
- Veterinary Services for Animal Specialties
- Waste and Recycling Related Uses
- Wireless Communications Facilities
- Zero Side Yard Dwelling Unit

**18.12.010 Accessory Structures, Residential.** Residential accessory buildings are permitted outright with residential uses if they meet the following conditions:

1. Detached accessory buildings, garages and carports are less than 750 square feet and have walls no more than eleven feet in height.
2. Attached accessory buildings, garages or carports contain a total area of less than 1,000 square feet.

3. A minimum five (5) foot rear and side yard setback is provided for all detached accessory buildings unless the structure meets Building Code requirements for a common wall structure and a non-revocable ten-foot (10') access/maintenance easement is provided on the adjoining property.
4. Other than a fence, no accessory structure shall be allowed in a required front yard setback.
5. Other than a fence, no accessory structure shall be built or placed over an easement.
6. All other residential district accessory buildings, garages or carports require Conditional Use approval.

**18.12.015 Accessory Dwelling Unit, Two Family Shared Housing.** For purposes of this Article, a single-family dwelling with an accessory dwelling unit (ADU), as defined herein, located within a single-family residential zone shall not be considered a duplex or multiple-family dwelling. In addition to other standards of this Code, ADU's shall comply with the following development standards:

1. The building to be converted to an accessory dwelling unit or for two-family shared housing must have been constructed as a single family dwelling, and have been occupied as such by an owner for any continuous six (6) month period between the date of its first occupancy and the date of its conversion to a two family dwelling.
2. The building must not contain more than two dwelling units after conversion, and there must not be more than two dwelling units per lot.
3. One dwelling unit must contain at least 300 square feet of floor area and the other must contain at least 600 square feet of floor area.
4. Not more than 100 square feet of floor area shall be added to the building to accommodate the conversion; provided, however, the conversion of unfinished areas to habitable space or bathrooms shall not count towards the 100 square foot limitation.
5. Only one of the two dwelling units may be occupied by a family that does not include an owner-occupant of the building.
6. The building shall comply with maximum lot coverage and minimum setback requirements applicable to the parcel containing the primary dwelling unit.
7. The maximum gross habitable floor area (GHFA) of the accessory unit shall not exceed 50 percent of the GHFA of the primary dwelling on the lot, or shall not exceed a maximum of 900 square feet, whichever is less. The floor area of any garage shall not be included in the total GHFA.
8. Only one entrance may be located on the front of the existing dwelling unit, unless the existing dwelling contained more than one entrance before the addition of the ADU.
9. In order to maintain a consistent architectural character, similar building materials, architectural design and colors shall be used so that the ADU blends with the general appearance of the primary dwelling.
10. A parcel containing a primary dwelling unit and an ADU shall provide a minimum of three (3) off-street parking spaces.
11. ADU's shall not be counted in residential density calculations.

**18.12.020 Accessory Uses in Group (Congregate) Living Facilities.** Incidental personal services including barber shops, beauty shops, gift shops, automated banking services, travel agents and pharmacies may be provided in group (congregate living) facilities under the following conditions:

1. No more than ten (10) percent of the total gross floor area of the facility may be used for such accessory uses.
2. No signs shall be visible from a public right-of-way.
3. Use of the facilities shall be only for tenants and employees of the group housing facility and guests of tenants.

**18.12.025 Adult Entertainment.** Where allowed, Adult Entertainment uses shall meet the following standards:

1. An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
2. An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.
3. An adult entertainment use shall not be established or expanded within 300 feet of the property line of a church, school, or public park.
4. No exceptions to the above will be considered by the Variance procedures.

**18.12.030 Aircraft Landing Facilities.** All aircraft landing facilities shall be so designed and so oriented, that the incidence of aircraft passing directly over dwellings during landing or take off is minimized. They shall be located so that traffic, both land and air, shall not severely impact neighboring uses. Applications shall describe the measures taken to prevent noise, vibrations, dust and glare. New aircraft landing facilities shall require Conditional Use approval. Prior to obtaining approval for a landing facility, the applicant shall furnish proof of compliance with applicable State and Federal laws and regulations.

**18.12.035 Arcades.** Where allowed as a permitted use, arcades shall be subject to the following standards:

1. Adequate space shall be provided for each game machine so as to allow its use without over crowding. All game machines shall be provided with a minimum area equal to the size of the machine plus one (1) foot of unobstructed area on each side. Where machines are located along one side of an aisle, said aisle shall be a minimum of sixty-six (66) inches in width and shall be unobstructed. When machines are located on both sides of any aisle, the aisle shall be not less than ninety (90) inches in width and shall be unobstructed.
2. Bicycle racks shall be provided within twenty-five (25) feet of any arcade and shall provide a total of one bicycle stall for every four games located within the arcade. Bicycle racks shall not be located in any required landscape area, entrances, exits, walkways to buildings, driveways, within a required parking space, public way, or in such a fashion to obstruct any entrance or exit to any premises.
3. There shall be a minimum of one supervisory employee in attendance eighteen (18) years of age or older during operating hours.
4. No arcade shall be maintained or operated unless all portions of the interior of such arcade, except the restrooms thereof, are plainly visible from the outside of the building through unobstructed windows or glass doors. All windows and glass doors that provide a view of the interior of the premises shall remain unobstructed at all times. All entrances and interior areas

shall be well lighted.

5. There shall be attached to the business license application for an arcade a scaled plan prepared by the applicant. The site plan shall identify thereon the following:
  - A. Floor plan for the arcade identifying the location, number, and type of game machines, and the distance between machines as required above.
  - B. Location and number of bicycle stalls.
  - C. Location and number of off-street parking spaces.
  - D. Existing landscaped areas, walkways, and entrances and exits to adjacent buildings, driveways, and public rights-of-way.

**18.12.040 Automotive Dealers and Automotive Repair, Service, and Parking.** Automotive dealers and automotive repair, service and parking shall meet the following use and development standards:

1. The lot shall be paved with a concrete or asphalt hard surface.
2. A sight-obscuring fence, wall or hedge a minimum of 6 feet in height in conformance with Section 18.07.500.030 shall be provided along lot lines abutting residential zones in addition to buffering requirements of Section 18.07.500.040.
3. Repair of vehicles and any storage of merchandise or supplies not in retail packaging or display racks shall occur entirely within an enclosed building.

**18.12.045 Bed and Breakfast Establishments.** Bed and Breakfast establishments shall meet the following use and development standards:

1. In the residential zoning districts, the establishment shall be operated by the resident property owner and not include more than 4 lodging rooms (including any allowable accessory rooming and boarding);
2. A single sign, which may only be indirectly lighted but not flashing, shall be permitted within 10 feet of the front lot line provided the sign does not exceed 8 square feet in area and does not block vision clearance areas and is a monument sign not more than 4 feet in height.
3. Off-street parking shall be provided based upon 1 space per lodging room in addition to the required spaces for the residence. Off-street parking in residential zoning districts for the guests shall be screened from the street and adjacent properties by a 6-foot high sight-obscuring fence, wall, or hedge.

**18.12.050 Biomass Facilities.** Biomass facilities shall meet the following additional use and development standards:

1. The Biomass facility shall comply with Section 18.12.135.
2. The Biomass facility shall not use municipal solid waste as a fuel.
3. The Biomass facility shall be accessory to an industrial or farm use that provides at least 50% of the biomass fuels.
4. If the Biomass facility involves direct combustion it shall be located:
  - A. At least 5 miles from land with an elevation higher than the elevation at which the facility discharges airborne wastes; and
  - B. At least 5 miles from a Class I Prevention of Significant Deterioration Area.

**18.12.055 Boat and Recreational Vehicle Storage in Residential Zoning Districts:** Areas where more than 3 property owners store their boats or recreational vehicles shall meet the following use and development standards:

1. **Screening.** Outdoor storage areas shall be screened from all adjacent properties and from all but one abutting street by a sight-obscuring fence, wall, or hedge.
2. **Landscaping.** All unpaved areas not occupied by buildings or structures shall be landscaped as provided in Section 18.07.300.010.
3. **Surfacing.** All driveways, outdoor storage space, and other outdoor vehicle parking, loading and maneuvering areas shall be improved with an all-weather surface. The surfacing shall be set back from lot lines, except those abutting a street, by at least ten (10) feet.
4. **Lighting.** Outdoor lighting shall be directed away from residential property and public streets.
5. **Ownership.** Storage areas must be owned and operated by a non-profit home owners association or be provided by the management of the development exclusively for the tenants of the development.
6. Storage areas shall be limited to:
  - A. Members/residents boats or recreational vehicles, utility trailers and horse trailers none of which are kept or used in connection with a business or commercial activity.
  - B. Storage buildings for the personal belongings of members or residents may also be provided in conjunction with outdoor storage areas provided the buildings are a minimum of 30 feet from any residential lot line and the wall height shall not exceed 20 feet. Exterior building materials shall be of a durable composition, e.g., stone, brick, stucco, wood, vinyl, hardi plank, cement, etc. Composition wood (such as chip board) and plywood siding shall be prohibited.

**18.12.060 Cemetery, Mausoleum, Columbarium, Crematories and Funeral Services.** A cemetery, crematory, mausoleum or columbarium shall have its principal access on an arterial or collector street as designated on the Silverton Transportation Plan, with ingress and egress so designed as to minimize traffic congestion and shall provide required off-street parking spaces. Cemeteries located within any residentially zoned district or abutting a residentially zoned district shall establish and maintain appropriate landscaping, buffering and screening in accordance with the requirements of Sections 18.07.500.030 and 040. Funeral service, cemetery and crematories shall meet the following additional use and development standards:

1. **Screening.** The property shall be buffered and screened from all adjacent properties by a sight-obscuring fence, wall or hedge.
2. **Height.** Buildings (including, but not limited to mausoleum, columbaria, and crypts) shall not exceed 35 feet in height.
3. **Lot Area.** The minimum lot area is ten (10) acres for a cemetery except for pet cemeteries where the minimum lot area is 3 acres.

**18.12.065 Child Day Care Centers.** Child day care center providing care for 16 or fewer children, including children of the provider, shall meet the following use and development standards:

1. **Lot Size:** Minimum 6,000 square feet.
2. **Off-street Loading:** At least 1 off-street loading space shall be provided for every 6 children served based on the maximum number served at any given time during the day. Up to two loading spaces may be provided in the required front yard. During normal hours of loading and unloading the off-street loading spaces shall be reserved exclusively for that use.

3. **Screening:** Outdoor play areas shall be fenced and the fence shall be sight-obscuring except in the required yard abutting a street or roadway. Loading areas shall not be located in a required yard abutting a street or roadway and shall be screened by a sight-obscuring fence, wall or hedge.
4. **Owner and/or Occupant:** The provider of the day care services shall be the owner and/or occupant of the residence if the day care service is located in a residential zone and there is a residence on the lot.

**18.12.070 Common Open Space.** When common open space is provided, the common open space shall be in accordance with the following rates:

1. An area equal to at least twenty percent (20%) of the subject site, when the site is up to and including 10 acres in size.
2. An area equal to at least fifteen percent (15%) of the subject site, when the site is more than 10 acres and up to and including 50 acres in size.
3. An area equal to at least ten percent (10%) of the subject site when the site is more than 50 acres in size.
4. Land set aside as required setbacks or buffers shall not be included in the calculation of required open space.
5. Land shown on the final development plan as common open space, and landscaping and/or planting contained therein shall be permanently maintained by and conveyed to one of the following.
  - A. An association of owners or tenants, created as a non-profit corporation under the laws of the state which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the City as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space and shall provide for City intervention and the imposition of a lien against the entire planned unit development or subdivision in the event the association fails to perform as required; or
  - B. A public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed upon it.
  - C. If the common open space is created to fulfill a Design Review condition of approval for the construction of apartment units, it shall be the continuing obligation of the property owner to maintain the common open space in conformance with the conditions of approval. In the event that the common open space is not maintained, the City may intervene and place a lien on the property for the necessary repairs.

**18.12.075 Community Buildings, Social Halls, Lodges, Fraternal Organizations, and Clubs Residential Zoning Districts.**

1. All buildings shall be set back a minimum of thirty (30) feet from the side and rear property lines. All setbacks shall be landscaped as required to buffer and screen adjacent properties.
2. All such uses shall be located on an arterial or collector street as designated on the Silverton Transportation Plan, and be able to provide access without causing traffic congestion on local residential streets, and any such use shall prove that there will be no harm to adjacent existing or potential residential development due to excessive traffic generation, noise, or other circumstances such as hours of operation.

3. There shall be no external signage, advertising or other evidence of any incidental commercial activities taking place within the building.

**18.12.080 Contractor's Office and Construction Equipment Sheds.** Permitted in any zoning district where the use is incidental to a construction project. The Office or shed shall not include sleeping or cooking accommodations and subject to the following requirements:

1. The maximum length of use shall be one (1) year with six-month extensions if substantial progress has been made on the project. Application for the extension shall be made at least fifteen (15) days prior to the expiration of the original permit.
2. The office or shed shall be removed upon completion of the construction project.

**18.12.085 Conversion of a Single Family Residence to a Two Family Shared Housing.**

Two family shared housing shall meet the following use and development standards:

1. The building to be converted for two family shared housing must have been constructed as a single family dwelling, and have been occupied as such by an owner for any continuous six month period between the date of its first occupancy and the date of its conversion to a two family dwelling.
2. The building must contain not more than two dwelling units after conversion, and there must be not more than two dwelling units per lot.
3. One dwelling unit must contain at least 500 square feet of floor area and the other must contain at least 600 square feet of floor area.
4. Not more than 60 square feet of floor area shall be added to the building; provided, however, that conversion of unfinished areas to habitable space or bathrooms shall not count toward the 60 square feet limitation. Conversion of existing garage space to habitable space will require the provision at a minimum of a single car garage.
5. Two family shared housing under this section shall not be separated in ownership under the provisions of ORS Chapter 94 or any other law or ordinance allowing unit ownership of a portion of a building or space therein.
6. Two family shared housing under this section must meet the use, setback and lot size requirements of the zoning district.

**18.12.090 Drive-in Theaters**

1. Drive-in theaters shall be located only on an arterial street as designated on the Silverton Transportation Plan, and shall provide ingress and egress so designed as to minimize traffic congestion; and
2. Shall be screened and buffered from a residential district or dwelling unit such that noise shall not disturb residents or prospective residents; and
3. Shall be so designed that the projection surface of the screen will be set back from and shall not be clearly visible from any street or highway; and
4. Shall maintain signs and other lights in such a way as not to disturb neighboring residents.

**18.12.095 Drive-up Window Facilities.** The decision making authority shall review proposed drive-up window facilities to determine that the facility has been designed to provide safe, convenient and efficient traffic flow in conformance with the following standards in addition to the standards found in Section 18.07.200.140:

1. Drive-through uses shall be located so that access and egress to the drive-through window features are from an on-site drive aisle or other on-site circulation facility and not a public street.
2. Restaurants providing drive-up window service shall have sufficient parking and seating to accommodate anticipated customer volume.
3. Restaurants providing drive-up window service shall provide at least one (1) designated parking space immediately beyond the service window, or provide other satisfactory methods, to allow customers requiring excessive waiting time to receive their food while parked.
4. Financial and other commercial establishments providing drive-up window facilities which 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, such as an automatic teller machine, at any time during regular business hours. Additionally, at a minimum, two parking spaces shall be provided allowing convenient access to the walk-up service window.
5. The design of the stacking area shall allow customers' vehicles to leave the stacking line for emergency reasons.
6. 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.
7. Establishments having drive-up window facilities shall have sufficient stacking area to insure that public right-of-way and shared access driveways are not obstructed.
8. The communication sound system shall not exceed a measurement of 55 decibels at the adjoining property line.

**18.12.100 Drop Boxes.** Recycling receptacles or charity drop boxes shall not be located in any residential district or in any public right-of-way. Recycling receptacles or charity drop boxes are permitted in any commercial or industrial zone. Recycling receptacles may not be located in required parking spaces or within any vision clearance area. Recycling receptacles shall not be placed within 20 feet of a residential zoning district nor within 10 feet of a street right-of-way.

**18.12.105 Duplex in Residential Zoning Districts.**

1. In the Single Family Residential zoning Districts, duplexes are permitted outright on corner lots that meet the minimum lot size and development standards for duplexes in the zone as defined in Sections 18.12.105.010 and 18.12.105.020.
2. In the Single Family Residential zoning Districts, a duplex is permitted as infill development only on lots that are at least 1.5 times the single-family minimum lot size in the zone.
3. In the Multiple Family Residential zoning Districts, duplexes are permitted outright on any lot. The minimum duplex lot size shall be 7,000 square feet in a Low Density multiple family zoning district and 6,000 square feet in a Medium Density multiple family zoning district. There is no minimum lot size in a High Density multiple family zoning district.
4. Duplexes in multi-family developments may be divided so that each can be individually owned by doing a land division in conformance with Article 4. The total land area provided for the development as a whole must conform with the density requirements of the underlying zoning district, however, the amount of land on which each unit is located need not be half of the minimum allowed in the underlying zoning district. For example, the land area for a duplex in an RS-M zoning district must be 10,500 square feet, but that area need not be split equally between the individual lots (one may be larger than 5,250 square feet and one smaller).



**18.12.105.010 Duplex on a Corner Lot.** A duplex on a corner lot outside of a Planned Unit Development shall meet the following additional use and development standards:

1. The corner lot shall contain at least 12,000 square feet in a hillside overlay zoning district; 9,000 square feet in a Single Family Residential zoning district where the average lot size is 7,000 square feet; and 7,000 square feet in a Single Family Residential zoning district where the average lot size is 5,000 square feet.
2. Each dwelling unit shall derive its pedestrian and vehicular access from a different street unless one of the streets is a collector or arterial street as designated on the Silverton Transportation Plan.
3. Only two (2) of the four corner lots of an intersection may contain a duplex.
4. Only two lots within a one-block area on either side of the street may contain a duplex.
5. If the lot was created prior to the adoption of this ordinance or was not approved for a duplex lot at the time of subdivision approval, a Conditional Use application must be approved.
6. If the units are to be sold separately, partition approval must be granted and Covenants, Conditions, and Restrictions (CC&Rs) shall be approved by the City and recorded with the final plat. The CC&Rs shall provide:
  - A. That the owners are jointly and severally responsible for the continued maintenance and repair of the common elements of the units, including common portions of the buildings, such as foundations, roofs, common walls, etc., and share equitably in the cost of such upkeep.
  - B. Maintenance access easements on the individual lots where necessary for the purpose of property maintenance and repair.
  - C. The specific rights of, or limitation on, individual lot owners to modify any portion of a building or lot, including the provision that no common elements be modified without the consent of the other owner(s).
  - D. Provisions for maintenance of front yard landscaping.

**18.12.105.020 Duplex on an Interior Lot.** A duplex on an interior lot outside of a Planned Unit Development shall meet all of the following additional use and development standards:

1. The interior lot shall contain at least 15,000 square feet in a hillside overlay zoning district; 10,500 square feet in a Single Family Residential zoning district where the average lot size is 7,000 square feet and 7,500 square feet in a Single Family Residential zoning district where the average lot size is 5,000 square feet.
2. Only one lot within a one-block area on either side of the street may contain a duplex.
3. If the lot was created prior to the adoption of this ordinance or was not approved for a duplex lot at the time of subdivision approval, a Conditional Use Permit will be required.
4. If the units are to be sold separately, partition approval must be granted and Covenants, Conditions, and Restrictions (CC&Rs) shall be approved by the City and recorded with the final plat. The CC&Rs shall provide:
  - A. That the owners are jointly and severally responsible for the continued maintenance and repair of the common elements of the units, including common portions of the buildings, such as foundations, roofs, common walls, etc., and share equitably in the cost of such upkeep.
  - B. Maintenance access easements on the individual lots where necessary for the purpose of

property maintenance and repair.

- C. The specific rights of, or limitation on, individual lot owners to modify any portion of a building or lot, including the provision that no common elements be modified without the consent of the other owner(s).

**18.12.110 Dwelling Units in Commercial Zoning Districts.** Dwelling units shall be allowed in all commercial districts when attached to a commercial building and approved by Design Review and are subordinate to the primary commercial use.

**18.12.115 Eating Places As Accessory Uses.** Accessory eating places shall meet the following use and development standards:

1. The gross square footage of the area devoted to the use shall not exceed 20% of the gross square footage of the first floor of the building.
2. The eating place shall be designed to serve primarily the occupants of the building(s) and their clients and shall not have direct access to a public street or parking area, except as may be required by fire, life and safety codes.
3. There shall be no sign advertising the eating place visible from outside the building.

**18.12.120 Elementary and Secondary Schools.** Public or private elementary and secondary schools shall meet the following use and development standards:

1. **Minimum Lot Size.** The minimum site requirement shall be calculated at 500 square feet per student at maximum occupancy, or three acres, whichever is more.
2. **Setbacks.** Buildings shall be setback from every lot line a minimum of 20 feet or one foot for each foot of height to a maximum setback of thirty-five (35) feet whichever is greater.
3. **Portable Classrooms.** The placement of the portable classrooms shall require Option 'C' Design Review approval. Portable classrooms shall maintain the same setbacks as required for the main building on the site.
4. **Off-street Parking.** No off-street parking or loading area shall be permitted within ten (10) feet of a residential use or zone.
5. **Loading Area(s).** A separate or combined driveway shall be provided that is designed for the continuous forward flow of passenger vehicles and buses for the purpose of loading and unloading children.
6. **Other Related Uses.** Permitted and original conditional use approval for schools includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school child care activities; kindergarten; fund raising activities; meeting facilities for clubs and organizations, other uses which are not operated primarily for the purpose of secular education, or school administration; secondary use of school facilities for non-profit events and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m. Expansion of a school includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the Design Review, Option 'B' process.

**18.12.125 Energy Facilities.** Energy facilities, including hydro-electric facilities, transmission facilities, wind facilities, biomass facilities and geothermal facilities shall meet the following additional use and development standards:

1. An energy facility shall not be located in State of Oregon parks, waysides, refuges, wildlife management areas, and natural areas, preserves, scenic waterways, and adjacent lands designated pursuant to ORS 390.845, nor wild fish streams designated by the Oregon Department of Fish and Wildlife unless the facility complies with the following:
  - A. An energy facility may be permitted as a conditional use in an area listed above if:
    - (1) It is compatible with adjacent uses and resources.
    - (2) It is accessory to a permitted use.
    - (3) The application is authorized or the use is approved by the public agency responsible for designation or management of the protected area in which an energy facility is proposed.

**18.12.130 Fences – Setback and Height Limitations.** A fence may be located on the property or in a yard setback area subject to the following standards:

1. Generally – Fence, Wall or Hedge.
  - A. Any fence, wall or hedge located in front of the front façade of the building or within the front yard setback shall not exceed forty-two (42) inches in total height. On corner lots, a fence, wall or hedge meeting the height restrictions of the zoning district may be constructed beyond the front façade of the building outside of any vision clearance area. Walls and fences may be constructed on the property line but it is recommended that they be located at a minimum of two feet from the right-of-way line to allow space for access to public clean-outs for the sanitary sewer line serving the property. Walls and fences located within public utility easements, shall also be notched out around utility pedestals and poles. This allows for franchise utilities to access their equipment without entering into peoples fenced yards.
  - B. All other fence, wall or hedge other than those described in subsection 1(A) above or those required to meet the buffering and screening requirements of 18.07.500.030 and 18.07.500.040 shall not exceed six (6) feet in height in residential zoning districts and eight (8) feet in height in commercial and industrial zoning districts measured from the finished grade level of the ground on which the fence is constructed. All fences over 6 feet in height require Building Permits. Walls over thirty inches in height require Building Permits. Walls and fences may be constructed on the property line but it is recommended that they be located at a minimum of two feet from the right-of-way line to allow space for access to public clean-outs for the sanitary sewer line serving the property. Walls and fences located within public utility easements, shall also be notched out around utility pedestals and poles. This allows for franchise utilities to access their equipment without entering into peoples fenced yards.
  - C. When a fence, wall, or hedge is located on a retaining wall or an artificial berm that is not adjacent to or abutting a public right-of-way, the following standards apply:
    - (1) When the retaining wall or artificial berm is thirty (30) inches or less in height from the finished grade, the maximum fence or wall height on top of the retaining wall shall be six (6) feet in a residential zoning district and eight (8) feet in a commercial or industrial zoning district.
    - (2) When the retaining wall or earth berm is greater than thirty (30) inches in height, the combined height of the retaining wall and fence or wall from finished grade shall not exceed eight and one-half (8 ½) feet in residential zoning districts and ten (10) feet in commercial and industrial zoning districts.
    - (3) Fences, walls, or hedges located on top of retaining walls or earth berms in excess of thirty inches above finished grade may exceed the total allowed combined height listed in

(2) above provided that the fence or wall is located a minimum of two feet from the retaining wall and the fence or wall height shall not exceed six (6) feet in height.

**18.12.135 Garage and Yard Sales.** 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.

**18.12.140 Gasoline Service Stations.** Gasoline service stations shall meet the following use and development standards:

1. **Lot area and dimensions.** Minimum lot size, 10,000 square feet; minimum of 100 feet of street frontage for an interior lot, 120 feet of frontage on each street abutting a corner lot.
2. **Screening.** The property shall be screened from every abutting residential zone or use by a sight-obscuring fence, wall or hedge. If a street right-of-way separates the residential zone or use from the subject property, buffering but not screening shall be required.
3. **Lighting.** All lighting shall be directed away from any residential properties.
4. **Use and operation restrictions:**
  - A. No vehicle repairs or disassembling of vehicles other than routine maintenance such as changing lubricants and coolant, replacement of small parts, or changing tires shall be conducted outside of a building.
  - B. No merchandise shall be stored outside a building or underground structure.
  - C. No rental recreational vehicles or moving trucks shall be parked or stored except on side or rear yards not abutting a residential zoning district and shall be no closer than 20 feet to any street right-of-way.
  - D. No inoperative vehicles or used vehicle parts shall be stored outside a building for any period longer than 72 hours.
  - E. The lot shall be paved with a concrete or asphalt hard surface. Pavement shall be graded so that all storm water is collected on the site and carried by pipes to a public storm drainage facility. Storm water shall not run across sidewalks or down driveways into streets. All on-site storm drainage shall be collected and treated prior to discharge to a public storm facility to the specifications of the City Engineer.

**18.12.145 Grading.** Grading within twenty-five (25) feet of a property line shall not change the existing slopes by more than ten (10) percent within a tree root zone of an identified significant grove or tree, or an identified historic tree located on an abutting property unless evidence provided by a certified arborist supports additional grading that will not harm the subject grove or tree. For the purpose of this standard, the tree root zone extends the same distance from a tree trunk as the tree canopy. When grading of a site within twenty-five feet of a property line within or abutting any residentially zoned property, the on-site surface contours shall observe the following:

1. 0 to 5 feet from property line: Maximum of two-foot (2') slope differential from the existing or finished slope of the abutting property, whichever is applicable.
2. More than 5 feet and up to and including 10 feet from property line: Maximum of four-foot (4')

slope differential from the existing or finished slope of the abutting property, whichever is applicable.

3. More than 10 feet and up to and including 15 feet from property line: Maximum of six-foot (6') slope differential from the existing or finished slope of the abutting property, whichever is applicable.
4. More than 15 feet and up to and including 20 feet from property line: Maximum of eight-foot (8') slope differential from the existing or finished slope of the abutting property, whichever is applicable.
5. More than 20 feet and up to and including 25 feet from property line: Maximum of ten-foot (10') slope differential from the existing or finished slope of the abutting property, whichever is applicable.

**18.12.150 Height Regulations.** The height limitations contained in this Ordinance do not apply to normal appurtenances placed on or extending above the roof level, such as spires, belfries, cupolas, chimneys, ventilators, elevator housing, or other structures, and antennas, except antennas for wireless communication facilities; provided, however, that no structure shall be erected which fails to comply with any applicable state or federal law or regulation.

**18.12.155 Home Occupations.** The home occupation provisions recognize the needs of many persons who are engaged in small scale business ventures or personal hobbies, whether conducted for profit or not, which could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full scale enterprise. A home occupation shall be allowed as a permitted accessory use to a residence provided that all of the following conditions are met:

1. The use is carried on only by members of the family residing on the premises and not more than one outside employee or volunteer.
2. 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.
3. The home occupation shall be conducted entirely within the dwelling or any attached garage or within an unattached enclosed accessory building.
4. 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.
5. No alteration to or use of the premises shall be made such as to reduce the number or required on-site parking spaces.
6. One window or wall sign is allowed, not larger than 12 inches by 18 inches.
7. 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.
8. There is no visible outside storage of materials other than plant materials.
9. 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.
10. There is not excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.

11. All visits by suppliers or customers shall occur between the hours of 8 a.m. and 6 p.m.
12. 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.
13. 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.
14. The residence shall not be used as headquarters or main office for assembly or dispatch of employees to other locations.
15. 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.
16. Home occupations conducted as a for-profit business shall obtain business licenses in accordance with Silverton Municipal Code Chapter 5, 24.

**18.12.155.010 Prohibited Uses.** The following uses are prohibited as home occupations:

1. Auto body repair and painting.
2. Ongoing mechanical repair conducted outside of an entirely enclosed building.
3. 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.
4. Junk and salvage operations.
5. Storage and/or sale of fireworks in quantities judged by the Fire Chief of the Silverton Fire District to be dangerous.

**18.12.155.020 Initiation of Complaints.** Complaints may be originated by the City of Silverton or the public. Complaints from the public shall clearly state the objection to the Home Occupation based on the standards listed above.

**18.12.155.030 Review Procedures.** 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 terminated, or brought into compliance with the standards.

**18.12.155.080 Time to Remedy Infraction After Notice.** 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 previously listed, if the Community Development Director determines that the alleged infraction presents an immediate danger to the public health, safety or welfare, or than 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. If, in such cases the Community Development Director is unable to serve a notice of infraction on the respondent or, if after such service the respondent refuse 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.

#### **18.12.160 Indoor Entertainment and Recreation.**

1. Limited uses in Commercial Business zoning district: Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
2. Limited uses in Industrial Park zoning district: Exercise and health clubs or gyms are permitted through Design Review. Convention centers, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.
3. Limited uses in Limited Industrial zoning district: Indoor firing ranges or gun clubs, pool halls, paint gun, fairgrounds, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.
4. Limited uses in Heavy Industrial zoning district: Indoor firing ranges or gun clubs, pool halls, paint gun, motor racetrack, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.

#### **18.12.165 Kennels, Riding Academies, and Public Stables**

1. The minimum lot area shall be one (1) acre per horse (includes ponies, mules, donkeys, and other animals used for riding). The following minimum setbacks shall be provided:
  - A. Stables, corrals, pastures, exercise areas, feed, and bedding shall be located fifty (50) feet from any property line or public right-of-way and two hundred (200) feet from any adjacent residence or swimming pool.
  - B. Manure piles shall not be stored or accumulated on land that is within two hundred and fifty (250) feet of a property line.
  - C. Corrals, exercise areas, manure piles are prohibited in areas with slopes greater than ten (10) percent.
2. Kennels, riding academies, and public stables shall provide automobile and truck ingress and egress and shall also provide parking and loading spaces, so designed as to minimize traffic hazards and congestion.

#### **18.12.170 Keeping of Livestock**

1. The keeping of livestock for more than 72 hours shall be subject to the following restrictions:
  - A. For poultry, fowl including domestic and game birds raised for meat, eggs, breeding, or other purposes, and rabbits, not more than two animals on any lot less than 7,000 square feet in areas; for each additional animal there shall be an additional 3,000 square feet of lot area.
  - B. For horses, cows, sheep, and goats, one-half acre of open yard area shall be provided for the first animal with one acre provided for each additional animal over the age of six months.
  - C. Persons desiring to keep more animals than permitted by this Section may do so with approval of the City Manager only when written approval is obtained from the owners of all improved property contiguous to the applicant(s) and which is within 200 feet of any fence, hutch, or pen containing the animals.

D. Permission granted by the City Manager is revocable by the City Council.

2. **Animal Containment.** All animals covered by this Section shall be contained entirely on private property under the control of the owner(s) of such animals and in accordance with the following additional provision:

- A. All poultry, fowl, and rabbits shall be contained within hutches, fences, or pens inaccessible to other predatory animals and set back a minimum of 10 feet from adjoining property lines and 20 feet from any public right-of-way.
- B. Horses, cows, goats, and sheep, shall be contained within fences at least four (4) feet in height, but not more than six (6) feet in height. The fence shall be adequate to contain the animal(s) and shall be maintained in good repair.
- C. No animal described in this Section shall be contained by means of tethering, hobbling, or by electric or barbwire fences.

3. **Miscellaneous Provisions.**

- A. Pot bellied pigs and pygmy horses shall be regulated in the same manner as required of dogs per Silverton Municipal Code Chapter 8.05.
- B. The keeping of swine, except as provided for in Section 18.12.170.3A, is prohibited within the City Limits.

**18.12.175 Manufactured Homes on Individual Lots.** Manufactured homes are permitted on individual lots in all Residential Districts, except RM-H, if they meet the standards listed in Section 18.12.180.010 and the approval criteria listed in Section 18.12.180.020 and all other provisions of the Development Code for site-built dwellings. They are not allowed within any National Register Historic District or on residential land immediately adjacent to a historic landmark.

**18.12.175.010 Standards for Manufactured Homes on Individual Lots.**

- 1. It shall be a new multi-sectional unit or a unit not more than three years old and encloses a space of not less than 1,000 square feet.
- 2. The roof pitch shall be a minimum of nominal 3/12.
- 3. It will be placed on a permanent foundation. All load bearing foundations, supports, and enclosures shall be installed in conformance with the state regulations and with the manufacturer's installation specifications. Permitted enclosure materials are concrete, concrete block, or other materials approved by the Building Official.
- 4. Wheels, axles, and hitch mechanisms will be removed prior to occupancy.
- 5. Utilities will be connected in accordance with state requirements and the manufacturer's specifications.
- 6. It bears an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code and, at the time of placement meets applicable building codes.
- 7. Have a garage or carport for at least one vehicle located on the same lot.
- 8. Vertical rolled goods siding is not allowed.
- 9. Have an exterior thermal envelope meeting performance standards that reduce heat loss to levels equivalent to the performance standards required of single-family dwellings



constructed under the State building code as defined in ORS 455.010. Evidence demonstrating that the manufactured home meets "Super Good Cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope requirement. Additional evidence shall not be required.

**18.12.175.020 Review Criteria.** In order to be approved, the manufactured home to be placed on an individual lot must be found to have design compatibility with other single-family dwellings in the "review area," which is the area within 200 feet of the subject lot or parcel or the nearest five dwellings. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:

1. Roofing shall be similar in color, material, and appearance to the roofing material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the review area.
2. Exterior siding shall be similar in color, material, and appearance to the exterior siding material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the review area.
3. The manufactured home shall be placed on an excavated and back-filled foundation (e.g. pit set) and enclosed with a perimeter enclosure, which must be similar in appearance to foundations or enclosures in the review area.
4. A garage is required if more than 50% of the homes in the review area have a garage. If less than 50% of the homes in the review area have a garage, then a carport or garage is required. The garage or carport shall be of like materials and color as the home. The garage or carport will be required to be attached if other dwellings in the review area have attached garages.
5. The manufactured home shall comply with the applicable standards of Article 6, Special Purpose Districts and the following home orientation standards:
  - A. At least one main entrance of the home shall either:
    - (1) Face the street
    - (2) Be at an angle of up to 45 degrees from the street; or
    - (3) Open onto a covered porch. The porch must:
      - (i) Be at least 25 square feet in area;
      - (ii) Have at least one entrance facing the street.

**18.12.180 Manufacturing and Production.** The environmental performance standards of Article 7 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval. Manufacturing uses located in the Commercial Business zoning district must have a retail storefront and sell their products to the public on site.

**18.12.185 Mobile Food Vendors.** Mobile food vendors (see Temporary Use - Movable Structures and Vehicles) shall meet the following use and development standards:

1. "Mobile Food Vendor" means any kiosk, shed, shelter, trailer, vehicle, wagon, or other similar devices which is used for the purpose of preparing, processing, or converting food for immediate consumption as a drive-in, drive-through, curbside, or walk-up service that remains in or on any one site or tax lot for less than a continuous 24 hours.

2. The use is allowed only in the Commercial Business, Industrial Park, Limited and General Industrial zoning districts unless meeting the requirements listed for the "Temporary Use - Movable Structures and Vehicles.
3. The use shall be limited to the preparation and/or sale of food and beverages from a vehicle, trailer or temporary structure. Temporary structures shall be as defined and regulated by the State Building Code.
4. The use shall not be conducted within public rights-of-way unless a special permit is issued by the City.
5. The use shall be conducted on private property only with the written consent of the property owner.
6. Business operations shall be conducted between the hours of 7:00 a.m. and 10:00 p.m.
7. The use shall not block driveways, entrances or parking aisles.
8. The use shall conform to all setback standards for the zoning district where it is located, including clear vision areas.
9. Signs associated with the use shall be limited to six (6) square feet.
10. A trash receptacle shall be located within ten (10) feet of the temporary unit.
11. The exterior length and width dimensions of the temporary units, when multiplied, shall enclose no more than 128 square feet.
12. The operator of the use shall possess valid County certification of compliance with health and sanitation standards.
13. The base of operations for mobile food service units shall be from commercial or industrial zones. Use of site in residential zones for the preparation, maintenance, or storage area for mobile food service units is prohibited.
14. A business license shall be required pursuant to Chapter 5.14 of the Silverton Municipal Code. The applicant shall submit a site plan drawn to scale to confirm compliance with this Section.

**18.12.190 Motels/Hotels in Public Amusement Zoning District.**

1. **Setbacks.** No occupied accessory building to a motel/hotel shall be located within 100 feet of any residential property line. Tennis courts, and similar sports courts or fields shall be set back 25 feet from all abutting residential zones and uses. Swimming pools shall be set back 50 feet from all abutting residential zones and uses. One story Motel/Hotel buildings shall be setback a minimum of thirty (30) feet from any property line. Two story Motel/Hotel buildings shall be setback a minimum of fifty (50) feet from any property line. Hotel buildings exceeding two stories in height shall be setback from adjoining property lines an additional 1 foot per 2 feet of building height over 30 feet.
2. **Parking.** No access drives, off-street parking or loading areas shall be permitted within fifteen (15) feet of any interior property line and nor within thirty (30) feet adjacent to a public street right-of-way.
3. **Lighting.** Outdoor lighting shall be directed away from residential properties and/or uses and adjacent streets. The issue of "dark skies" as it relates to the lighting plan for the proposed development must be addressed. Caps shall be installed on top of the lights to minimize upward glare.
4. **Screening and Buffering.** Buffer yards are not required along any portion of a public right-of-

way or private street or access way but are intended to eliminate potential conflicts caused by nuisances such as dirt, litter, noise, glare of lights, signs, visual impacts of building or parking areas, and differences in intensity of uses. Parking areas shall be screened and buffered from adjacent residential uses by a minimum 6-foot high sight-obscuring fence, wall or hedge, except for yards adjacent to a public or private street or private access way which shall be screened by a minimum 30-inch high landscaped berm, wall or hedge.

A. For the purpose of screening, chain-link fencing with slats is prohibited. The perimeter of the motel/hotel site adjacent to residentially zoned property shall be surrounded by a 6-foot high sight-obscuring fence, wall or hedge meeting one of the following standards:

- (1) A concrete or masonry fencing may be replaced, foot-for-foot of height, by an earth berm (i.e., a 6-foot high fence replaced by a 2-foot berm with a 4-foot high fence, wall, or hedge); or
- (2) A concrete or masonry fencing may be replaced by a 35-foot wide buffer area with a six (6) foot high berm at a 3:1 slope with a five (5) to six (6) foot high chain link fence; or
- (3) One row of evergreen shrubs which will grow to form a continuous hedge at least four (4) feet in height within two years of planting and which shall be maintained at a minimum height of six feet.

B. Minimum plant material for buffer areas shall consist of one deciduous tree, a minimum of one and one-half (1 ½") inch caliper and ten (10) feet in height, not more than 30 feet on center or one evergreen tree, a minimum of six (6) feet in height and fully branched at the time of planting, not more than 15 feet on center and 5 five-gallon shrubs, or 10 one-gallon shrubs, per 1,000 square feet of buffer area. Lawn, low-growing evergreen shrubs, or evergreen ground cover shall be provided for the remaining area.

5. **Access Roads.** One-way access roads shall have a minimum improved width of 20 feet. Two-way access roads shall have a minimum improved width of at least 24 feet. If parallel parking is to be allowed an additional 10 feet of improved width is required along the side where parking is allowed.

6. **Concealment of Heating, Ventilation, and Air Conditioning (HVAC) Equipment.** All HVAC equipment shall be concealed from view. Where possible, such concealment should be accomplished using the architectural elements of the building(s) (i.e., roof forms, parapets, wing walls, alcoves, etc.). Free standing wall or fences may also serve as sight-obscuring concealment devices. For the purpose of concealing equipment, chain-link fencing, with or without slats, is prohibited.

7. **Outdoor recreation facilities.** No outdoor recreation facilities shall be used between the hours of 10:00 p.m. and 8:00 a.m. unless approved as part of a Conditional Use approval.

**18.12.195 Nursery Schools, Day, or Child Care Facilities.** Nursery schools and day or child care facilities which provide care for more than 16 children shall provide and thereafter maintain outdoor play areas with a minimum area of 100 square feet for each five children or fraction thereof enrolled in the facility. The Planning Director may approve a reduction of this requirement if the facility cares only for infants up to 6 months in age. In all districts, a fence of at least five (5) feet but not more than eight (8) feet in height shall be provided separating the outdoor play area from abutting lots.

Facilities licensed for 40 or more children shall be required to have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

If Conditional Use approval is required, in addition to that normally required for submittal for a

Conditional Use application, shall also be supplied:

1. The maximum number of children the facility is proposed to be licensed to care for;
2. Ages of the children to be cared for;
3. List of any exceptions to the rules governing standards for the day care facilities that the applicant will be applying through the State of Oregon Children's Services Divisions.

**18.12.200 Nursing Home Facilities and Assisted Living Facilities.** Nursing home facilities shall meet the following use and development standards:

1. **Buffering and Screening.** Parking areas shall be screened from adjacent uses by a minimum 6-foot high sight-obscuring fence, wall or hedge in conformance with Section 18.07.500.040, except for the front yard which shall be screened from the street by a minimum 30-inch high landscaped berm, wall or hedge. Buffering shall be provided in accordance with Section 18.07.500.030.
2. **Yards.** Front yards: 20 feet; Side Yards: 20 feet; Rear Yards: Minimum required in applicable zoning district.
3. **Off-street Parking.** No off-street parking or loading area shall be permitted within six (6) feet of the required side or rear yard nor within 10 feet of the required front yard.
4. **Landscaping.** All lot area not lawfully developed for building, structures, parking, loading or driveways shall be landscaped in conformance with Section 18.07.300(2).
5. **Lighting.** Outdoor lighting shall be directed away from residential properties and/or uses and adjacent streets.

**18.12.205 Other Uses in Industrial Zoning Districts.** Permitted eating and drinking places shall not exceed 6,000 square feet of gross floor area in the industrial zones and banking institutions in the industrial zoning districts shall not exceed 3,500 square feet of gross floor area.

**18.12.210 Outside Display of Merchandise.** The outside display of merchandise shall be permitted provided the following standards are met:

1. All operations shall be conducted entirely within a building or within a yard fully enclosed by a sight-obscuring fence, wall, or hedge and materials shall not be stored higher than such fence, wall, or hedge.
2. Outside displayed merchandise shall be arranged in an orderly manner, be located within 3 feet of the building, maintain a 5' pedestrian access way, and be located outside of any required clear vision areas.
3. Outside displayed merchandise shall be located on private property or if in the Downtown Historic district, may be within the public right-of-way provided that a 5' wide, unobstructed direct pedestrian access way is provided.

**18.12.215 Park and Ride Facilities.** Approved off-street parking lots connected with a non-residential use may be used jointly as park and ride lots, if, by determination of the Community Development Director the park and ride use will not conflict with the parking needs of the site's principal use both in terms of traffic volume and hours of use, and as long as there are no specific conditions placed on the site by the approval authority which would preclude such use. Park and ride lots as principal uses are permitted in those zones which allow parking structures and surface parking lots.

**18.12.220 Poultry Farms.** In the A-R (Acreage Residential) zoning district, any building housing more than ten (10) poultry animals shall be located not less than 200 feet from every lot line. Odor, dust, noise, insects or drainage created or fostered by such use shall be controlled in a manner such that surrounding properties and uses are not adversely impacted.

**18.12.225 Projections into Required Yards.** The following structures may project into required yards, but may not project into a utility easement.

1. Paved terraces may project into required front, side or rear yards provided that no structures placed thereon shall violate other requirements of this Ordinance.
2. Unroofed landings and stairs may project into required front and rear yards a maximum distance of 10 feet.
3. Unroofed landings and stairs may project into required side yards a maximum distance of 2.5 feet for single story structures and 3.5 feet for two story structures.
4. Depressed Areas. In any district, open work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls, may be located in required yards, provided that such devices are not more than 3-1/2 feet in height.
5. The following building features may project into the required front yard and rear yards no more than ten feet and into the required interior yards no more than two feet:
  - A. Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways.)
  - B. Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height; structures under 30 inches are not subject to setback provisions).
  - C. Chimneys and fireplaces, provided they do not exceed eight feet in width.
  - D. Signs conforming to applicable ordinance requirements.

**18.12.230 Projections into Public Right-of-way.** Except as otherwise permitted:

1. Except as otherwise permitted, no person shall obstruct any public right-of-way or any portion thereof or place or cause to be placed therein or thereon anything whatsoever tending to obstruct or interfere with the full and free use of such public right-of-way or in a degree interfere with the normal flow of pedestrian or vehicular traffic.
2. Except as otherwise permitted, no person shall erect, construct, build, raise, place or maintain any post, pole, sign, wall, fence, tree, building structure or any other object in or upon any public right-of-way, except trees planted in planter strips.
3. Except as otherwise permitted, no person in charge of property shall allow anything prohibited by this section or which otherwise restricts the public use of a sidewalk or parking strip abutting such property to remain there.

**18.12.235 Public and Private Golf Courses and Membership Sports Clubs.** Public and private golf courses and membership sports and recreation clubs with or without golf courses shall meet the following use and development standards:

1. **Setbacks.** No building accessory to a golf course shall be located within 25 feet of any property line. Golf fairways, tennis courts, and similar sports courts or fields shall be set back 25 feet from all abutting residential or commercial zones and uses. Unenclosed swimming pools shall be set back 50 feet from all abutting residential and commercial zones and uses.

2. **Parking.** No off-street parking or loading area shall be permitted within ten (10) feet of the side and rear lot lines and twenty (20) feet if adjacent to a public street right-of-way.
3. **Screening and Buffering.** Parking areas shall be screened from adjacent uses by a minimum 6-foot high sight-obscuring fence, wall or hedge in conformance with Section 18.07.500.040, except for the front yard which shall be screened from the street by a minimum 30-inch high landscaped berm, wall or hedge. Buffering shall be provided in accordance with Section 18.07.500.030.
4. **Lighting.** Outdoor lighting shall be directed away from residential properties and/or uses and adjacent streets.

**18.12.240 Religious Organizations or Other Charitable Institutions in a Residential Zoning District.**

1. **Side and Rear Yards.** Minimum of thirty (30) feet in or abutting every residential zone or use.
2. **Landscaping.** All required yard areas adjacent to streets or property used or zoned for residential use not lawfully developed for buildings, structures, parking, loading or driveways shall be landscaped in accordance with Section 18.07.300(2).
3. **Off-Street Parking.** No off-street parking or access area shall be permitted within fifteen (15) feet of a residential use or zone.
4. **Street Access.** Unless permitted by the City, only one vehicle access driveway per street frontage shall be permitted in a residential zone, or on a local street in any other zone abutting a residential zone. Where a parking area is on property having frontage on a collector or arterial street, as designated on the Silverton Transportation Plan, access shall be limited to such collector or arterial unless alternate access is required by the City.
5. **Screening of Off-Street Parking.** Where any portion of an off-street parking area other than a garage is within 15 feet of a lot zoned or used for residential purposes, the perimeter of the parking area facing such residential zone or use shall be screened by a sight-obscuring fence, wall, or hedge.
6. **Other Related Uses.** Original conditional use approval for schools or churches includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school child care activities; kindergarten; fund raising activities; meeting facilities for clubs and organizations, other uses which are not operated primarily for the purpose of secular education, or school administration; secondary use of school facilities for non-profit events and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m. Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the conditional use process.

**18.12.245 Residence for Caretaker or Watchman.** One single-family residence for a caretaker, owner, operator, manager, or security guard is allowed for any industrial use for purposes of security and protection of the principal use.

**18.12.250 Residential Care or Group Care Facilities.** Residential Care or Group Care Facilities (6 or more residents) require a Site Plan review.

**18.12.255 Residential Care or Group Care Homes.** Residential Care Homes or Group Care homes or “residential homes” (as defined in ORS) that include five or fewer residents are permitted outright in any zone that allows single-family residences and are subject to the same standards as a

single family residence. All lot area not lawfully developed for building, structures, parking, loading or driveways shall be landscaped in conformance with Section 18.07.300(2).

**18.12.260 Residential Sales Offices.** Residential Sales offices shall meet the following use and development standards:

1. The office shall be located on a lot within a subdivision, planned unit development, or on a space within a manufactured home park containing at least 25 lots or spaces at least 5 of which are undeveloped or unoccupied.
2. The principal use of the office shall be the sale of lots or renting of spaces or the sale of dwellings or manufactured homes on lots or spaces within the development. A model home may be used as a temporary sales office.
3. The office shall have a finished exterior and the site shall be landscaped and kept clean and neat.
4. There shall only be one sign on the premises and said sign shall not exceed 24 square feet and shall be attached to the building or shall be pole mounted with the height of the sign not exceeding four feet.
5. The hours of operation shall not occur prior to 8:00 a.m. or later than 8:00 p.m.
6. The maximum length of the permit shall be for one (1) year for each phase of the subdivision. The office shall be removed upon completion of the development of the subdivision.

**18.12.265 Restaurants With Outdoor Eating Areas.** Outdoor eating areas shall be allowed for restaurants in all commercial zoning districts subject to the following:

1. Compliance with all other provisions of the City's Municipal Code.
2. Design Review and approval where the outdoor seating area includes seating for more than 8 patrons.
3. Where adjacent or abutting a residential use and/or zoning district, the outdoor activity shall only be allowed between the hours of 8:00 a.m. and 10:00 p.m.

**18.12.270 Retail Services.** A building or complex of buildings on the same lot having more than twenty-five (25) dwelling units or lodging rooms may include office, retail and service uses meeting the following use and development standards:

1. In addition to the residential and lodging uses permitted in the underlying zone, the following additional uses shall be permitted:
  - A. Apparel and accessory stores
  - B. Eating and drinking places
  - C. Personal services such as banking facilities, beauty and barber shops, newsstand, delicatessen, dining room, coffee shop, tea room, activity room, meeting room(s).

**18.12.275 Retail Sales and Services in the Residential Commercial, Residential Business, and Industrial Park Zoning Districts.** The only retail uses allowed in the Residential Commercial, Residential Business and Industrial Park zoning districts are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum building footprint. See Article One for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited.

**18.12.280 Scrap and Waste Material Establishments.** Scrap and waste materials

establishments shall meet the following use and development standards:

1. All outdoor operations shall be screened from adjacent streets and uses by a sight-obscuring fence, wall or hedge or by a landscaped berm on the top of which is at least eight (8) feet above the highest grade on either side thereof.
2. If conducted outside of an enclosed building, the following operations shall be conducted more than 300 feet away from any residential or public zoning district:
  - A. Shredding or baling of tires.
  - B. Compression, cutting or baling of scrap metal.
  - C. Cutting or baling of used lumber.
  - D. Breaking up of concrete or masonry other than the removal of mortar for the salvage of stone or brick masonry products.

**18.12.285 Self-Service Storage/Mini-Storage Warehouses.** Self-Serve Storage or Mini-storage warehouses in the C-3, C-2 and I-2 zoning districts are subject to the following standards:

1. Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50% of the parcel in the C-2 zoning districts. In the C-3 and I-2 zoning districts the parcels size shall be limited to a maximum of 4 acres.
2. Building setbacks in all zoning districts shall be as follows: front yards (yards adjacent to streets) - 25 feet, interior yards - 20 feet. No fencing is permitted in front yard setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in or adjacent to residential districts.
3. The minimum driveway width between buildings shall be 20 feet for one-way drives and 24 feet for two-way drives.
4. The maximum storage unit size in the C-2 zoning district shall be 500 square feet. The maximum storage unit size in the C-3 zoning district shall be 1,000 square feet.
5. All outdoor lighting shall be shielded to prevent reflection on adjacent properties.
6. Repair of autos, boats, motors and furniture, and the storage of flammable materials shall be prohibited on the premises and rental contracts shall so specify.
7. Outside storage of vehicles and boats is prohibited within this use category.
8. No other business activity other than the rental of storage units shall be conducted on the premises.

**18.12.290 Special Status for Single Family Residences in Commercial and Industrial Zoning Districts.** Notwithstanding the restrictions of any other provisions section of the Silverton Municipal Code (SMC), all single-family residential dwellings built before September, 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 Section 18.03.090.040(4), 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 single-family residences may only be established in accordance with the provisions in the applicable commercial and industrial zoning districts.



**18.12.295 Swimming Pools, Spas and Hot Tubs Safety Barriers.** 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.

**18.12.300 Temporary Use - Carnival or Circus.**

1. Permitted outright in the Commercial Business, Industrial Park, Limited Industrial, or General Industrial zoning districts or by Conditional Use in the Public Amusement and Recreation or Public and Private Educational Facilities zoning districts.
2. Signage shall not exceed sixty-four (64) square feet for each frontage and shall be limited to the premises of the activity.
3. A business license shall be required pursuant to Chapter 5.14 of the Silverton Municipal Code. The maximum length of the permit shall be thirty (30) days.
4. The following information shall be submitted with the application for a business license:
  - A. Documentation from the Marion County Health Department that adequate arrangements for temporary sanitary facilities have been made.
  - B. A cash bond for a minimum of twenty-five (25) dollars and not to exceed five thousand (5,000) dollars shall be posted or a signed contract with a disposal firm shall be required as part of the application for a temporary business license to insure that the premises will be cleared of all debris during and after the event.
  - C. A cash bond for a minimum of twenty-five (25) dollars and not to exceed five thousand (5,000) dollars shall be posted with the City to insure the repair of any damage resulting to any public right-of-way as a result of the event.
5. No structure or equipment shall be placed within two hundred (200) feet of any abutting residential dwelling or zoning district.
6. No permanent or temporary lighting or electrical connections shall be installed without an electrical permit and inspections.
7. All uses and hours of operation shall be confined to those specified in the permit.
8. Outdoor lighting shall be directed away from residential properties and/or uses and adjacent streets.
9. The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within ten (10) days after the closing of the event.
10. Public parking for the exclusive use of the event shall be provided, and a stabilized drive to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawful parking.
11. Traffic control arrangements required by the City of Silverton Police Department in the vicinity of the major intersections shall be arranged by the applicant.

**18.12.305 Temporary Use – Manufactured Home or Recreational Vehicle.** When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a manufactured home or recreational vehicle located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations:

Required water and sanitary sewer facilities must be provided.

1. Maximum length of permit shall be twelve (12) months but the Planning Commission may extend the permit for a period or periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least fifteen (15) days prior to the expiration of the original permit. The temporary use may not exceed a period of two years.
2. The manufactured home shall be removed from the property or the recreational vehicle shall cease being used upon the issuance of any occupancy permit for the new or rehabilitated residence. At the time of issuance of the Temporary Use Permit, the applicant shall be required to provide express consent and authorization to the City to remove the temporary shelter at the owner's expense upon termination of the permit.

**18.12.310 Temporary Use – Movable Structures and Vehicles.** The following temporary uses of movable structures or vehicles are allowed:

1. Those regularly used or occupied on January 1, 2007, or in lawful regular use and occupancy on property at the time of its annexation into the city; or
2. Those lawfully in use on licensed Christmas Tree or Fireworks Sales lots, if they are entirely self contained or there are lawful sanitary facilities on the lot available to the occupants; or
3. Those occupied by the members of an established organization, for temporary use, in a convention or other like activity where the organization has received a permit from the city on application submitted not less than two weeks prior to the use. No permit shall be granted for a period exceeding four (4) days, or be renewed beyond four days, without the further approval of the City. Named members of the organization, specified on the permit application, shall be responsible for policing the area used and for correcting any violation of state or city health or safety regulations. The permit shall also specify the maximum number of movable structures or vehicles and the arrangement thereof. Violation of any condition of the permit shall constitute grounds for revocation; or
4. Those utilized temporarily as part of a city or school district sponsored recreation program, such as swim meets and softball tournaments, where the organization has received a permit from the City of Silverton. The City will issue such permit, if it finds that the site is large enough that sanitary facilities and essential services will be adequate, and that no damage to park facilities shall occur; and that such use is essential to the success of the event or tournament. No permit shall be granted for a period exceeding three (3) days nor shall such permits be renewed beyond three days, without the approval of the City of Silverton. Members of the organization specified on the permit shall be responsible for policing the area used and for correcting any violation of state or city health or safety regulations. The permit shall also specify the maximum number of movable structures or vehicles and the arrangement thereof. Violation of any condition of the permit shall constitute grounds for revocation; or
5. Those for temporary use by governmental agencies. As used herein, the term temporary use shall mean for a period not to exceed three calendar months. Nothing contained in this section is intended to authorize the placement or use of movable structures or vehicles without all necessary permits first being obtained; or

6. Contractors' Offices and Construction Equipment Sheds for temporary use at a construction site as described in this Article; or
7. Temporary business quarters during construction of permanent offices; or
8. Mobile Food vendors as described in this Article.

**18.12.315 Temporary Use - Seasonal Sales.** The following shall apply to seasonal sales which are limited to:

1. **Fireworks Sales.** The annual season for fireworks sales shall commence no sooner than June 23 and continue no longer than July 5.
  - A. Signage shall not exceed thirty-two (32) square feet for each frontage and shall be limited to the premises of the sale site. No signs shall be placed in the public right-of-way.
  - B. Stands are allowed only in commercial or industrial zoning districts.
  - C. A business license shall be required pursuant to Chapter 5.14 of the Silverton Municipal Code.
  - D. Outdoor lighting shall be directed away from residential properties and/or uses and adjacent streets.
  - E. All signs and stands shall be removed from the lot by July 7.
2. **Christmas Tree Sales.** The annual season for Christmas tree sales shall commence no sooner than the day after Thanksgiving and shall continue no longer than December 28.
  - A. Signage shall not exceed thirty-two square feet for each frontage and shall be limited to the premises of the sale site.
  - B. Signage within the City Limits for sales lots located outside the City Limits shall be limited to no more than two signs, the dimensions of which shall not exceed twelve square feet each. The placing of signs on privately owned property shall be by permission. No signs shall be placed in the public right-of-way.
  - C. Sales Lots are allowed only in commercial or industrial zoning districts.
  - D. Outdoor lighting shall be directed away from residential properties and/or uses and adjacent streets.
  - E. A business license shall be required pursuant to Chapter 5.14 of the Silverton Municipal Code.
  - F. All trees shall be removed from the lot by December 28.

**18.12.320 Townhouse Dwellings.** The following standards apply to the development of townhouse (rowhouse) dwellings within all residential zoning districts. In addition to the development standards listed in the zoning district, the following standards shall apply:

1. Townhouse development shall be identified as such on both the tentative and final plats for the project. Except when the tentative plat is in conjunction with a Planned Unit Development, the tentative plat shall be accepted for review only after the project has received approval from the Planning Commission. At the time of recording of the final plat, Covenants, Conditions, and Restrictions (CC&Rs) must have been approved by the city and recorded: The CC&Rs shall provide:
  - A. That the owners are jointly and severally responsible for the continued maintenance and repair of the common elements of the development, including common portions of the buildings, such as foundations, roofs, common walls, etc., and share equitably in the cost of such upkeep.

- B. An association for the purpose of governing the operation of the common interests.
- C. Maintenance access easements on individual lots where necessary for the purpose of property maintenance and repair.
- D. The specific rights of, or limitations on, individual owners to modify any portion of a building or lot, including the provision that no common elements be modified without the consent of the association.

**18.12.325 Utilities.**

- 1. The erection, construction, alteration, or maintenance by public utility districts or municipal or other governmental agencies of any electrical, gas, steam, or water transmission systems, collection, communication, supply or disposal system, including poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings, shall be permitted in any zoning district.
- 2. Private utility services to all structures, residential, commercial, and industrial, on private property shall be placed underground and meet the standards specified by the City Engineer. This requirement may be waived where the Community Development Director and City Engineer determine that the requirement is impractical or would cause undue hardship.

**18.12.330 Veterinary Services for Animal Specialties.** Veterinary services for animal specialties shall meet the following use and development standards:

- 1 Shall not be located within 100 feet of a lot in any residential district unless all activities are within a fully enclosed and sound proof building.
- 2 Outside areas for dogs and other animals (e.g. dog runs, corrals, pens) shall require a minimum 100 foot set back from a residential district and shall be reviewed by Conditional Use Permit review
- 3 Conditional use permit review shall show:
  - a. Adequate measures and control to prevent offensive noise and odor.
  - b. Hours of operation such as a limitation to only operate between 8 a.m. to 8 p.m. with an attendant present.
- 4 No incineration of refuse shall be permitted on the premises.

**18.12.335 Waste and Recycling Related Uses.**

- 1. Limited uses in the Commercial Business zoning district: Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a Conditional Use review.
- 2. Limited uses in the Industrial Park zoning district: Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Design Review. Salvage yards, junkyards and refuse transfer stations are not permitted. All other material and recycling operations are considered through a Conditional Use review.
- 3. Limited uses in General Industrial zoning district: Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Design Review. Salvage yards, junkyards, sanitary landfills and refuse transfer stations require a Conditional Use review.

### **18.12.340 Wireless Communication Facilities.**

1. Communication Tower and Pole Placement Standards: The maximum height of any new wireless communication facility, antenna collocation or both shall conform to the maximum height standards specified for the zoning district in which it is located. Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground are not permitted in front yard setbacks and must meet the standards:
  - A. No new tower shall be permitted unless the applicant demonstrates that co-location is not feasible on existing towers.
  - B. New towers or facilities 50 feet or more in height must provide for future co-location of other telecommunications providers.
  - C. The height of any type of wireless communication facility shall include the support structure and any attached antennas. A lightning rod that is up to and including ten (10) feet tall and any required lighting by the Federal Aviation Administration (FAA) shall not be included within the calculation of the maximum height.
  - D. Monopole construction is allowed. Lattice tower support structures, guyed tower support structures and "Top Hat" antenna arrays are prohibited. Collocation of new wireless communications facilities on existing lattice tower support structures or guyed tower support structures is allowed.
  - E. On new towers, davit arms extending a maximum of five (5) feet out from the connection with the tower may be used to support individual antennas.
  - F. The attachment of a wireless communications facility and associated equipment to any tree is prohibited.
  - G. The applicant shall consider the following locations as the preferred order of location of a proposed communication facility:
    - (1) Existing broadcasting or communications facilities;
    - (2) Public structures such as water reservoirs, utility structures, fire stations, bridges, and other public buildings within all zoning districts not utilized primarily for residential uses;
    - (3) Property zoned Commercial Business, Industrial Park, Light Industrial, or Heavy Industrial.
  - H. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
  - I. Towers shall not be located between the primary structure on a site and a public right-of-way.
  - J. Towers should be located in an area where they are unobtrusive and do not substantially detract from aesthetics or neighborhood character, due to either location, nature of surrounding uses, or to lack of visibility caused by natural growth or other factors.
  - K. Tower setback shall be at least the height of the tower from public rights-of-way.
  - L. Tower guys for existing towers and accessory structures shall satisfy the minimum setback requirements of the underlying zoning district. Vegetative screening shall be provided around any accessory building prescribed by Section 18.07.500.040.
  - M. The installation of light fixtures to a wireless communications tower is prohibited except for lighting required by the Federal Aviation Administration (FAA) or the Oregon Department of

Aviation (ODA). A maximum of one (1) motion-sensitive or permanently shielded light fixture attached at or near the entrance door to the at-grade equipment shelter shall be allowed.

- N. For new wireless communication facility towers and/or proposed collocation of wireless communication facilities on existing towers one (1) non-illuminated sign having a maximum sign face of three (3) square feet and comprised of a white background with black lettering shall be provided and shall be permanently affixed to the entrance gate of the required fence. The fence shall identify the name of the wireless communication facility provider(s) and shall specify an emergency contact number. For proposed collocation actions, the applicant for collocation shall be responsible for the production and installation of a required sign for the existing wireless communications facility provider(s) if no already present at the site.
  - O. A sight-obscuring fence that is a minimum of six (6) feet high shall prohibit public access to wireless communication towers, or shall screen all at-grade equipment shelters or both. Sight-obscuring fencing shall consist of chain link with slats, vinyl, wood, masonry or brick. At-grade equipment shelters shall be screened with evergreen shrubs installed immediately outside of the required fencing on all sides. The portion of the fenced enclosure used as an access gate shall feature wooden slats or other sight-obscuring material in lieu of landscaping. In addition, the approval authority may require the planting of evergreen trees when a new wireless communications tower is located on property within or immediately abutting residential zoning districts.
  - P. All towers and associated facilities shall be removed within six month of the cessation of operations at the site unless the Community Development Director approves a time extension. In the event that a tower is not removed within six months and an extension is not approved, the City may remove the telecommunications facilities and assess the costs of removal against the owner and property.
2. Placement of antennas, satellite dish antennas, and monopoles less than 35 feet in height when measured from the ground; or when located on a rooftop, within 15 feet of a rooftop, is permitted outright in all districts subject to the following standards:
- A. Antennas or antenna supports shall not be located within any front yard setback area or within any required landscape buffer yard.
  - B. Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
  - C. Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
  - D. Antennas more than 35 feet in height and not in conformance with the above may be considered by Conditional Use review.
  - E. See Section 18.12.335(1) for additional applicable design standards for all telecommunications facilities.
3. In addition to compliance with the regulations in this Section, the applicant shall be responsible for the identification of and compliance with all applicable federal and state regulations pertaining to Wireless Communication Facilities
4. Permanent alterations to previously City reviewed and approved Wireless Communication Facilities resulting from the adoption of new or updated federal and/or state regulations shall be reviewed through the City Design Review process prior to the making of such alterations, unless local review and approval is exempted by federal or state statute.

5. All of the following are exempt from the regulations contained in this Section:
  - A. Emergency or routine repairs, or maintenance of existing facilities and of transmitters, antennas or other components of existing facilities that do not increase the size, footprint, or bulk of such facilities, and which otherwise comply with City, state and federal regulations.
  - B. Federally-authorized industrial, scientific and medical equipment operating at frequencies designated for that purpose by the Federal Communications Commission (FCC) in Part 18 of Title 47 of the Code of Federal Regulations (CFR).
  - C. Amateur radio facility antennas, or a combination of antennas and support structures seventy (70) feet or less in height as measured from the base of the support structure consistent with ORS 221.295. This includes antennas attached to towers capable of telescoping or otherwise being extended by mechanical device to a height greater than 70 feet so long as the amateur radio facility is capable of being lowered to 70 feet or less. Facilities constructed prior to September 2006, are not subject to these regulations.
  - D. Military and civilian radar equipment, operating within the regulated frequency ranges, for the purpose of national, state or local defense or aircraft safety.
  - E. Antennas and associated equipment completely located within the interior of an existing or proposed structure with no associated exterior equipment, the purpose of which is to enhance or facilitate communication functions within the structure or other structures on the site.
  - F. Satellite antennas up to and including two (2) meters in diameter in commercial and industrial zoning districts.
  - G. Direct-to-home satellite service and satellite antennas up to and including (1) meter in diameter located in residential zoning districts.
  - H. AM or FM radio broadcast towers and equipment, or television broadcast towers and equipment as regulated by the Federal Communication (FCC).

**18.12.345 Zero Side Yard Dwelling Units.** Any residential structure or accessory building may be located on the property line where there are no openings or windows in the lot line wall. Additionally, zero side yard dwelling units shall meet the following use and development standards

**1. Permitted Development.**

- A. Unattached dwelling units, with one dwelling unit per lot, may be built contiguous with one but not both of the side lots line when a 10-foot setback for a single story structure or a 14-foot for a two story structure is provided. A maintenance easement shall be recorded on the adjoining property deed or plat. This easement is not revocable without City approval.
- B. In Single Family Residential zoning districts, attached dwellings, with one dwelling per lot, may be built contiguous with both side lots lines provided not more than three dwelling units are attached.

In other zones, attached dwellings, with one dwelling unit per lot, may be built contiguous with both side lot lines provided not more than six dwelling units are attached.

2. **Yards Abutting A Street.** The requirements in the applicable zone for yards abutting a street are not relieved by the section, and shall be met.
3. **Interior Side Yard.** Any exterior wall or portion thereof which faces but is not contiguous to a side lot line shall meet all applicable interior side yard requirements under the zoning district. Otherwise, the interior side yard requirements of the zoning district shall not apply.

4. **Building Separation.** Buildings on abutting lots but not attached to each other shall be separated by a distance of at least ten (10) feet for single story buildings and fourteen (14) feet for two-story structures.
5. **Maintenance Easement.** As a condition of issuance of a building permit for a dwelling having a wall contiguous to a lot line, the applicant shall furnish an easement from the owner of the lot abutting the wall providing for reasonable ingress, egress and use of the adjacent lot for the purpose of maintaining, repairing and replacing the premises. Such easement shall be appurtenant to the lot on which the dwelling is located as the dominant tenement, and shall be recorded with the County Recorder prior to the issuance of the building permit.
6. **Adjustment of Lot Line.** Notwithstanding any provision of the zoning district to the contrary, the owner or owners of abutting lots either of which has thereon a zero side yard dwelling unit, may by appropriate instruments, adjust the common side lot line by no more than eighteen (18) inches to make the wall intended to be contiguous with the common lot line actually contiguous. This adjustment shall move the line as a whole; and may, without the necessity of an adjustment and without making the premises nonconforming, reduce the required area or frontage of the lot, increase the allowable lot coverage, or any combination thereof necessary to make the side lot line and building contiguous within the limits of this subsection. The instrument accomplishing this revision, and a survey by a registered land surveyor evidencing the need for a description of such revision, shall be revised and approved by the Planning Director prior to the recording of the instrument, otherwise the exemption granted by this subsection shall not apply.
7. **Accessory Buildings.** The provisions of this section apply to accessory as well as main buildings.



# **CHAPTER 18- ARTICLE 13 HISTORIC LANDMARKS**

- 18.13.005 Purpose
- 18.13.010 Definitions
- 18.13.015 Historic Landmark Commission
- 18.13.020 Powers and Duties
- 18.13.025 Historic Resources Inventory
- 18.13.030 Designated Landmarks Register
- 18.13.035 Historic Design Review
- 18.13.040 Historic Relocations and Demolitions
- 18.13.045 Exclusions
- 18.13.050 Appeals
- 18.13.055 Other Provisions
- 18.13.060 Enforcement and Penalties
- 18.13.065 Emergency Clause

**CITY OF SILVERTON  
ORDINANCE NO. 06-25**

**AN ORDINANCE AMENDING SILVERTON MUNICIPAL CODE, BY RESCINDING CHAPTER 18.170 HISTORIC LANDMARKS AND CREATING A NEW ARTICLE 13: HISTORIC LANDMARKS, WHICH CREATES AN HISTORIC LANDMARK COMMISSION AND OTHER HISTORIC PRESERVATION PROVISIONS IN THE CITY OF SILVERTON, OREGON, DECLARING AN EMERGENCY AND STATING AN EFFECTIVE DATE.**

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

**TITLE 18 – ARTICLE 13**

**18.13.005 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.

**18.13.010 Definitions**

The following definitions apply to terms used in this ordinance. Terms not defined have their commonly construed meaning.

- A. Alteration: An addition, removal, or reconfiguration which significantly changes the character of an historic resource, including new construction in historic districts.
- B. 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.
- C. Demolition: The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.
- D. Designated Landmark: A property officially recognized by The City of Silverton, Marion County, as important in its history.
- E. 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.

- F. 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.
- G. 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.
- H. 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.
- I. Historic Resource of Statewide Significance: Buildings, structures, objects, sites, and districts which are listed on the National Register of Historic Places.
- J. Inventory of Historic Resources: The record of information about resources potentially significant in the history of the City of Silverton, Marion County.
- K. 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.

- L. Relocation: The removal of a resource from its historic context and placement in a different location.

### **18.13.015 Historic Landmark Commission**

- A. The Mayor and City Council shall appoint a five-member (5) Historic Landmark Commission to carry out the provisions of this ordinance. All members shall have a demonstrated interest, competence, or knowledge of historic preservation and to the extent possible, a majority shall meet the professional requirements in architecture, history, architectural history, or archaeology, as defined by the State Historic Preservation Office and the National Park Service.

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.

- B. The term of service for members shall be for three years.
- C. A simple majority of the seated members shall constitute a quorum to conduct official business.
- D. A Chair and Vice-chair shall be elected annually by and from the seated membership.
- E. The Commission shall meet at least twice a year, and as required to conduct business in a timely fashion. Notice of the meetings shall be in accordance with applicable state law. Minutes, applications, staff reports, findings, and decisions of the Commission shall be maintained as public records in accordance with applicable state law.
- F. The Commission shall be provided staff support by the Community Development Department.

### **18.13.020 Powers and Duties**

- A. The Commission may adopt and amend by-laws, subject to approval by the Silverton City Council, to regulate its internal operations.
- B. For purposes consistent with this ordinance and subject to the approval of the Silverton City Council, the Commission may seek, accept, and expend public appropriations; seek, accept, and expend grant and gift funds, cooperate with public and private entities, and employ clerical and expert assistance related to the preservation of significant historic resources.

- C. The Commission may undertake to inform the citizens of, and visitors to the City regarding the community's history and prehistory; promote research into its history and prehistory; collect and make available materials on the preservation of historic resources; provide information on state and federal preservation programs; document historic resources prior to their alteration, demolition, or relocation and archive that documentation; assist the owners of historic resources in securing funding for the preservation of their properties; and recommend public incentives and code amendments to the Silverton City Council.
- D. The Commission may develop and publish or adopt written and graphic guidelines and example materials or clarify the criteria in this ordinance and to assist applicants in developing complete and viable applications.
- E. Employing the procedures and criteria in Section 18.13.030 of this ordinance, the Commission shall periodically identify, evaluate, and re-evaluate the historic resources of the City and maintain an accurate Inventory of Historic Resources.
- F. Employing the procedures and criteria in Section VI of this ordinance, the Commission shall periodically revise the Designated Landmarks Register of the City by adding or deleting properties.
- G. Employing the procedures and criteria in Section 18.13.030 of this ordinance, 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.
- H. 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.
- I. Nothing in the above section shall conflict or supersede with the duties and responsibilities assigned to the Silverton Planning Commission.

#### **18.13.025 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.

### **18.13.030 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 Section 18.13.035 and 18.13.040 of this ordinance 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 schedule a public hearing pursuant to applicable state laws.
- D. In order to be included or maintained on the Designated Landmarks Register the Commission must find that the historic resource is over fifty 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, and archaeological features, that are included in the designation and subject to regulation under the provisions of this ordinance.

### **Section 18.13.035 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 the Silverton Municipal Code and does not involve the installation of a wall or fence;
  
- C. The following activities shall require staff level Historic Design Review:
  - 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.
  
- D. The following activities shall require Historic Design Review by the Historic Landmark Commission:

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.
  9. Signs greater than 15 square feet.
- E. The Landmark Commission shall establish standards for a complete application. At a minimum this shall include:
1. A completed application form.
  2. A description of the site (address, assessor's map and tax lot, or legal description).
  3. A written description of the project that describes the components of the project such as location, square footage, materials, construction techniques, colors, etc.
  4. A plan, architectural elevation, or other graphic material that visually shows the extents of the project.
  5. For those actions requiring staff review or review by the Landmark Commission, a mailing list of property owners within 500 feet of the entire contiguous site when a public hearing is required. The list will be compiled from the most recent property tax assessment role and shall be certified by a Title Company or the Marion County Assessor's Office as being accurate and complete as found on the most recent property tax assessment role.
  6. Other materials as needed.
- F. Upon acceptance of a complete application staff shall process the request or schedule a public hearing before the Landmark Commission pursuant to applicable state and local laws and ordinances.
- G. In cases requiring a public hearing, the Landmark Commission shall review and act upon such applications. The burden of proof lies with the applicant. Applications may be approved, approved with conditions, or denied. The City of



Silverton shall include any conditions imposed by the Landmark Commission in permits issued pursuant to this section.

H. 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.

#### **Section 18.13.040 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. 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.

#### **Section 18.13.045 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.

#### **Section 18.13.050 Appeals**

- A. Decisions of staff related to historic design review may be appealed to the Landmark Commission.
- B. Decisions of the Landmark Commission can be appealed to the Silverton City Council. Decisions of the Silverton City Council can be appealed to the Land Use Board of Appeals.
- C. Procedures for appeals to the Silverton City Council shall be the same as those for appeals of Planning Commission decisions.

### **Section 18.13.055 Other Provisions**

- A. There is no fee for designation of a historic resource as a Designated Landmark. Fees for other applications shall be determined by the Silverton City Council based on the cost of processing the application.
- B. The provisions of this ordinance shall not effect any citation, complaint, prosecution, or other proceeding pending at the time this ordinance is passed.
- C. Should any section, paragraph, sentence, or word of this ordinance be declared for any reason to be invalid, it is the intent of the Silverton City Council that it would have passed all other portions of this ordinance independent of the elimination of any portion as may be declared invalid.

### **Section 18.13.060 Enforcement and Penalties**

Any person violating any of the provisions of this chapter is subject to the general penalties provision of Silverton Municipal Code. A separate offense shall be deemed committed for each day a violation occurs.

### **Section 18.13.065 Emergency Clause**

The proposed amendments affect the public health, safety, and welfare of the City of Silverton and the citizens of Marion County, therefore, an emergency is declared to exist and this ordinance shall be in full force and effect from the date of its passage.

# Chapter 18.60

## RESIDENTIAL DISTRICT USES

Sections:

- [18.60.010](#) Intent.
- [18.60.020](#) Determination of uses.
- [18.60.030](#) Residential uses.
- [18.60.040](#) Residential facilities and similar uses.
- [18.60.050](#) Nonresidential uses.
- [18.60.060](#) Accessory uses.

### 18.60.010 Intent.

The intent of this chapter is to identify uses which:

- A. Are permitted subject to other applicable requirements;
- B. May be permitted after review by the planning commission; and
- C. Shall not be permitted within the different residential zones within the city limits. (Ord. 01-110 § 1, 2001; Ord. 00-105 § 2, 2000; Ord. 498 § 50.01, 1964)

### 18.60.020 Determination of uses.

A. The planning director shall have the authority to interpret questions pertaining to the uses allowed within the residential zone districts. Appeals of the planning director’s interpretation shall go to the planning commission.

B. The following tables list the various uses.

P – Permitted consistent with all other applicable requirements;

NP – Not permitted;

C – Conditional use approval by planning commission required;

SCU – Specific conditional use approval by planning commission required. (Ord. 01-110 § 1, 2001; Ord. 00-105 § 2, 2000; Ord. 498 § 50.02, 1964)

### 18.60.030 Residential uses.

Uses	R1	RL	RM	RH
A. Single-family dwelling.	P	P	P	P
B. Two-family dwelling on a lot greater than 8,000 sq. ft.	C	P	P	P
C. Two-family dwelling not on a lot greater than 8,000 sq. ft.	C	P	P	P
D. Zero side yard lot in condominium, common-wall or row-house.	C	P	P	P
E. Three or more dwelling units on same lot consistent with density provisions.	NP	P	P	P
F. Boarding houses.	NP	P	P	P
G. Manufactured dwelling park consistent with the requirements in Chapter <a href="#">18.185</a> SMC.	NP	SCU	NP	NP

(Ord. 01-110 § 1, 2001; Ord. 00-105 § 2, 2000; Ord. 498 § 50.03, 1964)

### 18.60.040 Residential facilities and similar uses.

Uses	R1	RL	RM	RH
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A. Nursing home, senior care facility, retirement home.	C	C	C	C
B. Day care facility serving 12 or fewer children; provided, that:				
1. Off-street parking requirements in Chapter <a href="#">18.150</a> SMC are satisfied.	P	P	P	P
2. There is a sight-obscuring fence or wall separating the yard or yards where the children will be playing from any adjacent street.				
C. Day care facility serving 13 or more children with the following standards to be met:				
1. Off-street parking requirements are satisfied.	C	P	P	P
2. There is a sight-obscuring fence or wall separating the yard or yards where the children will be playing from any adjacent street.				
D. Residential care facility.	C	P	P	P
E. Residential home or senior care home each limited to five or fewer residents.	P	P	P	P
F. Bed and breakfast; provided, that:				
1. The establishment shall be operated by the resident property owner, and limited to no more than 10 guest rooms.				
2. A single sign shall be permitted provided it conforms with the sign code. In a residential zone the sign shall not be lighted.				
3. Off-street parking for the guest rooms is provided.				
4. Any outdoor storage or refuse containers shall be screened consistent with the requirements in the city of Silverton's design review standards.				
5. The building is inspected by the Silverton building department and proposed use complies with all applicable building, fire, and ADA requirements.	C	P	P	P
6. Special events such as wedding receptions, or other similar public gatherings, may be permitted; provided, that:				
a. Sufficient off-street parking is provided to provide for all non-guest visitors.				
b. Any events which include music shall comply with the city's sound ordinance. All music shall be prohibited after 10:00 p.m.				
c. Catering for special events is permitted. However, other than special events full meals may only be permitted to overnight guests.				
d. Any use of building or property for special events shall comply with building, fire, and ADA requirements.				
G. Recreational vehicle park	NP	C	C	C

(Ord. 01-110 § 1, 2001; Ord. 00-105 § 2, 2000; Ord. 498 § 50.04, 1964)

**18.60.050 Nonresidential uses.**

Uses	R1	RL	RM	RH
A. New churches, additions onto existing churches are permitted outright.	C	P	P	P
B. Playgrounds, parks.	P	P	P	P
C. Hospital or hospital-related facilities.	NP	NP	NP	NP
D. Public buildings and structures.	NP	NP	NP	NP
E. Radio and TV studios and transmitters.	NP	NP	NP	NP
F. Historic landmarks.	P	P	P	P
G. Cellular communication towers and associated electronic facilities.	NP	NP	NP	NP
H. Cellular communication antennas on existing structures and associated electronic facilities.	C	C	C	C
I. Public parking lot when developed as provided in Chapter <a href="#">18.150 SMC</a> .	P	P	P	P

(Ord. 01-110 § 1, 2001; Ord. 00-105 § 2, 2000; Ord. 498 § 50.05, 1964)

### 18.60.060 Accessory uses.

Uses	R1	RL	RM	RH
A. Antenna, home radio and television, up to a maximum height of 35 feet.	P	P	P	P
B. Amateur ham radio antennas meeting the requirement of other regulations, and up to a maximum height of 35 feet.	P	P	P	P
C. Fences (consistent with Chapter <a href="#">18.180 SMC</a> ).	P	P	P	P
D. Detached garage or accessory structure (consistent with Chapter <a href="#">18.180 SMC</a> ).	P	P	P	P
E. Guest houses and guest quarters not in the main building; provided, that they are dependent upon the main dwelling for either kitchen or bathroom facilities, or both.	P	P	P	P
F. Home occupation provided all of the following are met:				
1. That the owner/operator shall reside in the house where the home occupation is conducted;				
2. No outside employees shall be engaged in the home occupation;				
3. The home occupation shall be continuously conducted in a manner which will not create any off-premises nuisance, noise, odors, vibrations, fumes, smoke, fire hazard, or electromagnetic interference;	P	P	P	P
4. The home occupation is operated entirely within the dwelling or an accessory structure;				
5. Total floor area of the home occupation shall not exceed 500 square feet;				
6. Structural alteration is permitted; provided, that the residential character of the dwelling is not altered, and current codes are met;				
7. Outdoor storage or display of materials, equipment or merchandise shall be prohibited;				
8. Visits by suppliers or customers shall be limited to the hours between 8:00 a.m. to 8:00				

p.m.;				
9. Commercial repairs of any type of vehicle are prohibited;				
10. Assembling of work crews is prohibited;				
11. All signs to comply with sign code.				
G. Home occupations which do not meet one or more of the requirements in subsection F of this section.	C	C	C	C
H. Garage sales, provided there are no more than two per calendar year, of a maximum three-day duration each, at the same location.	P	P	P	P
I. Commercial kennels of five or more dogs or cats.	NP	NP	NP	NP
J. Domestic pets excluding exotic or wild animals.	P	P	P	P
K. Farm animals including livestock, poultry, pigs, fur-bearing animals or other animals for personal use and not for sale of their animal products, on property of one acre or greater.	C	NP	NP	NP
L. Satellite dishes in the yard between the house and the street, or satellite dishes mounted on the house exceeding 30 inches in diameter.	NP	NP	NP	NP
M. Satellite dishes on dwelling or in an area of the property other than between the street and the building not to exceed a maximum 35 feet in height.	P	P	P	P
O. Commercial uses unless within a PUD, or an allowed home occupation.	NP	NP	NP	NP

(Ord. 01-110 § 1, 2001; Ord. 00-105 § 2, 2000; Ord. 498 § 50.06, 1964)

# Chapter 18.65

## SINGLE-FAMILY RESIDENTIAL<sup>3</sup>

Sections:

[18.65.010](#) Intent.

[18.65.020](#) Density.

[18.65.030](#) Minimum lot area.

[18.65.040](#) Minimum lot width.

[18.65.050](#) Setbacks for interior and flaglots.

[18.65.060](#) Setbacks for corner lots.

[18.65.070](#) Additional setback requirements.

[18.65.080](#) Maximum height.

[18.65.090](#) Placement of utilities.

### **18.65.010 Intent.**

The purpose of the R-1 (Single-Family Residential) zone is to allow development of single-family homes on individual lots which are provided with urban services at low urban density. These areas are designated Single-Family Residential in the comprehensive plan. Other uses compatible with residential development may also be appropriate as allowed in Chapter [18.60](#) SMC. (Ord. 498 § 51.01, 1964)

### **18.65.020 Density.**

A. Placement of one single-family dwelling consistent with all applicable required setbacks shall be a permitted use.

B. Placement of one duplex, or two-family dwelling, may be permitted on lots only after review by the planning commission for conditional use permit. (Ord. 498 § 51.02, 1964)

### **18.65.030 Minimum lot area.**

The following minimum lot area within the R-1 zone shall apply:

A. Interior lots – 7,000 square feet.

B. Flaglots – 7,000 square feet excluding the pole portion of the flaglot.

C. Corner lots – 8,000 square feet. (Ord. 498 § 51.03, 1964)

### **18.65.040 Minimum lot width.**

Lot width shall be measured as minimum frontage along the property line with a street right-of-way. In the case of flaglots the width shall be determined by measuring the width of the lot, excluding the 18-foot pole portion of the flaglot, on the side from where the front setback is calculated.

A. Interior lots – 70 feet.

B. Flaglots – 70 feet.

C. Corner lots – 80 feet along one street. (Ord. 498 § 51.04, 1964)

### **18.65.050 Setbacks for interior and flaglots.**

The following setbacks apply for all single and two story dwellings. Flaglots shall have the option to determine which property line, excluding the pole portion of the flaglot, shall be used for the front setback based on the direction the architectural front of the dwelling faces. Rear yard shall be the yard opposite the front.



A. Single story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – five feet on each side.
3. Rear – 24 feet.

B. Two story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – seven feet on each side.
3. Rear – 30 feet. (Ord. 498 § 51.05, 1964)

**18.65.060 Setbacks for corner lots.**

The following setbacks apply for all single and two story dwellings.

Corner lots are required to provide front yards along both street frontages and one side yard and one rear yard as designated by the property owner along the common boundary with adjacent lots.

A. Single story:

1. Front and to all street rights-of-way – 20 feet.
2. Side – five feet.
3. Rear – 15 feet.

B. Two story:

1. Front and to all street rights-of-way – 20 feet.
2. Side – seven feet.
3. Rear – 18 feet. (Ord. 498 § 51.06, 1964)

**18.65.070 Additional setback requirements.**

In addition to the above setback requirements the following provisions may also apply:

A. The required yards adjacent to a street shall not be used to provide off-street parking.

B. The yard areas adjacent to a street shall not be used for the storage of motor vehicles, utility trailers, house or vacation trailers, or boats.

C. The yard adjacent to a street shall not be used to locate a permanent accessory structure, or the installation of a satellite dish.

D. Planter boxes, window bays, greenhouse windows, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, solar collectors, and/or ornamental features may be used provided they do not project more than 30 inches into a required yard.

E. Uncovered porches, or covered but not enclosed porches not more than one story high and which do not extend more than 10 feet beyond the front wall of the building and which have floors not more than four feet above grade may encroach into the front and rear yard setback requirements. (Ord. 498 § 51.07, 1964)

**18.65.080 Maximum height.**

The maximum height of all dwellings shall be limited to 35 feet. (Ord. 498 § 51.08, 1964)

**18.65.090 Placement of utilities.**

Placement of utilities and sidewalks for new single-family dwellings shall conform with design standards within SMC Title [16](#) unless it is determined by the city engineer that it would be impractical or unfeasible. When determined to be lacking as part of the development of the subject property, a public sidewalk, curb, gutter or storm drainage facility, or other necessary public improvements including right-of-way dedication shall be provided by the developer along the street frontage of the subject property. (Ord. 498 § 51.09, 1964)

## Chapter 18.70

# MULTIPLE-FAMILY RESIDENTIAL – LOW DENSITY<sup>4</sup>

Sections:

[18.70.010](#) Intent.

[18.70.020](#) Density.

[18.70.030](#) Minimum lot area.

[18.70.040](#) Minimum lot width.

[18.70.050](#) Setbacks for interior and flaglots.

[18.70.060](#) Setbacks for corner lots.

[18.70.070](#) Additional setback requirements.

[18.70.080](#) Maximum height.

[18.70.090](#) Design review.

### **18.70.010 Intent.**

The purpose of the RL (Multiple-Family Residential – Low Density) zone is to allow development of multiple-family dwellings at a density greater than allowed in the R-1 zone but less than allowed in the RM or RH zones. Other uses compatible with residential development may also appropriate. These areas are designated Multiple-Family Residential in the comprehensive plan. (Ord. 498 § 52.01, 1964)

### **18.70.020 Density.**

Maximum 10 dwelling units per gross acre with a minimum density of one-half of the allowable density based on the size of the property. (Ord. 498 § 52.02, 1964)

### **18.70.030 Minimum lot area.**

The minimum lot area within the RL zone is 6,000 square feet. (Ord. 498 § 52.03, 1964)

### **18.70.040 Minimum lot width.**

The minimum lot width is 60 feet. Lot width shall be measured as minimum frontage along the property line with a street right-of-way. In the case of flaglot and cul-de-sac lots width is measured along the minimum front setback line. (Ord. 498 § 52.04, 1964)

### **18.70.050 Setbacks for interior and flaglots.**

The following setbacks apply for all single and two story dwellings. Flaglots shall have the option to determine of which property line, excluding the pole portion of the flaglot, shall be used for the front setback. Rear shall be the side opposite the front.

A. Single story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – five feet on each side.
3. Rear – 24 feet.

B. Two story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – seven feet on each side.
3. Rear – 30 feet. (Ord. 498 § 52.05, 1964)

### **18.70.060 Setbacks for corner lots.**

The following setbacks apply for all single and two story dwellings.

Corner lots are required to provide front yards along both street frontages and one side yard and one rear yard as designated by the property owner along the common boundary with adjacent lots.

A. Single story:

1. Front and to all street rights-of-way – 20 feet.
2. Side – five feet.
4. Rear – 15 feet.

B. Two story:

1. Front and to all street rights-of-way – 20 feet.
2. Side – seven feet.
3. Rear – 18 feet. (Ord. 498 § 52.06, 1964)

### **18.70.070 Additional setback requirements.**

In addition to the above setback requirements the following provisions may also apply:

A. The required yards adjacent to a street shall not be used to provide off-street parking.

B. The yard areas adjacent to a street shall not be used for the storage of motor vehicles, utility trailers, house or vacation trailers, or boats.

C. A permanent accessory structure shall not be located in the yard adjacent to a street.

D. Planter boxes, window bays, greenhouse windows, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, solar collectors, and/or ornamental features provided shall not project more than 30 inches into the required yard.

E. Uncovered porches, or covered but not enclosed porches not more than one story high and which do not extend more than 10 feet beyond the front wall of the building and which have floors which are not more than four feet above grade may encroach into the front and rear yard setback requirements. (Ord. 498 § 52.07, 1964)

### **18.70.080 Maximum height.**

The maximum height of all dwelling shall be limited to 35 feet or two and one-half stories, whichever is less. (Ord. 498 § 52.08, 1964)

### **18.70.090 Design review.**

All multiple family developments greater than two units shall comply with the requirements within the city of Silverton's design review standards. This section contains standards for orientation, streetscape, landscaping, open space, parking areas, building materials, building presentation, and additions. (Ord. 498 § 52.09, 1964)

# Chapter 18.75

## MULTIPLE-FAMILY RESIDENTIAL – MEDIUM DENSITY<sup>5</sup>

Sections:

[18.75.010](#) Intent.

[18.75.020](#) Density.

[18.75.030](#) Minimum lot area.

[18.75.040](#) Minimum lot width.

[18.75.050](#) Setbacks.

[18.75.060](#) Additional setback requirements.

[18.75.070](#) Maximum height.

[18.75.080](#) Design review.

### **18.75.010 Intent.**

The purpose of the RM (Multiple-Family Residential – Medium Density) zone is to allow development of multiple-family dwellings on a lot at a density greater than RL but less than RH. Other uses compatible with residential development may also be appropriate. These areas are designated Multiple-Family Residential in the comprehensive plan. (Ord. 498 § 53.01, 1964)

### **18.75.020 Density.**

Maximum 20 dwelling units per gross acre with a minimum density of one-half of the allowable density based on the size of the property. (Ord. 498 § 53.02, 1964)

### **18.75.030 Minimum lot area.**

The minimum lot area within the RM zone is 6,000 square feet. (Ord. 498 § 53.03, 1964)

### **18.75.040 Minimum lot width.**

The minimum lot width is 60 feet. Lot width shall be measured as minimum frontage along the property line with a street right-of-way. In the case of flaglot and cul-de-sac lots width is measured along the minimum front setback line. (Ord. 498 § 53.04, 1964)

### **18.75.050 Setbacks.**

The following setbacks apply for all single and two story dwellings. Rear yard shall be the side opposite the front.

#### A. Single story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – five feet on each side.
3. Rear – 24 feet.

#### B. Two story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – seven feet on each side.
3. Rear – 30 feet. (Ord. 498 § 53.05, 1964)

### **18.75.060 Additional setback requirements.**

In addition to the above setback requirements the following provisions may also apply:

A. The required yards adjacent to a street shall not be used to provide off-street parking.

B. The yard areas adjacent to a street shall not be used for the storage of motor vehicles, utility trailers, house or vacation trailers, or boats.

C. A permanent accessory structure shall not be located in the yard adjacent to a street.

D. Planter boxes, window bays, greenhouse windows, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, solar collectors, and/or ornamental features provided they do not project more than 30 inches into the required yard.

E. Uncovered porches, or covered but not enclosed porches not more than one story high and which do not extend more than 10 feet beyond the front wall of the building and which have floors not more than four feet above grade may encroach into the front and rear yard setback requirements. (Ord. 498 § 53.07, 1964)

### **18.75.070 Maximum height.**

The maximum height of all dwelling shall be limited to 35 feet or two and one-half stories. (Ord. 498 § 53.08, 1964)

### **18.75.080 Design review.**

All multiple-family developments greater than two units shall comply with the requirements of the city of Silverton's design review standards. This section contains standards for orientation, streetscape, landscaping, open space, parking areas, building materials, building presentation, and additions. (Ord. 498 § 53.09, 1964)

# Chapter 18.80

## MULTIPLE-FAMILY RESIDENTIAL – HIGH DENSITY<sup>6</sup>

Sections:

[18.80.010](#) Intent.

[18.80.020](#) Density.

[18.80.030](#) Minimum lot area.

[18.80.040](#) Minimum lot width.

[18.80.050](#) Setbacks.

[18.80.060](#) Additional setback requirements.

[18.80.070](#) Maximum height.

[18.80.080](#) Design review.

### **18.80.010 Intent.**

The purpose of the RH (Multiple-Family Residential – High Density) zone is to allow development of multiple family dwellings on a lot at a high level of urban density. Other uses compatible with residential development may also be appropriate. These areas are designated Multiple-Family Residential in the comprehensive plan. (Ord. 498 § 54.01, 1964)

### **18.80.020 Density.**

Maximum 32 dwelling units per gross acre with a minimum density of one-half of the allowable density based on the size of the property. (Ord. 498 § 54.02, 1964)

### **18.80.030 Minimum lot area.**

The minimum lot area within the RM zone is 6,000 square feet. (Ord. 498 § 54.03, 1964)

### **18.80.040 Minimum lot width.**

The minimum lot width is 60 feet. Lot width shall be measured as minimum frontage along the property line with a street right-of-way. In the case of flaglot and cul-de-sac lots width is measured along the minimum front setback line. (Ord. 498 § 54.04, 1964)

### **18.80.050 Setbacks.**

The following setbacks apply for all single and two story dwellings. Rear yard shall be considered to be opposite the front.

#### A. Single story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – five feet on each side.
3. Rear – 24 feet.

#### B. Two story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – seven feet on each side.
3. Rear – 30 feet.

#### C. Three story:

1. Front and to all street rights-of-way – 20 feet.
2. Sides – 15 feet on each side.

3. Rear – 35 feet. (Ord. 498 § 54.05, 1964)

### **18.80.060 Additional setback requirements.**

In addition to the above setback requirements the following provisions may also apply:

- A. The required yards adjacent to a street shall not be used to provide off-street parking.
- B. The yard areas adjacent to a street shall not be used for the storage of motor vehicles, utility trailers, house or vacation trailers, or boats.
- C. A permanent accessory structure shall not be located in the yard adjacent to a street.
- D. Planter boxes, window bays, greenhouse windows, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, solar collectors, and/or ornamental features provided shall not project more than 30 inches into the required yard.
- E. Uncovered porches, or covered but not enclosed porches not more than one story high and which do not extend more than 10 feet beyond the front wall of the building, and which have floors which are not more than four feet above grade, may encroach into the front and rear yard setback requirements. (Ord. 498 § 54.06, 1964)

### **18.80.070 Maximum height.**

The maximum height of all dwellings shall be limited to three stories. (Ord. 498 § 54.07, 1964)

### **18.80.080 Design review.**

All multiple family developments greater than two units shall comply with the requirements of the city of Silverton's design review standards. This section contains standards for orientation, streetscape, landscaping, open space, parking areas, building materials, building presentation, and additions. (Ord. 498 § 54.08, 1964)

# Chapter 18.90

## COMMERCIAL DISTRICT USES

Sections:

- [18.90.005](#) Table symbol definitions.
- [18.90.010](#) Amusement and recreation.
- [18.90.020](#) Communication.
- [18.90.030](#) Community services.
- [18.90.040](#) Printing and publishing.
- [18.90.050](#) Residential and traveler’s accommodations.
- [18.90.060](#) Retail.
- [18.90.070](#) Retail and service.
- [18.90.080](#) Service.
- [18.90.090](#) Transportation.

### 18.90.005 Table symbol definitions.

P – Permitted outright.

P1 – The use is permitted provided:

1. That such area is paved with a concrete or asphaltic hard surface;
2. That if a lot or open sales area abuts on any R District such lot shall be screened from the adjoining R District by a sight-obscuring ornamental fence, wall or hedge at least four feet but not more than seven feet in height which shall be maintained in good condition;
3. That if any repair of vehicles shall be confined and conducted entirely within an enclosed building and if such building is located on a lot which does not abut an alley and is within 50 feet of any R District, the wall of the building which parallels the nearest line of such district shall have no opening other than stationary windows.

P2 – Permitted, but if the use is located on a lot which does not abut an alley and is within 50 feet of any residential district, the wall of the building which parallels the nearest line of such district shall have no opening other than stationary windows.

P3 – Permitted; provided, that any tire or tube repairing and storage of merchandise and supplies are conducted entirely within a building and if any lubrication or washing not conducted within a building be screened from any adjoining residential district by the erection of a masonry wall, ornamental fence or compact evergreen hedge not less than five feet or more than seven feet in height and that such fence, wall, or hedge shall observe the required yard, setback, and vision clearance requirements.

C – Conditional Use. See Chapter [18.25](#) SMC.

O – Optional Business. When a use is listed with an “O” in a particular district such use may be conducted as an incidental or secondary use when conducted and entered only from within the building, provided there is no exterior display or advertisement except for a nameplate not over two square feet in area, and not more than one-half the floor area of one story is devoted to such use or uses, but if such building be but only one story in height, then not more than one-fourth of the floor area thereof shall be devoted to such use or uses. (Ord. 498 § 60.00, 1964)

### 18.90.010 Amusement and recreation.

	C1	C2	C3
Commercial			
Ballroom	-	C	P
Billiard parlor	-	P	P



Bowling alley	-	C	P
Carnival (transient in character)	-	-	P
Carnival (winter quarters – no livestock)	-	-	-
Circus	-	-	P
Dance hall	-	C	P
Fortune teller	-	P	P
Game room, card room	-	P	P
Ice skating rink	-	C	P
Miniature golf course	-	P	P
Penny arcade	-	-	P
Pony riding ring (no stable)	-	P	P
Pool hall	-	P	P
Rebound center	-	P	P
Roller skating rink	-	C	P
Shooting gallery	-	-	P
Summer recreational camp	-	C	P
Community sport center			
Athletic club, clubhouse	-	C	P
Community center	-	C	P
Gymnasium	-	C	P
Swimming pool	-	C	P
Marine			
Bathing beach	-	P	P
Boat launching facility	-	P	P
Marina	-	C	P
Pleasure boat moorage	-	P	P
Pleasure boat repair and haulout facility	-	C	P
Public assembly			
Auditorium	-	C	P
Boxing arena	-	C	P
Drive-in motion picture theater	-	-	-
Indoor sports arena	-	C	P
Motion picture theater	-	C	P
Stadium	-	C	P
Theater	-	C	P

NOTE: For public and semi-public recreational facilities see Chapter [18.130](#) SMC, Public, Semi-Public and Governmental Use Districts. (Ord. 498 § 60.00, 1964)

### **18.90.020 Communication.**

	C1	C2	C3
Radio and TV station and studio	C	P	P
Radio and TV transmitter station, tower and pipe TV pick-up facility (private)	C	P	P
Telegraph communications facility	C	P	P
Telephone communications facility	C	P	P

(Ord. 498 § 60.00, 1964)

### 18.90.030 Community services.

	C1	C2	C3
Educational			
Pre-school, nursery and kindergarten	P	P	P
Barber school	-	P	P
Beauty school	-	P	P
Commercial school	-	P	P
Dancing school	-	P	P
Driving school	-	P	P
Music school	-	P	P
Trade and vocational school	-	P	P
Note: Public and semi-public, see Chapter <a href="#">18.130</a> SMC, Public, Semi-Public and Governmental Use Districts			
Governmental			
Fire protection (fire station, fire boat moorage, etc.)	P	P	P
Government office	P	P	P
Insect control	P	P	P
Law enforcement office	P	P	P
Post office	P	P	P
Religious			
Church	P	P	P
Synagogue	P	P	P
Temple	P	P	P
Nonprofit membership organization			
Business association office	P	P	P
Charitable organization (mission, Red Cross, Salvation Army, etc.) excluding business activities	-	P	P
Civic, social and fraternal organization (Scouts, YMCA, YWCA, etc.) excluding business activities such as stores, hotels, etc., conducted by such organization	-	P	P
Labor union and similar labor organization office and facility	P	P	P
Political organization office and headquarters	P	P	P
Professional membership organization, office and facility	P	P	P

(Ord. 498 § 60.00, 1964)

**18.90.040 Printing and publishing.**

	<b>C1</b>	<b>C2</b>	<b>C3</b>
Blueprinting firm	-	P	P
Book publishing	-	-	P
Bookbinding and related activities	-	-	P
Commercial printing	-	-	P
Duplicating, mimeographing	-	P	P
Greeting card manufacture	-	-	P
Manifold business forms manufacture	-	-	P
Newspaper, periodical, publishing and printing	-	-	P
Photo copying	-	P	P

(Ord. 498 § 60.00, 1964)

**18.90.050 Residential and traveler’s accommodations.**

	<b>C1</b>	<b>C2</b>	<b>C3</b>
Apartment and dwelling as provided in the RL District	P	P	P
Apartment hotel	-	-	-
Boarding house	P	P	P
Dormitory and student house	P	P	P
Hotel	P	P	P
Mobile home park	C	C	C
Motel	P	P	P
Nursing home	P	P	P
Rest home	P	P	P
Retirement home	P	P	P
Rooming house	P	P	P
Sanitarium	P	P	P
Sorority and fraternity	P	P	P
Trailer park	-	C	P

(Ord. 498 § 60.00, 1964)

**18.90.060 Retail.**

	<b>C1</b>	<b>C2</b>	<b>C3</b>
Apparel and accessories			
Wearing apparel and accessories (including hats)	-	P	P
Furrier and fur shop	-	P	P
Shoe store	-	P	P
Tailor, dressmaker	-	P	P

Eating and drinking place			
Eating place (not drive-in) restaurant, cafe, (may serve liquor) caterer, box lunch provider, coffee shop, dining room and tea room	O	P	P
Dine, drink and dance establishment, etc.	-	C	P
Drive-in eating and snack facility	-	P	P
Tavern and bar	-	C	P
Food			
Bakery, manufacturing for sale on premises only	-	P	P
Candy, nut and confectionery store	-	P	P
Dairy products store, no processing, sales on premises only	-	P	P
Egg and poultry dealer	-	P	P
Fish and seafood market, no rendering or processing, sales on premises only	-	P	P
Fruit store and vegetable market	-	P	P
Grocery store (supermarket, food store, delicatessen store)	-	P	P
Health foods store	-	P	P
Meat market	-	P	P
Furniture, home furnishings and appliances			
Furniture store	-	P	P
Home furnishings and equipment store including floor coverings, major appliances, draperies, curtains and upholstery material, glassware, china, metalware (may perform incidental installation services)	-	P	P
Household appliance store	-	P	P
Music store including sale of pianos and other instruments, phonograph records, sheet music, etc.	-	P	P
General merchandise			
Army surplus store	-	P	P
Department store	-	P	P
Direct selling organization (headquarters of door-to-door selling organization)	-	P	P
Dry goods store (with or without apparel)	-	P	P
General store	-	P	P
Mail order house, general or speciality merchandise	-	-	P
Trading stamp (merchandise coupons) redemption center	-	P	P
Variety store, limited price (5 and 10, 88¢, etc.)	-	P	P
Vending machine, automatic merchandising	-	P	P
Specialized merchandise – New			
Artists' supply store	-	P	P
Bookstore	-	P	P
Camera and photographic store	-	P	P
Drug store and proprietary store	-	P	P
Florist	-	P	P
Garden supply store	-	P	P

Gift, novelty, curio and souvenir shop	-	P	P
Greenhouse	-	P	P
Greeting card store	-	P	P
Hearing aid store	-	P	P
Hobby equipment store	-	P	P
Ice dealer	-	-	P
Jewelry store	-	P	P
Liquor store	-	P	P
Monument and tombstone firm providing that no stone cutting or polishing is done on the premises	-	P	P
News dealer, newsstand	O	P	P
Nursery, growing of stock for sale on the premises	P	P	P
Office machines and equipment store	-	P	P
Optical goods store	-	P	P
Orthopedic and artificial limb store	-	P	P
Pet store	-	P	P
Religious goods store	-	P	P
Sporting goods store	-	P	P
Stationery store	-	P	P
Tobacco, cigar store, stand	-	P	P
Toy store	-	P	P
Specialized merchandise – Used			
Antique shop	-	P	P
Junk shop	-	-	P
Pawn shop	-	-	P
Secondhand bookstore	-	-	P
Secondhand clothing and apparel store	-	-	P
Secondhand general merchandise	-	-	P
Secondhand office equipment	-	-	P

(Ord. 738, 1977; Ord. 498 § 60.00, 1964)

### 18.90.070 Retail and service.

	C1	C2	C3
Automotive and other vehicles			
Retail sales and service firm (may maintain repair department and stock of replacement parts, and accessories):			
Aircraft	-	P1	P1
Automobiles and small trucks – New	-	P1	P1
Automobiles and small trucks – Used	-	P1	P1
Boats and marine accessories	-	P1	P1

Farm machinery	-	P1	P1
Motorcycles, motor scooters	-	P1	P1
Trailers (automobile utility, boat, camping, mobile homes, travel or vacation)	-	P1	P1
Truck new and used	-	P1	P1
Speciality sales and service firm			
Accessory, battery, parts and tire store	-	P2	P2
Battery, ignition and electrical shop	-	-	P2
Body and fender shop	-	-	P2
Garage and general repair shop	-	-	P2
Glass installation and service	-	-	P2
Heavy equipment, tractor and farm equipment	-	-	P2
Paint shop	-	-	P2
Radiator repair service	-	-	P2
Seat cover and auto top shop	-	P	P
Service station – Gas, oil, lubricating and motor repair	-	P3	P3
Service station – Gas, oil, general repair	-	P2/3	P2/3
Towing service	-	P	P
Upholstery cleaning and repair shop	-	P2	P2
Used and second hand parts and accessories	-	-	P2
Washing and polishing, automobile laundry	-	P3	P3
Parking and storage			
Parking lot, not covered (see Chapter <a href="#">18.150</a> SMC)	P	P	P
Parking garage	-	P	P
Storage of automobiles, open lot (same as for parking lot, see Chapter <a href="#">18.150</a> SMC)	-	P	P
Garage or building	-	P	P
Rental			
Automobile or truck	-	P1	P1
Utility and vacation trailers	-	P1	P1
Retail sales, contracting and service – Building			
Store and shop (may include installation and service):			
Cabinet, carpenter shop	-	C	P
Electrical and lighting shop	-	P	P
Floor covering store	-	P	P
Glass and glazing shop	-	C	P
Hardware store	-	P	P
Heating and air conditioning shop	-	C	P
Insulating and weatherstripping shop	-	C	P
Lumber yard and building materials	-	C	P
Paint, wallpaper and interior decorating store	-	P	P

Plumbing store	-	C	P
Roofing store	-	C	P
Sheet metal shop	-	C	P
Terrazzo, tile, marble and mosaic store	-	C	P
Used building materials yard	-	-	P
Welding, blacksmith shop	-	-	P
Contracting and service			
Building contractor (general), highway and street contractor, heavy construction contractor:			
Offices only	P	P	P
Storage of equipment and supplies:			
Within a completely enclosed building	-	-	P
Within an open or partially covered or enclosed lot	-	-	C
Special trade contractor, such as: carpentering; cleaning and janitorial service; concrete work; electrical; excavating; exterminating and fumigating; foundation work; floor laying; furnace cleaning; glass; masonry and stone; ornamental metal work; painting and paperhanging; plastering; plumbing; septic tank, cesspool and catchbasin; special building equipment installation; roofing; sheet metal; terrazzo, tile, marble, and mosaic; wrecking and demolition, etc.:			
Office only	P	P	P
Retail sales only	-	P	P
Storage of equipment and supplies:			
Within a completely enclosed building	-	-	P
Within an open or partially enclosed building, structure or lot	-	-	C
Specialty sales, repair and service			
Appliances, radio, television shop	-	P	P
Bicycle shop	-	P	P
Business machines, typewriters, sewing machine sales and service shop	-	P	P
Electric motor repair	-	C	P
Furniture repair and re-upholstery shop	-	C	P
Gunsmith	-	P	P
Locksmith	-	P	P
Luggage and leather goods shop	-	P	P
Saw, lawn mower, knife and cutlery shop	-	P	P
Taxidermist	-	P	P
Tent and awning shop	-	C	P
Venetian blind and window covering shop	-	P	P
Watch, clock, jewelry, camera and instrument shop	-	P	P
Rental service			
Rental of small tools and equipment:			
Completely within a building	-	P	P

Using an open paved lot	-	C	P
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(Ord. 498 § 60.00, 1964)

**18.90.080 Service.**

	C1	C2	C3
Business			
Advertising agency	-	P	P
Armored car service	-	P	P
Bonding office	P	P	P
Business sign sales and service	-	P	P
Detective agency	P	P	P
Drafting service	P	P	P
Employment agency	-	P	P
Laboratory:			
Seed and soil testing	-	C	P
Research, testing, and development	-	C	P
Mailing, mailing list, addressing service	P	P	P
News syndicate	P	P	P
Notary public	P	P	P
Outdoor advertising service	-	P	P
Sign painting shop	-	P	P
Stenographic	P	P	P
Telephone answering service	P	P	P
Financial, insurance and real estate			
Adjustment and collection agency	P	P	P
Bank	P	P	P
Consumer reporting agency, credit agency other than bank (savings and loan association, loan company, etc.)	P	P	P
Insurance carrier and agent, broker and service agency	P	P	P
Insurance office, main or branch	P	P	P
Real estate company (selling, managing, title search, subdivision or development company, etc.)	P	P	P
Combination real estate, insurance, loan or law office (those companies doing any combination of the above but none predominantly)	P	P	P
Security and commodity broker, dealer, exchanges and services, holding and other investment company	P	P	P
Title abstract office	P	P	P
Trust company	P	P	P
Clothing and apparel			
Clothing and costume rental service	-	P	P



Dry cleaning and dyeing plant except rugs: using non-flammable solvents	-	-	-
Dry cleaning pick-up depot using flammable solvents	-	P	P
Dry cleaning, self service using non-flammable solvents	-	P	P
Fur repair and storage	-	-	P
Laundry; laundry plant including diaper, linen and uniform service	-	-	P
Laundry pick-up depot	-	P	P
Laundry, self-service	-	P	P
Pressing, alteration and garment repair	-	P	P
Shoe repair and shoe shine shop	-	P	P
Personal			
Barber shop	O	P	P
Bath or bathing house	-	P	P
Beauty shop	O	P	P
Crematory	-	-	C
Health studio	-	P	P
Masseur studio	-	P	P
Mortuary, funeral service	-	P	P
Steam bath	-	P	P
Professional			
Accounting, auditing and bookkeeping service	P	P	P
Artist, author, lecturer, etc.; miscellaneous professional service, office of	P	P	P
Engineering and architectural office	P	P	P
Nonprofit educational and scientific research agency	P	P	P
Legal office and service	P	P	P
Medical and dental laboratory	P	P	P
Medical, dental and other allied professional office and clinic. Optometrist primarily engaged in the prescribing rather than the selling of eye glasses are included	P	P	P
Office of veterinarian	P	P	P
Animal hospital	-	-	P
Kennel	-	-	C

(Ord. 498 § 60.00, 1964)

### 18.90.090 Transportation.

	C1	C2	C3
Aircraft maintenance and storage facility	-	-	P
Airport			
Airport terminal, passenger and freight	-	-	P
Ambulance service	-	C	P
Bus storage and maintenance facility (charter, local, highway, school)	-	-	P

Bus terminal, depot (charter, local, highway)	-	-	P
Motor freight terminal	-	-	P
Freight forwarding facility	-	-	P
Loading dock	-	-	P
Office	P	P	P
Storage, short term	-	-	P
Truck maintenance	-	-	P
Railway express agency	-	P	P
Railroad roundhouse, switch yard, maintenance facility			
Freight	-	-	P
Passenger	-	-	P
Towing and tugboat facility	-	-	P
Waterfront terminal, pier and dock	-	-	P

(Ord. 498 § 60.00, 1964)

# Chapter 18.95

## C1 RESIDENTIAL COMMERCIAL DISTRICT<sup>7</sup>

Sections:

[18.95.010](#) Land development.

[18.95.020](#) Signs.

### 18.95.010 Land development.

A. Dwelling, same as the RL District for dwellings and when any portion of a main building is used as a dwelling then that building shall meet the provisions of the RL District for dwellings.

<b>Main Buildings Other Than Dwellings</b>	
Maximum number of main buildings per lot	Not limited
Minimum lot area	6,000 sq. feet
Minimum lot width	60 feet
Maximum lot coverage	60 percent by all buildings and structures
Maximum height	2.5 stories or 35 feet

B. Yards:

1. Required yard areas adjacent to a street shall not be used to meet off-street parking requirements of this title.

2. The yard areas adjacent to a street shall not be used for the permanent storage of motor vehicles, utility trailers, house or vacation trailers, boats or other similar vehicles.

3. 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 map for the streets which have a special setback.

<b>Main Buildings Other Than Dwellings</b>	
Minimum front yard	
And any yard adjacent to a street	Minimum of 20 feet

C. Planter boxes, steps, uncovered porches, covered but unenclosed porches not more than one story high and which do not extend more than 10 feet beyond the front walls of the building and the floors whereof are not more than four feet above grade are exempt from the front yard average setback above.

	<b>1 Story</b>	<b>2 Stories</b>
Minimum side yards:		
Any one side yard	5 feet	10 feet
Side yards between main building when more than one on a lot	10 feet	15 feet
Minimum rear yards	10 feet	14 feet

D. When the lot abuts upon premises used for residential purposes, then the rear yard shall be enclosed with an ornamental fence six feet in height, but this provision shall not apply to a lot bordered upon an alley. (Ord. 776, 1980; Ord. 498 § 61.00, 1964)

### 18.95.020 Signs.

Signs and name plates shall be permitted in a C1 Residential Commercial District as follows:

A. One name plate not exceeding six inches by 24 inches in dimension for each dwelling unit, indicating the name of the occupant, his occupation, or both.

B. One sign not exceeding six square feet in area pertaining to the sale or rental of the property on which the sign is located.

C. One sign not exceeding 18 square feet in area for churches.

D. Any business allowed by this title in a C1 Residential Commercial District may have a sign aggregating not more than 30 square feet in area. Any sign displayed shall be attached flat against a wall of the building, and shall front the principal street, a parking area in the rear, or, in the case of a corner building, the sign may be located on that portion of the side street wall within 50 feet of the principal street. The sign shall pertain only to the use conducted within the building. In no case shall a sign project above the roof line. There shall be no animation by lights or mechanical parts, and the sign shall otherwise comply with the provisions of the sign code of the city. (Ord. 498 § 61.01, 1964)

# Chapter 18.100

## C2 RETAIL BUSINESS DISTRICT<sup>8</sup>

Sections:

[18.100.010](#) Land development.

### 18.100.010 Land development.

A. Dwellings, same as the RL District for dwellings, and when any portion of a main building is used as a dwelling, then that building shall meet the provisions of the RL District for dwellings.

Main Buildings Other Than Dwellings	
Maximum number of main buildings per lot	Not limited
Minimum lot area	Not limited
Minimum lot width	Not limited
Maximum lot coverage	Not limited
Maximum height	3 stories or 45 feet

B. Yards:

1. Required yard areas adjacent to a street shall not be used for off-street parking and shall be landscaped.

2. Required side yards adjacent to a street may be used for off-street parking when developed as prescribed in Chapter [18.150](#) SMC.

3. 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.

All Main Buildings Other Than Dwellings	
Minimum front yard and any yard adjacent to a street	10 feet
Minimum side yards:	
When abutting an R District	The same side yard as is required for main buildings in the abutting R District.
All others	None required but if one is provided, it shall be at least five feet in depth.
Rear yard	No rear yard is required, but if one is provided, it shall be not less than five feet in depth exclusive of an alley area and shall be contained by an ornamental wall or fence, or compact evergreen hedge not less than six feet in height.

(Ord. 776, 1980; Ord. 498 § 62.00, 1964)

# Chapter 18.105

## C3 COMMERCIAL BUSINESS DISTRICT

Sections:

[18.105.010](#) Land development.

### 18.105.010 Land development.

A. Dwellings, same as the RL District for dwellings, and when any portion of a main building is used as a dwelling, then that building shall meet the provisions of the RL District for dwellings.

<b>Main Buildings Other Than Dwellings</b>	
Maximum number of main buildings per lot	Not limited
Minimum lot area	Not limited
Minimum lot width	Not limited
Maximum lot coverage	Not limited
Maximum height	3 stories or 45 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>All Main Buildings Other Than Dwellings</b>	
Minimum front yard and any yard adjacent to a street	None required but special setback lines shall be observed.
Minimum side yards:	
When abutting an R District	The same side yard as is required for main buildings in the abutting R District.
All others	None required but if one is provided, it shall be at least five feet in depth.

(Ord. 776, 1980; Ord. 498 § 63.00, 1964)

# Chapter 18.110

## INDUSTRIAL DISTRICT USES

Sections:

- [18.110.005](#) Table symbol definitions.
- [18.110.010](#) Chemicals, fertilizers, insecticides, paint and allied products manufacturing.
- [18.110.020](#) Appliances, office equipment, electrical equipment manufacturing.
- [18.110.030](#) Food, grain, feed and derivative products processing.
- [18.110.040](#) Furniture and fixtures – Manufacturing.
- [18.110.050](#) Leather and leather products manufacture.
- [18.110.060](#) Metals, primary, manufacturing.
- [18.110.070](#) Metal fabricated products, manufacture.
- [18.110.080](#) Machinery manufacturing.
- [18.110.090](#) Metal working shops.
- [18.110.100](#) Mining, pits and quarries.
- [18.110.110](#) Paper and allied products – Manufacturing.
- [18.110.120](#) Petroleum, petroleum products, by-products manufacture, storage.
- [18.110.130](#) Printing, publishing and allied industries.
- [18.110.140](#) Professional, scientific and controlling equipment manufacturing.
- [18.110.150](#) Rubber and allied products manufacturing.
- [18.110.160](#) Cement, clay, glass and stone products manufacture.
- [18.110.170](#) Textile products, manufacture.
- [18.110.180](#) Textiles and apparel manufacture and fabrication of textile products.
- [18.110.190](#) Textiles and apparel – Other facilities.
- [18.110.200](#) Tobacco processing.
- [18.110.210](#) Transportation equipment, manufacture and repair.
- [18.110.220](#) Wood and lumber products (except furniture) processing, manufacture and storage.
- [18.110.230](#) Other uses.
- [18.110.240](#) Potential problem operations or processes.

### 18.110.005 Table symbol definitions.

PS – Permitted outright if the use or operation can continuously comply with the performance standards of the district in which it is to be situated.

PA – Permitted use but as a potential source of air pollution the plans of the proposed use first must be approved by the health department, and the use must be able to continuously comply with the performance standards of the district in which the operation is to be situated.

C – Conditional use, must first be reviewed by the planning commission which may add other conditions in addition to the performance standards.

NP – Not permitted in the district. (Ord. 498 § 70.00, 1964)

### 18.110.010 Chemicals, fertilizers, insecticides, paint and allied products manufacturing.

	IP	I2	I3
Agricultural chemicals	PA	PA	PA
Fertilizer	C	PA	PA
Gum and wood chemicals	PA	PA	PA
Industrial inorganic and organic chemicals	PA	PA	PA

Insecticide	C	PA	PA
Laboratory:			
Feed and seed, soil testing	PA	PA	PA
Paint, varnish, lacquer, enamel and allied products	PA	PA	PA
Perfume, cosmetic and other toilet preparations	PA	PA	PA
Pharmaceuticals	PA	PA	PA
Plastics material, and synthetic resin, synthetic rubber, synthetic and other manmade fiber, except glass	PA	PA	PA
Soap, detergent and cleaning preparations	PA	PA	PA

(Ord. 498 § 70.00, 1964)

### **18.110.020 Appliances, office equipment, electrical equipment manufacturing.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Battery manufacture	PS	PS	PS
Communications equipment	PS	PS	PS
Electrical industrial apparatus	PS	PS	PS
Electric lighting and wiring equipment	PS	PS	PS
Electric transmission and distribution equipment	PS	PS	PS
Electronic components and accessories	PS	PS	PS
Household appliance	PS	PS	PS
Radio and TV receiving set	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.030 Food, grain, feed and derivative products processing.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Bakery products	PA	PA	PA
Canning, drying, freezing, preserving, fruit, vegetable, seafood	PA	PA	PA
Coffee processing	PA	PA	PA
Confectionery and related products (candy, chocolate, chewing gum)	PA	PA	PA
Beverage industry (beer, wine, liquor, soft drinks including bottling, flavoring extract, etc.)	PA	PA	PA
Dairy products (buttermaking, creamery, cheesemaking, ice cream, milk processing)	PA	PA	PA
Frozen food, cold storage locker and plant	PA	PA	PA
Gelatin	C	PA	PA
Glue and size	C	PA	PA
Grain mill products (flour, prepared animal feed, cereal, etc.)	PA	PA	PA
Grain elevator, storage	PA	PA	PA
Livestock auction and sale, including feed lot	NP	C	PA
Meat products (slaughtering, canning, curing, smoking, preserving)	PA	PA	PA



(Ord. 498 § 70.00, 1964)

**18.110.040 Furniture and fixtures – Manufacturing.**

	IP	I2	I3
Custom cabinet, carpenter shop	PA	PA	PA
Furniture repair, reupholstery	PA	PA	PA
Household furniture	PA	PA	PA
Office furniture	PA	PA	PA
Partitions, shelves, lockers, office and store fixtures	PA	PA	PA

(Ord. 498 § 70.00, 1964)

**18.110.050 Leather and leather products manufacture.**

	IP	I2	I3
Boot and shoe cut stock and findings	PS	PS	PS
Footwear except rubber	PS	PS	PS
Handbags and other personal leather goods	PS	PS	PS
Industrial leather belting and packing	PS	PS	PS
Leather gloves and mittens	PS	PS	PS
Leather goods not elsewhere listed	PS	PS	PS
Leather tanning and finishing	PS	PS	PS
Luggage	PS	PS	PS

(Ord. 498 § 70.00, 1964)

**18.110.060 Metals, primary, manufacturing.**

	IP	I2	I3
Blast furnace, steel works and rolling and finishing mill	NP	NP	C
Iron and steel foundry	NP	C	PS
Nonferrous foundry	NP	C	PS
Primary smelting and refining of non-ferrous metals	NP	C	PS
Secondary smelting and refining of nonferrous metals and alloys	NP	C	PS
Rolling, drawing and extruding of nonferrous metals	NP	C	PS

(Ord. 498 § 70.00, 1964)

**18.110.070 Metal fabricated products, manufacture.**

	IP	I2	I3
Coating, engraving and allied services	PA	PA	PA
Cutlery, handtools and general hardware	PS	PS	PS

Fabricated metal products	PS	PS	PS
Fabricated structural metal products	PS	PS	PS
Fabricated wire products	PS	PS	PS
Heating apparatus (except electrical)	PA	PA	PA
Metal cans	PA	PA	PA
Metal plating operation	PA	PA	PA
Metal stampings	C	PS	PS
Plumbing fixtures	PA	PA	PA
Screw machine products and bolts, nuts, screws, rivets and washers	C	PS	PS
Silverware and plated ware	PA	PA	PA

(Ord. 498 § 70.00, 1964)

### 18.110.080 Machinery manufacturing.

	IP	I2	I3
Construction and mining equipment	NP	C	PA
Engines and turbines	NP	C	PA
Form machinery and equipment	NP	C	PA
General industrial machinery and equipment	NP	C	PA
Materials handling machinery and equipment	NP	C	PA
Metal working equipment and machinery	NP	C	PA
Office, computing, accounting equipment	PA	PA	PA
Sawmill equipment	C	PS	PS
Service industry machines and equipment	C	PA	PS

(Ord. 498 § 70.00, 1964)

### 18.110.090 Metal working shops.

	IP	I2	I3
Blacksmith shop	C	PA	PA
Foundry	C	PA	PA
Machine shop	C	PA	PA
Welding, welding shop	C	PA	PA

(Ord. 498 § 70.00, 1964)

### 18.110.100 Mining, pits and quarries.

	IP	I2	I3
Earth, topsoil, clay, peat	C	C	C
Sand and gravel pit, quarry including extraction from rivers and streams	C	C	C
Rock crushing and preparing sand and gravel for construction uses or other special uses	C	C	C

(Ord. 498 § 70.00, 1964)

**18.110.110 Paper and allied products – Manufacturing.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Building paper and building board mill	C	PA	PA
Converted paper and paperboard products except containers and boxes	C	PA	PA
Paperboard containers and boxes	PA	PA	PA
Paper mill except building paper mill	NP	C	PA
Pulp mill	NP	C	PA

(Ord. 498 § 70.00, 1964)

**18.110.120 Petroleum, petroleum products, by-products manufacture, storage.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Petroleum industry including all process and storage	C	C	PA
Paving and roofing materials manufacture	C	C	PA
Propane gas	NP	C	PA
Asphalt	NP	C	PA
Asphalt paving mix plant	NP	C	PA
Creosote and creosote products	NP	C	PA
Oil reconditioning	NP	C	PA
Turpentine	NP	C	PA

(Ord. 498 § 70.00, 1964)

**18.110.130 Printing, publishing and allied industries.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Book	PS	PS	PS
Bookbinding and related industries	PS	PS	PS
Commercial printing	PS	PS	PS
Greeting card manufacturing	PS	PS	PS
Manifold business form manufacturing	PS	PS	PS
Newspaper, publishing, printing	PS	PS	PS
Periodical, publishing, printing	PS	PS	PS

(Ord. 498 § 70.00, 1964)

**18.110.140 Professional, scientific and controlling equipment manufacturing.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Engineering, laboratory and scientific and research instruments and associated equipment	PS	PS	PS
Instruments for measuring, indicating and controlling physical characteristics	PS	PS	PS

Optical equipment, instruments, lenses	PS	PS	PS
Surgical, medical and dental instruments and supplies except pharmaceuticals (see SMC <a href="#">18.110.010</a> , chemicals)	PS	PS	PS
Watches, clocks, clockwork operated devices and parts	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.150 Rubber and allied products manufacturing.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Fabricated rubber and plastic products not elsewhere listed	PS	PS	PS
Reclaimed rubber products	PS	PS	PS
Rubber and plastic footwear and similar products	PS	PS	PS
Tire and innertube manufacturing	PS	PS	PS
Tire recapping	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.160 Cement, clay, glass and stone products manufacture.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Abrasives, asbestos and other non-metallic mineral products manufacture	PS	PS	PS
Cement, hydraulic	PA	PA	PA
Cement, portland	PA	PA	PA
Concrete, gypsum and plaster products	PS	PS	PS
Cut stone and stone products (monuments)	PS	PS	PS
Flat glass	PS	PS	PS
Glass and glassware, pressed or blown	PS	PS	PS
Glass products made of purchased glass	PS	PS	PS
Lime	PA	PA	PA
Plaster	PA	PA	PA
Pottery and related products	PS	PS	PS
Structural clay products	PS	PS	PS
Services, glazing, installation and repair of building glass	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.170 Textile products, manufacture.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Broad woven fabric mill, cotton	PS	PS	PS
Broad woven fabric mill, manmade fiber and silk	PS	PS	PS
Broad woven fabric mill, wool – including dyeing and finishing	PS	PS	PS
Dyeing and finishing textiles	PS	PS	PS

Floor covering mill	PS	PS	PS
Knitting mill, hosiery, outerwear, underwear, knit fabrics	PS	PS	PS
Narrow fabrics and other smallware mill, cotton, wool, silk and manmade fibers	PS	PS	PS
Yarn and thread mill	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.180 Textiles and apparel manufacture and fabrication of textile products.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Wearing apparel, hats and millinery, and fur goods	PS	PS	PS
Fabrication of household textile products (sheets, blankets, towels, curtains, etc.)	PS	PS	PS
Fabrication of outdoor textile products (tents, awnings, canopies, vehicle tops, seat covers, etc.)	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.190 Textiles and apparel – Other facilities.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Cleaning and dyeing plant	PS	PS	PS
Laundry plant	PS	PS	PS
Storage of fur and clothing	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.200 Tobacco processing.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Cigarettes	PS	PS	PS
Cigars	PS	PS	PS
Tobacco (chewing, smoking, snuff)	PS	PS	PS
Tobacco stemming and drying	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.210 Transportation equipment, manufacture and repair.**

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Aircraft and parts	PS	PS	PS
Aircraft and parts, if operation includes operating or testing turbine engines	C	PA	PA
Aircraft and parts dealer, distributor	PS	PS	PS
Boat and watercraft building and repair	PS	PS	PS
Boat and watercraft sales and service	PS	PS	PS
Boat and watercraft moorage and marina	PS	PS	PS
Motor vehicles and motor vehicle equipment:			
Manufacture of special use vehicles (sanitary trucks, vans, etc.)	PS	PS	PS

Manufacture of parts and accessories	PS	PS	PS
Brake	C	PA	PA
Tires (see SMC <a href="#">18.110.150</a> , rubber products)			
Rental and storage	PS	PS	PS
Repair garage	PS	PS	PS
Body and fender shop	PS	PS	PS
Painting	PA	PS	PS
Towing	PS	PS	PS
Service station	PS	PS	PS
Auto laundry, washing and polishing	PS	PS	PS
Wrecking	NP	PS	PS
Motorcycles, bicycles and parts	PS	PS	PS
Railroad equipment	NP	C	PS

(Ord. 498 § 70.00, 1964)

**18.110.220 Wood and lumber products (except furniture) processing, manufacture and storage.**

	IP	I2	I3
Building materials (lumber yard)	PS	PS	PS
Fuel dealer:			
Wood	C	PS	PS
Sawdust and shavings	C	PA	PA
Millwork, (doors, windows, precutting structures)	C	PA	PA
Prefabricated structural wood products	C	PA	PA
Sawmill and planing mill	NP	NP	PA
Veneer, plywood, pressure-formed products	NP	NP	PA
Wooden containers	C	PA	PA

(Ord. 498 § 70.00, 1964)

**18.110.230 Other uses.**

	IP	I2	I3
Dwelling for a caretaker or watchman	PS	PS	PS
Agriculture, grazing and timber raising in unincorporated areas only	PS	PS	PS
Garden, orchard and crop cultivation	PS	PS	PS
Greenhouse	PS	PS	PS
Outdoor nursery	PS	PS	PS
Raising livestock and poultry unincorporated areas only	PS	PS	PS
Right-of-way	PS	PS	PS

Public utility	PS	PS	PS
Advertising sign or structure pertaining to the business or operation conducted on the premises as prescribed in SMC <a href="#">18.115.030</a>	PS	PS	PS
Airport terminal facility	PS	PS	PS
Advertising sign, structure or billboard	C	C	C
Ambulance service	PS	PS	PS
Auction house or market (no livestock or poultry sales)	NP	PS	PS
Business office of the firm or corporation	PS	PS	PS
Fire station	PS	PS	PS
Industrial park or district (private) developed by an individual, firm or corporation, public or private, when such district will meet the requirements of the zone in which it is to be located (any proposed division of land into lots or tracts or the creation of a roadway shall be considered as a subdivision)	PS	PS	PS
Motor freight depot	C	PS	PS
Parking lot, garage (commercial) when developed as prescribed in Chapter <a href="#">18.150</a> SMC	PS	PS	PS
Sign painting shop	PA	PA	PA
Trade, vocational school	PS	PS	PS
Veterinary office, hospital	C	PS	PS
Warehouse	PS	PS	PS
Wholesale firm (not open to general public)	PS	PS	PS

(Ord. 498 § 70.00, 1964)

### **18.110.240 Potential problem operations or processes.**

If any operation or portion of an operation or process uses any one, a portion of any one, or a combination of the following methods, equipment or materials then such operation shall be permitted only as indicated for the districts in which it is to be situated:

	<b>IP</b>	<b>I2</b>	<b>I3</b>
Operations Involving:			
Cleaning or washing using:			
Fans, sieves, shakers, screens	C	PA	PA
Flammable solvents	C	PA	PA
Nonflammable solvents	PS	PS	PS
Fumigating gases	C	PA	PA
Sand blasting or other pneumatic abrasive process	C	PA	PA
Noxious, odorous or toxic chemicals, solutions, solvents, acids	C	PA	PA
Steam	C	PA	PA
Water when approved disposal system is used	PS	PS	PS
Chemical coating or spraying operations	PA	PA	PA
Crushing, chipping, grinding, rolling:			
When all materials are wet or damp and:			

a) Entire operation is conducted within a completely enclosed building	C	PS	PS
b) Any part of the operation is conducted outside of a building	NP	C	PS
When any portion of the operation involves dry materials	C	PA	PA
Cutting, polishing, sanding using:			
Saws	C	PA	PA
Planers	C	PA	PA
Abrasive disks, belts, etc.	C	PA	PA
Sand blasting or other pneumatic abrasive process	C	PA	PA
Dryer, drying, heating, dehydrating baking kiln:			
Using as a source of heat:			
Electricity	PS	PS	PS
Natural gas	PS	PS	PS
Propane	PS	PS	PS
Oil	PA	PA	PA
Wood or wood by-products	PA	PA	PA
Dyeing using:			
Aniline or toxic dyes	C	PA	PA
Flammable dyes or solutions	C	PA	PA
Forge and mill:			
Drop forge	C	C	PS
Ball mill	C	C	PS
Hammer mill	C	C	PS
Rolling mill	C	C	PS
Furnace:			
Blast furnace	NP	C	C
Open-hearth furnace	NP	C	C
Electric furnace	NP	C	C
Bessemer converter	NP	C	C
Nonferrous metal smelter	NP	C	C
Mixing, packaging, sacking, using any dry materials	C	PA	PA
Explosive materials (commercial explosives, dynamite, fireworks, TNT, military explosives)	NP	C	C
Radiological materials	C	C	C
Refuse, liquid waste disposal plant	C	C	PA
Wood or oil boiler	PA	PA	PA
Wood or oil power generation	PA	PA	PA

(Ord. 498 § 70.00, 1964)



# Chapter 18.115

## IP INDUSTRIAL PARK DISTRICT<sup>9</sup>

Sections:

[18.115.010](#) Land development.

[18.115.020](#) Industrial performance standards.

[18.115.030](#) Signs.

### 18.115.010 Land development.

A. Dwellings – not permitted except as provided in Chapter [18.110](#) SMC.

<b>Main Buildings Other Than Dwellings</b>	
Maximum number of main buildings per lot	Not limited
Minimum lot area	Not limited
Minimum lot width	Not limited
Maximum lot coverage	50 percent by all buildings
Maximum height:	
Except within 100 feet of any R District (observe airport height control areas)	45 feet minus one foot for each two feet less than the 100 feet to the district boundary

B. Yards:

1. Required front yard areas adjacent to a street shall not be used for off-street parking or loading areas.
2. Required side yards adjacent to a street may be used for off-street loading or off-street parking.
3. Landscaping. In order to increase the compatibility and amenities between the uses of the Industrial Park and any abutting residential districts the following landscaping provisions shall be observed.
  - a. All yards adjacent to streets and those abutting a residential district shall be continuously maintained with lawns, ground covers, flowers, shrubs and trees established and maintained in a manner providing a park-like character to the property.
  - b. When a building or structure has any opening or doors or windows which face or are visible from abutting residential property, then such openings, doors or windows shall be screened from view of the residential property by ornamental fences or walls, or by shrubs or trees to permit greater privacy of the residential property.
  - c. All other yards shall be continuously maintained in grass or other ground cover.
4. Special Setbacks. Certain 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>Main Buildings</b>	
Front yard and any yard adjacent to a street	Minimum of 20 feet. Planter boxes, steps, uncovered porches, covered but unenclosed porches not more than one story high and which do not extend more than 10 feet beyond the front walls of the building and the floors thereof are not more than four feet above grade, are exempt from the front yard setback provisions and need not be included when determining the average setback above.
Side and rear yards	Minimum of 10 feet and increasing one foot for each additional one foot of building height above 10 feet except a yard is not required adjacent to a railroad right-of-way.

C. Vehicle Access.

1. Access points to property from a street shall be located to minimize traffic congestion, and maximum effort shall be made to avoid directing traffic into residential areas. Before a street which is a boundary between a residential district and an Industrial Park District, or a street which is within a residential district, is used for

any vehicle access to an Industrial Park District, such use of those streets must first have been approved by the engineer and the planning commission as a conditional use.

2. Access roads and access points will be used to the maximum extent possible to serve the greatest number of uses.

3. All access roads and driveways shall be surfaced with asphaltic concrete or comparable permanent surfacing. (Ord. 498 § 71.01, 1964)

**18.115.020 Industrial performance standards.**

In this industrial district no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

A. 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.

B. Air Quality Standards.

1. No operation by itself or in combination with other uses shall cause air pollution in excess of the following limits:

- a. Particle deposition per square mile in tons: 10.
- b. Suspended particulate matter in micrograms per cubic meter of air: 100.
- c. Lime dust (as CaO) in micrograms per cubic meter of air: 10.

2. The maximum discharge from any source within the IP District shall not exceed the following limits:

- a. Smoke as measured on the Ringleman Smoke Chart (published by the U.S. Bureau of Mines) and measured at the point of discharge into the air shall not exceed a density of: No. 1; except that smoke may be emitted for not more than three minutes in any one-hour period of a density not darker than: No. 2.
- b. Lime dust, as CaO, measured at the property line of the activity creating such dust measured in micrograms per cubic meter of air shall not exceed: 10.
- c. Total particulate matter measured at all stacks and exhaust vents measured in grams per hour per acre of land devoted to the operation shall not exceed: 30.

3. 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.

4. Toxic gases in a measurable quantity shall not be discharged into the air.

C. Heat, Glare and Light.

1. 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.

2. Exterior lighting shall be directed away from and not reflect on adjacent properties.

D. Noise.

1. 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	Hours
Frequency in cycles per second	10 p.m. – 7 a.m.	7 a.m. – 10 p.m.
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

2. 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

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

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

5. Measurements.

a. 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.

b. Measurements shall be made from at least three points along the property line or along an R, C, or P District boundary when such boundary is closer to the source than the property line.

c. Measurements for alleged violations shall be made on at least three nonconsecutive days.

E. Sewage. Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the health department.

F. 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. (Ord. 498 §§ 71.02 – 71.025, 1964)

### **18.115.030 Signs.**

A. One sign, not exceeding 400 square feet in area, limited to the identification of the company or enterprise on the property where the sign is located, or to the advertisement of the products handled or produced or services rendered by the enterprise. The sign shall not be located within a required yard and not within 150 feet of a residential zone boundary line, unless it is screened from the residential zone.

B. Other signs not exceeding a cumulative total of 200 square feet in area which identify the area or are directional signs without advertising. Such signs, other than those necessary for the direction of traffic, shall set back 20 feet from the street.

C. Signs attached to buildings shall not extend above the roof line. (Ord. 498 §§ 71.03 – 71.033, 1964)

## **Chapter 18.120**

### **I2 LIMITED INDUSTRIAL DISTRICT<sup>10</sup>**

Sections:

[18.120.010](#) Land development.

[18.120.020](#) Industrial performance standards.

#### **18.120.010 Land development.**

A. Dwellings – not permitted except as provided in Chapter [18.110](#) SMC.

<b>Main Buildings</b>	
Maximum number of main buildings per lot:	Not limited
Minimum lot area:	Not limited
Minimum lot width:	Not limited
Maximum lot coverage:	Not limited
Maximum height:	
(observe airport height control areas)	3 stories or 45 feet

B. Yards:

1. Special Setbacks. Certain 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>Main Buildings</b>	
Front yard and any yard adjacent to a street	10 feet
Minimum side yard:	
When abutting an R District	The same side yard as is required for the main buildings in the abutting R District.
Other interior side yards:	None required but if one is provided it shall be at least five feet in depth.
Rear yard:	No rear yard is required but if one is provided then it shall be at least five feet in depth exclusive of any alley area and shall be contained by an ornamental fence or wall, or compact evergreen hedge not less than six feet in height.

(Ord. 498 § 72.01, 1964)

### **18.120.020 Industrial performance standards.**

In this industrial district no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

A. 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.

B. Air Quality Standards.

1. No operation by itself or in combination with other uses shall cause air pollution in excess of the following limits:

- a. Particle deposition per square mile in tons: 20.
- b. Suspended particulate matter in micrograms per cubic meter of air: 200.
- c. Lime dust (as CaO) in micrograms per cubic meter of air: 15.

2. The maximum discharge from any source within the IP District shall not exceed the following limits:

a. Smoke as measured on the Ringleman Smoke Chart (published by the U.S. Bureau of Mines) and measured at the point of discharge into the air shall not exceed a density of: No. 2; except that smoke may be emitted for not more than three minutes in any one-hour period of a density not darker than: No. 3.

b. Lime dust, as CaO, measured at the property line of the activity creating such dust measured in micrograms per cubic meter of air shall not exceed: 15.

c. Total particulate matter measured at all stacks and exhaust vents measured in grams per hour per acre of land devoted to the operation shall not exceed: 30.

3. 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.

4. Toxic gases in a measurable quantity shall not be discharged into the air.

C. Heat, Glare and Light. All operations and facilities producing heat or 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.

D. Noise. No noise or sound in an I2 District shall be of a nature which will constitute a nuisance and all uses in the I2 District within 150 feet of an IP District shall not exceed the limits prescribed for the IP District.

E. Sewage. Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the health department.

F. 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. (Ord. 498 §§ 72.02 – 72.025, 1964)

## Chapter 18.125

### I3 GENERAL INDUSTRIAL DISTRICT<sup>11</sup>

Sections:

[18.125.010](#) Land development.

[18.125.020](#) Industrial performance standards.

#### 18.125.010 Land development.

A. Dwellings – not permitted except as provided in Chapter [18.110](#) SMC.

Main Buildings Other Than Dwellings	
Maximum number of main buildings per lot:	Not limited
Minimum lot area:	Not limited
Minimum lot width:	Not limited
Maximum lot coverage:	Not limited
Maximum height:	
(observe airport height control areas)	3 stories or 45 feet

B. Yards:

1. Special Setbacks. Certain 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.

Main Buildings	
Front yard and any yard adjacent to a street:	10 feet
Minimum side yard:	
When abutting an R District	The same side yard as is required for the main buildings in the abutting R District.
Other interior side yards:	None required but if one is provided it shall be at least five feet in depth.
Rear yard:	No rear yard is required but if one is provided then it shall be at least five feet in depth exclusive of any alley area and shall be contained by an ornamental fence or wall, or

	compact evergreen hedge not less than six feet in height.
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(Ord. 498 § 73.01, 1964)

### **18.125.020 Industrial performance standards.**

In this industrial district no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

A. 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.

B. Air Quality Standards.

1. No operation by itself or in combination with other uses shall cause air pollution in excess of the following limits:

- a. Particle deposition per square mile in tons: 35.
- b. Suspended particulate matter in micrograms per cubic meter of air: 200.
- c. Lime dust (as CaO) in micrograms per cubic meter of air: 20.

2. The maximum discharge from any source within the I3 District shall not exceed the following limits:

a. Smoke as measured on the Ringleman Smoke Chart (published by the U.S. Bureau of Mines) and measured at the point of discharge into the air shall not exceed a density of: No. 2; except that smoke may be emitted for not more than three minutes in any one hour period of a density not darker than: No. 3.

b. Lime dust, as CaO, measured at the property line of the activity creating such dust measured in micrograms per cubic meter of air shall not exceed: 20.

c. Total particulate matter measured at all stacks and exhaust vents measured in grams per hour per acre of land devoted to the operation shall not exceed: 30.

3. 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.

4. Toxic gases in a measurable quantity shall not be discharged into the air.

C. 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.

D. Noise. No noise or sound in an I3 District shall be of a nature which will constitute a nuisance and all uses in the I3 District within 150 feet of an IP District shall not exceed the limits prescribed for the IP District.

E. Sewage. Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the health department.

F. 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. (Ord. 498 § 73.02 – 73.025, 1964)

# Chapter 18.135

## PA, PC, PE, PH, PP, AND PS DISTRICTS

Sections:

[18.135.010](#) Land development.

### 18.135.010 Land development.

All Main Buildings Including Dwellings		
	PC, PE, PP	PA, PH, PS
Maximum number of main buildings per lot:	Not limited	Not limited
Minimum lot area:		
Dwellings – same as prescribed for dwellings in	RL District	RL 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

#### A. 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.

	PC, PE, PP	PA, PH, PS
Front yard and any yard adjacent to a street	20 feet	20 feet
Side yard:		
Dwellings same as the other main building	RL	RL
Main buildings other than dwellings	None except when abutting an R District, then same as the R District it abuts.	None except when abutting an R District, then same as the R District it abuts.
Rear yard:		
First story	20 feet	20 feet
For each additional story add	4 feet	4 feet

(Ord. 776, 1980; Ord. 498 § 81.00, 1964)

# Chapter 18.130

## PUBLIC, SEMI-PUBLIC AND GOVERNMENTAL USE DISTRICTS

Sections:

[18.130.010](#) Permitted use table.

[18.130.020](#) Abandoning use – Transfer of ownership.

[18.130.030](#) Changing use.

### 18.130.010 Permitted use table.

PA – Public Amusement and Recreation District.

PC – Public and Private Cemeteries District.

PE – Public and Private Educational Facilities District.

PH – Public and Private Hospitals District.

PP – Public Park District.

PS – Public Service District.

P – Permitted outright.

	PA	PC	PE	PH	PP	PS
Fairground	P	-	-	-	-	-
Exposition	P	-	-	-	-	-
Stock show	P	-	-	-	-	-
Race track	P	-	-	-	-	-
Airport	P	-	-	-	-	-
Ball park	P	-	-	-	-	-
Stadium	P	-	-	-	-	-
Armory	P	-	-	-	-	-
Auditorium	P	-	-	-	-	-
Amusement park	P	-	-	-	-	-
Golf course	P	-	-	-	-	-
Military training facility	P	-	-	-	-	-
Cemetery	-	P	-	-	-	-
Mausoleum	-	P	-	-	-	-
Crematory	-	P	-	-	-	-
School	-	-	P	-	-	-
Educational institution	-	-	P	-	-	-
Public school or institution for the handicapped, except the mentally handicapped	-	-	P	-	-	-



Penal institution	-	-	-	P	-	-
Reformatory	-	-	-	P	-	-
Detention and correctional home, or institution or school	-	-	-	P	-	-
Hospital and institution for the mentally retarded	-	-	-	P	-	-
Hospital	-	-	-	P	-	-
Medical and dental clinic	-	-	-	P	-	-
Public park (noncommercial)	-	-	-	-	P	-
Public playground (noncommercial)	-	-	-	-	P	-
Municipal or government service building, structure and use, i.e. reservoir, water tower, pump station, sewage treatment plant, garbage and refuse landfill operations	-	-	-	-	-	P
Dwelling for the caretaker or watchman	P	P	P	P	P	P

(Ord. 498 § 80.00, 1964)

### **18.130.020 Abandoning use – Transfer of ownership.**

Whenever the existing use of any public use district, or a part of any such district, is abandoned or the property transferred to private ownership for different use, such abandoned or transferred area shall be deemed in the R1 Residential District, and only such buildings may then be erected, structurally altered, enlarged, or such use made, as is permissible in an R1 Residential District. (Ord. 498 § 80.01, 1964)

### **18.130.030 Changing use.**

Any area shown on the official zoning map as a park, playground, cemetery, ball park, fairgrounds, airport, school, or other public or semi-public area shall not be used for any other purpose than that for which used at the effective date of the ordinance codified in this title, and whenever the use of such an area or district is discontinued or proposed to be changed, it shall automatically become an R1 District until a zoning plan for such property has been adopted by the city council. The commission shall recommend to the council appropriate rezoning for any such area. (Ord. 498 § 80.02, 1964)

# Chapter 18.85

## ACREAGE RESIDENTIAL (AR)

Sections:

[18.85.010](#) Intent.

[18.85.020](#) Permitted uses.

[18.85.030](#) Conditional uses.

[18.85.040](#) Conditional use review criteria.

[18.85.050](#) Development standards.

[18.85.060](#) Minimum lot size and density.

### **18.85.010 Intent.**

The purpose and intent of the Acreage Residential zone is to provide appropriate regulations governing the division and development of lands designated Acreage Residential in the comprehensive plan. Properties which are designated as Acreage Residential are lands which lack both city water and city sanitary sewer service. These are properties which prior to being annexed into the city limits may have been developed consistent with Marion County's rural regulations. This zone designation is to allow for the continued use of existing rural residential developments without exceeding the environmental and public service capability of the area, or compromising the rural character of the area. It is not intended to be an alternative for lands which are already designated to accommodate future residential development at higher density levels. (Ord. 02-102 § 1, 2002)

### **18.85.020 Permitted uses.**

Within an AR (Acreage Residential) zone no building, structure or premises shall be used or arranged except for the following purposes:

A. Single-family dwelling.

B. Farm use, including the sale of produce that is raised on the premises.

C. Playgrounds and parks operated by governmental agencies.

D. Public and private utility facility and public buildings such as fire stations, sheriff and police substations.

E. Creation, restoration, or enhancement of wetlands as defined in ORS Chapter 197.

F. Home occupations.

G. Churches and expansions of existing churches where the church or the expanded church will be less than 20,000 square feet in total area. (Ord. 02-102 § 1, 2002)

### **18.85.030 Conditional uses.**

The following uses may be permitted subject to obtaining a conditional use permit:

A. Kennels.

B. Day nursery.

C. Commercial uses in conjunction with farm use.

D. Churches and expansions and related conference and residence facilities, and schools (elementary, middle and high schools).

E. Conditional home occupation.

F. Wireless communication facilities. (Ord. 02-102 § 1, 2002)

### **18.85.040 Conditional use review criteria.**

The criteria within SMC [18.25.040](#) shall apply to all proposed conditional uses in the AR zone. (Ord. 02-102 § 1, 2002)

### **18.85.050 Development standards.**

The following standards apply to development in an AR zone:

**A. Maximum Height.**

1. Dwellings – 35 feet.
2. Farm related structures on farm parcels – None.
3. Nonresidential and nonfarm structures – 35 feet unless they are in conjunction with conditional uses, and a greater height is requested and approved as part of the conditional use permit.

**B. Minimum Setbacks.** The following setback requirements shall be implemented for all new structures other than farm-exempt buildings, signs and fences:

1. Rear yard – A minimum of 50 feet.
2. Side yard – A minimum of 25 feet.
3. Front yard – A minimum of 50 feet. (Ord. 02-102 § 1, 2002)

### **18.85.060 Minimum lot size and density.**

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. 02-102 § 1, 2002)